CYCLOPÆDIA

OF

POLITICAL SCIENCE,

POLITICAL ECONOMY,

AND OF THE

POLITICAL HISTORY OF THE UNITED STATES.

BY THE BEST AMERICAN AND EUROPEAN WRITERS.

EDITED BY

JOHN J. LALOR.

VOL. II.

EAST INDIA COMPANY—NULLIFICATION.

NEW YORK:
MAYNARD, MERRILL, & CO.
1899.

D. G. F. CLASS.
PRINTER.

CONTENTS OF VOL II.

Among the Writers of the Articles in the First and Second Volumes are the following:

EDWARD ATKINSON, the distinguished Publicist, Boston, Mass.
BARTHÉLMY SAINT-HILAIRE, Member of the Institute of France.
FRÉDÉRIC BASTIAT, the famous French Economist.
HENRI BAUDRILLART, Member of the Institute of France, contributor to the *Dictionnaire Général de la Politique.*
MAURICE BLOCK, Statistician, Political Economist and Publicist; Editor of the *Dictionnaire Général de la Politique*, Paris.
J. C. BLUNTSCHLI, Professor at the University of Heidelberg, the celebrated writer on International Law; one of the Editors of Bluntschli and Brater's *Staatswörterbuch.*
GEROLAMO BOCCARDO, Editor of the *Dizionario Universale di Economia Politica e Commercio*, Italy.
JACQUES DE BOISJOSLIN, Paris, France.
ALBERT S. BOLLES, Author of the "History of American Finance."
GASTON DE BOURGE, Advocate, Paris.
HORATIO BURCHARD, Director of the Mint, Washington, D. C.
EDWARD CARY, Editor of the "New York Times."
E. CAUCHY, Member of the Institute of France.
EMILE CHÉDIEU, Advocate.
A. E. CHERBULIEZ, Swiss Political Economist, contributor to the *Dictionnaire de l'Economie Politique.*
JOHN W. CLAMPITT, Attorney at Law, Illinois.
AMBROISE CLÉMENT, the distinguished French Economist.
ROYER-COLLARD, Professor, of the *Faculté de Droit*, Paris.
Hon. THOMAS M. COOLEY, Author of "Constitutional Limitations," etc., etc.; Judge of the Supreme Court of Michigan.
CHARLES COQUELIN, one of the Editors of the *Dictionnaire de l'Economie Politique.*
COURCELLE-SENEUIL, Paris, France.
BANCROFT DAVIS, Assistant Secretary of State, Washington, D. C.
DELABARRE-DUPARCQ, Director at the Military School of Saint-Cyr.
JULES DUVAL, Publicist.
CL. DUVERNOIS, French Ex-Minister.
Hon. DORMAN B. EATON, Chairman of the Civil Service Commission, New York.
Hon. MAX. EBERHARDT, Attorney, Chicago.
LÉON FAUCHER, Member of the Institute of France.
HENRY FAWCETT, M. P., Professor of Political Economy at the University of Cambridge; at present Postmaster General of Great Britain.
GASPAR FINALI, Ex-Minister, Italy.
JOHN FISKE, the well-known Essayist and Philosopher, Cambridge, Mass.
WORTHINGTON C. FORD, Esq., Brooklyn, N. Y.
L. FOUBERT, *Chef de division*, France.
JOSEPH GARNIER, Professor of Political Economy, Member of the Institute of France.
HENRY GEORGE, Author of "Progress and Poverty," New York.
LOUIS GOTTARD, Publicist.
GEORGE WALTON GREENE, Attorney and Counselor, New York.
JULES GRENIER, Publicist.
W. E. GRIFFIS, Author of the "Mikado's Empire," Schenectady, N. Y.
FAUSTIN HÉLIE, Member of the Institute of France.
XAVIER HEUSCHLING, Ministry of the Interior, Brussels.
J. E. HORN, Writer on Finance, Member of the Hungarian Parliament.
M. HUMANN, Advocate, France.
EDWARD S. ISHAM, Attorney and Counselor at Law, Chicago.
Prof. E. J. JAMES, Normal University, Normal, Illinois.
Judge JOHN A. JAMESON, Author of "The Constitutional Convention," Chicago.
ALEXANDER JOHNSTON, Author of "History of American Politics," Norwalk, Conn.
Hon. JOHN JAY KNOX, Comptroller of the Currency, Washington, D. C.
CHAS. LAVOLLÉE, Ex Prefect, France.
T. E. CLIFFE LESLIE, the eminent English Political Economist, lately deceased. His last literary effort was the article, "History, Economic and Legal," written for this Cyclopædia a few weeks before his death.
HENRY D. LLOYD, Financial Editor of the "Chicago Tribune."
Judge JOHN LOWELL, Chestnut Hill, Mass.
J. R. M'CULLOCH, the English Economist.
M. DE MOLINARI, Editor of *Journal des Débats*, Corresponding Member of the Institute of France.
MICHEL NICOLAS, Professor, Montauban, France.
M. ORTOLAN, Lawyer, France.
ESQUIROU DE PARIEU, Member of the Institute of France.
JULES PAUTET, French Vice-Prefect

M. POEZL, Professor at the University of Munich.
R. P. PORTER, Special Agent (Tenth Census of the United States) for Statistics of Wealth, Debt, Taxation and Railroads, Washington, D. C.
M. RABUTAUX, Publicist.
R. W. RAYMOND, Esq., New York.
ERNEST RENAN, Member of the Institute of France.
LOUIS REYBAUD, Member of the Institute of France.
WILLIAM ROSCHER, the celebrated German Economist, founder of the Historical School of Political Economy, Leipzig.
M. ROTHE, Professor at Sorö, Denmark.
LÉON SAY, Economist.
JULES SIMON, Member of the French Academy.
E. MUNROE SMITH, Professor in Columbia College, New York.
A. R. SPOFFORD, Librarian of Congress, Washington, D. C.
SIMON STERNE, Lawyer, New York.
A. M. SULLIVAN, M. P., London, England.
HENRI THIERS, France.
JOHN P. TOWNSEND, one of the Vice-Presidents of the Bowery Savings Bank, New York.
J. D. WEEKS, Editor of the "Iron Age," Expert and Special Agent (Tenth Census United States) Wages in Manufacturing Industry, Washington, D. C.
Hon. D. A. WELLS, the eminent American Economist, Norwich, Conn.
HORACE WHITE, the well-known writer on Economic subjects, New York.
FREDERICK W. WHITRIDGE, Attorney, New York.
TALCOTT WILLIAMS, Editor "The Press," Philadelphia, Pa.
Hon. H. B. WITTON, Inspector of Canals, Hamilton, Ontario.
Prof. THEO. S. WOOLSEY, Yale College.

CYCLOPÆDIA

OF

POLITICAL SCIENCE, POLITICAL ECONOMY,

AND OF THE

POLITICAL HISTORY OF THE UNITED STATES.

EAST INDIA COMPANY.

EAST INDIA COMPANY, a famous association, originally established for prosecuting the trade between England and India, which they acquired a right to carry on exclusively. Since the middle of the last century, however, the company's political became of more importance than their commercial concerns. — The persevering efforts of the Portuguese to discover a route to India, by sailing round Africa, were crowned with success in 1497. And it may appear singular, that, notwithstanding the exaggerated accounts that had been prevalent in Europe, from the remotest antiquity, with respect to the wealth of India, and the importance to which the commerce with it had raised the Phœnicians and Egyptians in antiquity, the Venetians in the middle ages, and which it was then seen to confer on the Portuguese, the latter should have been allowed to monopolize it for nearly a century after it had been turned into a channel accessible to every nation. But the prejudices by which the people of most European states were actuated in the sixteenth century, and the peculiar circumstances under which they were placed, hindered them from embarking with the alacrity and ardor which might have been expected in this new commercial career. Soon after the Portuguese began to prosecute their discoveries along the coast of Africa, they applied to the pope for a bull, securing to them the exclusive right to and possession of all countries occupied by infidels which the Portuguese either had discovered, or might discover, to the south of Cape Non, on the west coast of Africa, in 27° 54′ north latitude; and the pontiff, desirous to display, and at the same time to extend, his power, immediately issued a bull to this effect. Nor, preposterous as a proceeding of this sort would now appear, did any one then doubt that the pope had a right to issue such a bull, and that all states and empires were bound to obey it. In consequence, the Portuguese were, for a lengthened period, allowed to prosecute their conquests in India without the interference of any other European power; and it was not till a considerable period after the beginning of the war which the blind and brutal bigotry of Philip II. kindled in the Low Countries, that the Dutch navigators began to display their flag on the eastern ocean, and laid the foundations of their Indian empire.—The desire to comply with the injunctions in the pope's bull, and to avoid coming into collision, first with the Portuguese, and subsequently with the Spaniards, who had conquered Portugal in 1580, seems to have been the principal cause that led the English to make repeated attempts, in the reigns of Henry VIII. and Edward VI., and the early part of the reign of Elizabeth, to discover a route to India by a northwest or northeast passage—channels from which the Portuguese would have had no pretense for excluding them. But these attempts having proved unsuccessful, and the pope's bull having ceased to be of any effect in England, the English merchants and navigators resolved to be no longer deterred by the imaginary rights of the Portuguese from directly entering upon what was then reckoned by far the most lucrative and advantageous branch of commerce. Captain Stephens, who performed the voyage in 1582, was the first Englishman who sailed to India by the cape of Good Hope. The voyage of the famous Sir Francis Drake contributed greatly to diffuse a spirit of naval enterprise, and to render the English better acquainted with the newly opened route to India. But the voyage of the

celebrated Thomas Cavendish was, in the latter respect, the most important. Cavendish sailed from England in a little squadron, fitted out at his own expense, in July, 1586; and having explored the greater part of the Indian ocean, as far as the Philippine islands, and carefully observed the most important and characteristic features of the people and countries which he visited, returned to England, after a prosperous navigation, in September, 1588. But perhaps nothing contributed so much to inspire the English with a desire to embark in the Indian trade as the captures that were made about this period from the Spaniards. A Portuguese East India ship, or carrack, captured by Sir Francis Drake during his expedition to the coast of Spain, inflamed the cupidity of the merchants by the richness of her cargo, at the same time that the papers found on board gave specific information respecting the traffic in which she had been engaged. A still more important capture of the same sort was made in 1593. An armament, fitted out for the East Indies by Sir Walter Raleigh, and commanded by Sir John Borroughs, fell in, near the Azores, with the largest of all the Portuguese carracks, a ship of 1,600 tons burden, carrying 700 men and 36 brass cannon; and, after an obstinate conflict, carried her into Dartmouth. She was the largest vessel that had been seen in England; and her cargo, consisting of gold, spices, calicoes, silks, pearls, drugs, porcelain, ivory, etc., excited the ardor of the English to engage in so opulent a commerce. —In consequence of these and other concurring causes, an association was formed in London in 1599 for prosecuting the trade to India. The adventurers applied to the queen for a charter of incorporation, and also for power to exclude all other English subjects, who had not obtained a license from them, from carrying on any species of traffic beyond the cape of Good Hope or the straits of Magellan. As exclusive companies were then very generally looked upon as the best instruments for prosecuting most branches of commerce and industry, the adventurers seem to have had little difficulty in obtaining their charter, which was dated Dec. 31, 1600. The corporation was entitled: "The Governor and Company of Merchants of London trading into the East Indies." The first governor (Thomas Smythe, Esq.) and twenty-four directors were nominated in the charter, but power was given to the company to elect a deputy governor, and in future to elect their governor and directors, and such other office bearers as they might think fit to appoint. They were empowered to make by laws; to inflict punishments, either corporal or pecuniary, provided such punishments were in accordance with the laws of England; to export all sorts of goods free of duty for four years; and to export foreign coin or bullion to the amount of £30,000 a year, £6,000 of the same being previously coined at the mint; but they were obliged to import, within six months after the completion of every voyage except the first, the same quantity of silver, gold and foreign coin that they had exported. The duration of the charter was limited to a period of fifteen years; but with and under the condition that, if it were not found for the public advantage, it might be canceled at any time upon two years' notice being given. Such was the origin of the British East India company, the most celebrated commercial association of ancient or modern times, and which in course of time extended its sway over the whole of the Mogul empire.—It might have been expected that, after the charter was obtained, considerable eagerness would have been manifested to engage in the trade. But such was not the case. Notwithstanding the earnest calls and threats of the directors, many of the adventurers could not be induced to come forward to pay their proportion of the charges incident to the fitting out of the first expedition. And as the directors seem either to have wanted power to enforce their resolutions, or thought it better not to exercise it, they formed a subordinate association, consisting of such members of the company as were really willing to defray the cost of the voyage, and to bear all the risks and losses attending it, on condition of their having the exclusive right to whatever profits might arise from it. It was by such subordinate associations that the trade was conducted during the first thirteen years of the company's existence.—The first expedition to India, the cost of which amounted, ships and cargoes included, to £69,091, consisted of five ships, the largest being 600, and the smaller 130 tons burden. The goods put on board were principally bullion, iron, tin, broadcloths, cutlery, glass, etc. The chief command was intrusted to Capt. James Lancaster, who had already been in India. They set sail from Torbay on Feb. 13, 1601. Being very imperfectly acquainted with the seas and countries they were to visit, they did not arrive at their destination, Acheen in Sumatra, till June 5, 1602. But though tedious, the voyage was, on the whole, uncommonly prosperous. Lancaster entered into commercial treaties with the kings of Acheen and Bantam; and having taken on board a valuable cargo of pepper and other produce, he was fortunate enough, on his way home, to fall in with and capture, in concert with a Dutch vessel, a Portuguese carrack of 900 tons burden, richly laden Lancaster returned to the Downs on Sept. 11, 1603. (*Modern Universal History*, vol. x, p. 16; Macpherson's *Commerce of the European Powers with India*, p. 81.)—But notwithstanding the favorable result of this voyage, the expeditions fitted out in the years immediately following, though sometimes consisting of larger ships, were not, at an average, materially increased. In 1612 Capt. Best obtained from the court at Delhi several considerable privileges; and among others, that of establishing a factory at Surat, which city was henceforth looked upon as the principal British station in the west of India, till the acquisition of Bombay.—In establishing factories in India, the English only followed the

example of the Portuguese and Dutch. It was contended that they were necessary to serve as dépôts for the goods collected in the country for exportation to Europe, as well as for those imported into India, in the event of their not meeting with a ready market on the arrival of the ships. Such establishments, it was admitted, are not required in civilized countries; but the peculiar and unsettled state of India was said to render them indispensable there. Whatever weight may be attached to this statement, it is obvious that factories formed for such purposes could hardly fail of speedily degenerating into a species of forts. The security of the valuable property deposited in them furnished a specious pretext for putting them in a condition to withstand an attack; while the agents, clerks, warehousemen, etc., formed a sort of garrison. Possessing such strongholds, the Europeans were early emboldened to act in a manner quite inconsistent with their character as merchants, and but a very short time elapsed before they began to form schemes for monopolizing the commerce of particular districts, and acquiring territorial dominion — Though the company met with several heavy losses during the earlier part of their traffic with India, from shipwrecks and other unforeseen accidents, and still more from the hostility of the Dutch, yet, on the whole, the trade was decidedly profitable. There can, however, be little doubt that their gains at this early period have been very much exaggerated. During the first thirteen years they are said to have amounted to 132 per cent. But then it should be borne in mind, as Mr. Grant has justly stated, that the voyages were seldom accomplished in less than thirty months, and sometimes extended to three or four years; and it should further be remarked, that, on the arrival of the ships at home, the cargoes were disposed of at long credits of eighteen months or two years; and that it was frequently even six or seven years before the concerns of a single voyage were finally adjusted. (*Sketch of the History of the Company*, p. 13.) When these circumstances are taken into view, it will immediately be seen that the company's profits were not, really, by any means so great as has been represented. Still it may not be uninstructive to remark that the principal complaint that was then made against the company did not proceed so much on the circumstance of its charter excluding the public from any share in an advantageous traffic, as in its authorizing the company to export gold and silver of the value of £30,000 a year. It is true that the charter stipulated that the company should import an equal quantity of gold and silver within six months of the termination of every voyage; but the enemies of the company contended that this condition was not complied with, and that it was, besides, highly injurious to the public interest, and *contrary to all principle*, to allow gold and silver to be sent out of the kingdom. The merchants and others interested in the support of the company could not controvert the reasoning of their opponents without openly impugning the ancient policy of absolutely preventing the exportation of the precious metals. They did not, however, venture to contend, if the idea really occurred to them, that the exportation of bullion to the east was advantageous on the broad ground of the commodities purchased by it being of greater value in England; but they contended that the exportation of bullion to India was advantageous because the commodities thence imported were chiefly re-exported to other countries from which a much greater quantity of bullion was obtained than had been required to pay for them in India. Mr. Thomas Mun, a director of the East India company, and the ablest of its early advocates, ingeniously compares the operations of the merchant in conducting a trade carried on by the exportation of gold and silver, to the seed-time and harvest of agriculture. "If we only behold," says he, "the actions of the husbandman in the seed-time, when he casteth away much good corn into the ground, we shall account him rather a madman than a husbandman; but when we consider his labors in the harvest, which is the end of his endeavors, we find the worth and plentiful increase of his actions" (*Treasure by Foreign Trade*, p 50, ed. 1664)—We may here remark that what has been called the *mercantile system* of political economy, or that system which measures the progress of a country in the career of wealth by the supposed balance of payments in its favor, or by the estimated excess of the value of its exports over that of its imports, appears to have originated in the excuses now set up for the exportation of bullion. Before this epoch the policy of prohibiting the exportation of bullion had been universally admitted; but it now began to be pretty generally allowed that its exportation might be productive of advantage, provided it occasioned the subsequent exportation of a greater amount of raw or manufactured products to countries whence bullion was obtained for them. This, when compared with the previously existing prejudice (for it hardly deserves the name of system) which wholly interdicted the exportation of gold and silver, must be allowed to be a considerable step in the progress to sounder opinions. The maxim *ce n'est que le premier pas qui coute* was strikingly verified on this occasion. The advocates of the East India company began gradually to assume a higher tone, and at length boldly contended that bullion was nothing but a commodity, and that its exportation should be rendered as free as that of anything else. Nor were these opinions confined to the partners of the East India company, they were gradually communicated to others; and many eminent merchants were taught to look with suspicion on several of the previously received dogmas with respect to commerce, and were, in consequence, led to acquire more correct and comprehensive views. The new ideas ultimately made their way into the house of com-

mons; and in 1663 the statutes prohibiting the exportation of foreign coin and bullion were repealed, and full liberty given to the East India company and to private traders to export them in unlimited quantities.—But the objection to the East India company, or rather the East India trade, on the ground of its causing the exportation of gold and silver, admitted of a more direct and conclusive, if not a more ingenious reply How compendious soever the ancient intercourse with India by the Red sea and the Mediterranean, it was unavoidably attended with a good deal of expense. The productions of the remote parts of Asia, brought to Ceylon, or the ports on the Malabar coast, by the natives, were there put on board the ships which arrived from the Arabian gulf. At Berenice they were landed, and carried by camels 250 miles to the banks of the Nile. They were there again embarked, and conveyed down the river to Alexandria, whence they were dispatched to different markets. The addition to the price of goods by such a multiplicity of operations must have been considerable. Pliny says that the cost of the Arabian and Indian products brought to Rome (A. D. 70) was increased a hundredfold by the expenses of transit (*Hist. Nat*, lib. vi., c. 23), but there can be little or no doubt that this is to be regarded as a rhetorical exaggeration. There are good grounds for thinking that the less bulky sorts of eastern products, such as silk, spices, balsams, precious stones, etc., which were those principally made use of at Rome, might, supposing there were no political obstacles in the way, be conveyed from most parts of India to the ports on the Mediterranean by way of Egypt, at a decidedly cheaper rate than they could be conveyed to them by the cape of Good Hope.—But at the period when the latter route to India began to be frequented, Syria, Egypt, etc., were occupied by Turks and Mamelukes—barbarians who despised commerce and navigation, and were, at the same time, extremely jealous of strangers, especially of Christians or infidels. The price of the commodities obtained through the intervention of such persons was necessarily very much enhanced; and the discovery of the route by the cape of Good Hope was, consequently, of the utmost importance; for, by putting an end to the monopoly enjoyed by the Turks and Mamelukes, it introduced, for the first time, something like competition into the Indian trade, and enabled the western parts of Europe to obtain supplies of Indian products for about one-third of what they had previously cost. Mr. Mun, in a tract published in 1621, estimates the quantity of Indian commodities imported into Europe, and their cost when bought in Aleppo and India, as follows:

lbs.	£	s.	d.
6,000,000 pepper cost, with charges, etc, at Aleppo, 2s. per lb.	600,000	0	0
450,000 cloves, at 4s. 9d.	106,875	10	0
150,000 mace, at 4s. 9d.	35,626	0	0
400,000 nutmegs, at 2s. 4d.	46,666	2	4
350,000 indigo, at 4s. 4d	75,833	6	8
1,000,000 Persian raw silk, at 12s.	600,000	0	0
	1,465,000	19	0

But the same quantities of the same commodities cost, when bought in the East Indies, according to Mr. Mun, as follows:

lbs	£	s.	d
6,000,000 pepper, at 2½d. per lb.	62,500	0	0
450,000 cloves, at 9d.	16,875	0	0
150,000 mace, at 8d.	5,000	0	0
400,000 nutmegs, at 4d.	6,666	13	4
350,000 indigo, at 1s. 2d.	20,416	12	4
1,000,000 raw silk, at 8s.	400,000	0	0
	511,458	5	8

Which being deducted from the former, leaves a balance of £953,542 13s. 4d. And supposing that the statements made by Mr. Mun are correct, and that allowance is made for the difference between the freight from Aleppo and India, the result would indicate the saving which the discovery of the route by the cape of Good Hope occasioned in the purchase of the above-mentioned articles. (*A Discourse of Trade from England to the East Indies*, by T. M., original edition, p. 10 This tract which is very scarce, is reprinted in Purchas' *Pilgrims*.)—In the same publication (p. 37) Mr. Mun informs us that, from the beginning of the company's trade to July, 1620, they had sent seventy-nine ships to India; of which thirty-four had come home safely and richly laden, four had been worn out by long service in India, two had been lost in careening, six had been lost by the perils of the sea, and twelve had been captured by the Dutch. Mr. Mun further states that the exports to India since the formation of the company had amounted to £840,376; that the produce brought from India had cost £356,288, and had produced in England the enormous sum of £1,914,600; that the quarrels with the Dutch had occasioned a loss of £84,088; and that the stock of the company, in ships, goods in India, etc., amounted to £400,000.—The hostility of the Dutch to which Mr. Mun has here alluded, was long a very formidable obstacle to the company's success. The Dutch early endeavored to obtain the exclusive possession of the spice trade, and were not at all scrupulous as to the means by which they attempted to effect this their favorite object. The English, on their part, naturally exerted themselves to obtain a share of so valuable a commerce; and as neither party was disposed to abandon its views and pretensions, the most violent animosities grew up between them. In this state of things it would be ridiculous to suppose that unjustifiable acts were not committed by the one party as well as the other; though the worst act of the English appears venial when compared with the conduct of the Dutch in the massacre at Amboyna in 1622. While, however, the Dutch company was vigorously supported by the government at home, the English company met with no efficient assistance from the feeble and vacillating policy of James and Charles. The Dutch either despised their remonstrances, or defeated them by an apparent compliance; so that no real reparation was obtained for the outrages they had committed. During the civil war Indian affairs were neces-

sarily lost sight of; and the Dutch continued, until the ascendency of the republican party had been established, to reign triumphant in the east, where the English commerce was nearly annihilated.—But, notwithstanding their depressed condition, the company's servants in India laid the foundation, during the period in question, of the settlements at Madras and in Bengal. Permission to build Fort St. George was obtained from the native authorities in 1640 In 1658 Madras was raised to the station of presidency. In 1645 the company began to establish factories in Bengal, the principal of which was at Hooghly. These were, for a lengthened period, subordinate to the presidency at Madras.—No sooner, however, had the civil war terminated than the arms and councils of Cromwell retrieved the situation of English affairs in India. The war which broke out between the long parliament and the Dutch in 1652 was eminently injurious to the latter. In the treaty of peace, concluded in 1654, it was stipulated that indemnification should be made by the Dutch for the losses and injuries sustained by the English merchants and factories in India. The 27th article bears, "that the lords, the states-general of the United Provinces, shall take care that justice be done upon those who were partakers or accomplices in the massacre of the English at Amboyna, as the republic of England is pleased to term that fact, provided any of them be living." A commission was at the same time appointed, conformably to another article of the treaty, to inquire into the reciprocal claims which the subjects of the contracting parties had upon each other for losses sustained in India, Brazil, etc.; and, upon their decision, the Dutch paid the sum of £85,000 to the East India company, and £3,615 to the heirs or executors of the sufferers at Amboyna. (Bruce's *Annals*, vol. i., p. 489)—The charter under which the East India company prosecuted their exclusive trade to India, being merely a grant from the crown, and not ratified by any act of parliament, was understood by the merchants to be at an end when Charles I. was deposed. They were confirmed in this view of the matter from the circumstance of Charles having himself granted, in 1635, a charter to Sir William Courten and others, authorizing them to trade with those parts of India with which the company had not established any regular intercourse. The reasons alleged in justification of this measure, by the crown, were, that "the East India company had neglected to establish fortified factories, or seats of trade, to which the king's subjects could resort with safety; that they had consulted their own interests only, without any regard to the king's revenue; and in general that they had broken the condition on which their charter and exclusive privileges had been granted to them." (Rym. *Fœdera*, vol. xx , p. 146.)—Courten's association, for the foundation of which such satisfactory reasons had been assigned, continued to trade with India during the remainder of Charles' reign; and no sooner had the arms of the commonwealth forced the Dutch to desist from their depredations, and to make reparation for the injuries they had inflicted on the English in India, than private adventurers engaged in great numbers in the Indian trade, and carried it on with a zeal, economy and success that monopoly can never expect to rival. It is stated in a little work, entitled *Britannia Languens*, published in 1680, the author of which has evidently been a well-informed and intelligent person, that during the years 1653, 1654, 1655, and 1656, when the trade to India was open, the private traders imported East India commodities in such large quantities, and sold them at such reduced prices, that they not only fully supplied the British markets, but had even come into successful competition with the Dutch in the market of Amsterdam, "and very much sunk the actions (shares) of the Dutch East India company." (P. 132.) This circumstance naturally excited the greatest apprehensions on the part of the Dutch company; for, besides the danger that they now ran of being deprived, by the active competition of the English merchants, of a considerable part of the trade which they had previously enjoyed, they could hardly expect that, if the trade were thrown open in England, the monopoly would be allowed to continue in Holland A striking proof of what is now stated is to be found in a letter in the third volume of Thurlow's *State Papers*, dated at the Hague, Jan. 15, 1654, where it is said that "the merchants of Amsterdam have advice that the lord protector intends to dissolve the East India company at London, and to declare the navigation and commerce of the East Indies free and open; which doth cause great jealousy at Amsterdam, *as a thing that will very much prejudice the East India company in Holland*"—Feeling that it was impossible to contend with the private adventurers under a system of fair competition, the moment the treaty with the Dutch had been concluded the company began to solicit a renewal of their charter; but in this they were not only opposed by the free traders, but by a part of themselves. To understand how this happened, it may be proper to mention that Courten's association, the origin of which has been already noticed, had begun, in 1648, to found a colony in Assuda, an island near Madagascar. The company, alarmed at this project, applied to the council of state to prevent its being carried into effect: and the council, without entering on the question of either party's rights, recommended them to form a union, which was accordingly effected in 1649. But the union was, for a considerable time, rather nominal than real; and when the Dutch war had been put an end to, most of those holders of the company's stock who had belonged to Courten's association joined in petitioning the council of state that the trade might in future be carried on, not by a joint stock, but by a *regulated* company; so that each individual engaging in it might be allowed to employ his own stock, servants and shipping in whatever way he might conceive

most for his own advantage. (*Petition of Adventurers*, Nov. 17, 1656; Bruce's *Annals*, vol. i., p. 518.)—This proposal was obviously most reasonable. The company had always founded their claim to a monopoly of the trade on the alleged ground of its being necessary to maintain forts, factories and ships of war in India; and that as this was not done by government, it could only be done by a company. But, by forming the traders with India into a regulated company, they might have been subjected to whatever rules were considered most advisable; and such special duties might have been laid on the commodities they exported and imported as would have sufficed to defray the public expenses required for carrying on the trade, at the same time that the inestimable advantages of free competition would have been secured; each individual trader being left at liberty to conduct his enterprises, subject only to a few general regulations, in his own way and for his own advantage.—But notwithstanding the efforts of the petitioners, and the success that was clearly proved to have attended the operations of the private traders, the company succeeded in obtaining a renewal of their charter from Cromwell in 1657. Charles II. confirmed this charter in 1661, and at the same time conferred on them the power of making peace or war with any power or people *not of the Christian religion;* of establishing fortifications, garrisons and colonies; of exporting ammunition and stores to their settlements duty free; of seizing and sending to England such British subjects as should be found trading to India without their leave; and of exercising civil and criminal jurisdiction in their settlements, according to the laws of England. Still, however, as this charter was not fully confirmed by any act of parliament, it did not prevent traders, or interlopers as they were termed, from appearing within the limits of the company's territories. The energy of private commerce, which, to use the words of Mr. Orme, "sees its drift with eagles' eyes," formed associations at the risk of trying the consequence at law, being safe at the outset and during the voyage, since the company were not authorized to stop or seize the ships of those who thus attempted to come into competition with them. Hence their monopoly was by no means complete; and it was not till after the revolution, and when a free system of government had been established at home, that by a singular contradiction, the authority of parliament was interposed to enable the company wholly to engross the trade with the east.—In addition to the losses arising from this source, the company's trade suffered severely, during the reign of Charles II. from the hostilities that were then waged with the Dutch, and from the confusion and disorders caused by contests among the native princes; but in 1668 the company obtained a very valuable acquisition in the island of Bombay. Charles II. acquired this island as a part of the marriage portion of his wife, Catherine of Portugal; and it was now made over to the company, on condition of their not selling or alienating it to any persons whatever, except such as were subjects of the British crown. They were allowed to legislate for their new possession; but it was enjoined that their laws should be consonant to reason, and "as near as might be" agreeable to the practice of England. They were authorized to maintain their dominion by force of arms; and the natives of Bombay were declared to have the same liberties as natural-born subjects. The company's western presidency was soon after transferred from Surat to Bombay.—In 1664 the French East India company was formed, and ten years afterward they laid the foundation of their settlements at Pondicherry.—But the reign of Charles II. is chiefly memorable in the company's annals from its being the era of the commencement of the tea trade. The first notice of tea in the company's records is found in a dispatch addressed to their agent at Bantam, dated Jan. 24, 1667-8, in which he is desired to send home 100 lbs. of tea, "the best he can get" (Bruce's *Annals*, vol. ii., p. 210.) Such was the late and feeble beginning of the tea trade—a branch of commerce that has long been of vast importance to the British nation, and without which it is more than probable that the East India company would long since have ceased to exist, at least as a mercantile body.—In 1677 the company obtained a fresh renewal of their charter; receiving at the same time an indemnity for all past misuse of their privileges, and authority to establish a mint at Bombay.—During the greater part of the reigns of Charles II. and James II. the company's affairs at home were principally managed by the celebrated Sir Josiah Child, the ablest commercial writer of the time; and in India by his brother, Sir John Child. In 1681 Sir Josiah published an apology for the company, under the signature of *Φιλόπατρις*—"A Treatise wherein is demonstrated that the East India Trade is the most National of all Foreign Trades;" in which, besides endeavoring to vindicate the company from the objections that had been made against it, he gives an account of its state at the time. From this account it appears that the company consisted of 556 partners; that they had from 35 to 36 ships of from 100 to 775 tons, employed in the trade between England and India, and from port to port in India (p. 23); that the customs duties upon the trade amounted to about £60,000 a year; and that the value of the exports, "in lead, tin, cloth, and stuffs, and other commodities of the production and manufacture of England," amounted to about £60,000 or £70,000 a year. Sir Josiah seems to have been struck, as he well might, by the inconsiderable amount of the trade; and he therefore dwells on the advantages of which it was indirectly productive in enabling the English to obtain supplies of raw silk, pepper, etc., at a much lower price than they would otherwise have fetched. But this, though true, proved nothing in favor of the company; it being an admitted fact that those articles were furnished at a still lower price by the

interlopers or private traders.—Sir Josiah Child was one of the first who projected the formation of a territorial empire in India. But the expedition fitted out in 1686, in the view of accomplishing this purpose, proved unsuccessful; and the company were glad to accept peace on the terms offered by the Mogul. Sir John Child, having died during the course of these transactions, was succeeded in the principal management of the company's affairs in India by Mr. Vaux On the appointment of the latter, Sir Josiah Child, to whom he owed his advancement, exhorted him to act with vigor, and to carry whatever instructions he might receive from home into immediate effect. Mr. Vaux returned for answer, that he should endeavor to acquit himself with integrity and justice, and that he would make the laws of his country the rule of his conduct. Sir Josiah Child's answer to this letter is curious. "He told Mr. Vaux roundly that he expected his orders were to be his rules, and not the laws of England, which were a heap of nonsense, compiled by a few ignorant country gentlemen, who hardly knew how to make laws for the good government of their own private families, much less for the regulating of companies and foreign commerce." (Hamilton's *New Account of the East Indies*, vol. i., p. 232)—During the latter part of the reign of Charles II. and that of his successor, the number of private adventurers, or interlopers, in the Indian trade, increased in an unusual degree. The company vigorously exerted themselves in defense of what they conceived to be their rights; and the question with respect to the validity of the powers conferred on them by their charter was at length brought to issue by a prosecution carried on at their instance against Mr. Thomas Sandys, for trading to the East Indies without their license. Judgment was given in favor of the company in 1685. But this decision was ascribed to corrupt influence; and instead of allaying only served to increase the clamor against them. The meeting of the convention parliament gave the company's opponents hopes of a successful issue to their efforts; and had they been united, they might probably have succeeded. Their opinions were, however, divided—part being for throwing the trade open, and part for the formation of a new company on a more liberal footing. The latter being formed into a body, and acting in unison, the struggle against the company was chiefly carried on by them. The proceedings that took place on this occasion are among the most disgraceful in the history of England. The most open and unblushing corruption was practiced by all parties. "*It was, in fact, a trial which side should bribe the highest; public authority inclining to one or other as the irresistible force of gold directed.*" (*Modern Universal History*, vol. x., p. 127.) Government appears, on the whole, to have been favorable to the company, and they obtained a fresh charter from the crown in 1693 But in the following year the trade was virtually laid open by a vote of the house of commons, "that all the subjects of England had an equal right to trade to the East Indies unless prohibited by act of parliament." Matters continued on this footing till 1698. The pecuniary difficulties in which government was then involved induced them to apply to the company for a loan of £2,000,000, for which they offered 8 per cent. interest. The company offered to advance £700,000, at 4 per cent.; but the credit of government was at the time so low, that they preferred accepting an offer from the associated merchants, who had previously opposed the company, of the £2,000,000, at 8 per cent., on condition of their being formed into a new and exclusive company. While this project was in agitation, the advocates of free trade were not idle, but exerted themselves to show that, instead of establishing a new company, the old one ought to be abolished. But however conclusive, their arguments, having no adventitious recommendations in their favor, failed of making any impression. The new company was established by authority of the legislature; and as the charter of the old company was not yet expired, the novel spectacle was exhibited of two legally constituted bodies, each claiming an exclusive right to the trade of the same possessions!—Notwithstanding all the pretensions set up by those who had obtained the new charter during their struggle with the old company, it was immediately seen that they were as anxious as the latter to suppress everything like free trade. They had not, it was obvious, been actuated by any enlarged views, but merely by a wish to grasp at the monopoly, which they believed would redound to their own individual interest. The public, in consequence, became equally disgusted with both parties; or if there were any difference, it is probable that the new company was looked upon with the greatest aversion, inasmuch as we are naturally more exasperated by what we conceive to be duplicity and bad faith than by fair, undisguised hostility.—At first the mutual hatred of the rival associations knew no bounds. But they were not long in perceiving that such conduct would infallibly end in their ruin; and that while one was laboring to destroy the other, the friends of free trade might step in and procure the dissolution of both. In consequence they became gradually reconciled; and in 1702, having adjusted their differences, they resolved to form themselves into one company, entitled *The United Company of Merchants of England trading to the East Indies.*—The authority of parliament was soon after interposed to give effect to this agreement.—The united company engaged to advance £1,200,000 to government without interest, which, as a previous advance had been made of £2,000,000 at 8 per cent., made the total sum due to them by the public £3,200,000, bearing interest at 5 per cent., and government agreed to ratify the terms of their agreement, and to extend the charter to March 25, 1726, with three years' notice.—

While these important matters were transacting at home, the company had acquired some additional possessions in India. In 1692 the Bengal agency was transferred from Hooghly to Calcutta. In 1698 the company acquired a grant, from one of the grandsons of Aurengzebe, of Calcutta and two adjoining villages; with leave to exercise judiciary powers over the inhabitants, and to erect fortifications. These were soon after constructed, and received, in compliment to William III., then king of England, the name of Fort William. The agency at Bengal, which had hitherto been subsidiary only, was now raised to the rank of a presidency.—The vigorous competition that had been carried on, for some years before the coalition of the old and new companies, between them and the private traders, had occasioned a great additional importation of Indian silks, piece goods and other products, and a great reduction of their price. These circumstances occasioned the most vehement complaints among the home manufacturers, who resorted to the arguments invariably made use of on such occasions by those who wish to exclude foreign competition; affirming that manufactured Indian goods had been largely substituted for those of England; that the English manufacturers had been reduced to the cruel necessity either of selling nothing, or of selling their commodities at such a price as left them no profit; that great numbers of their workmen had been thrown out of employment; and, last of all, that Indian goods were not bought by British goods, but by gold and silver, the exportation of which had caused the general impoverishment of the kingdom! The merchants and others interested in the Indian trade could not, as had previously happened to them in the controversy with respect to the exportation of bullion, meet these statements without attacking the principles on which they rested, and maintaining, in opposition to them, that it was for the advantage of every people to buy the products they wanted in the cheapest market. This just and sound principle was, in consequence, enforced in several petitions presented to parliament by the importers of Indian goods; and it was also enforced in several able publications that appeared at the time. But these arguments, how unanswerable soever they may now appear, had then but little influence, and in 1701 an act was passed, prohibiting the importation of Indian manufactured goods for home consumption.—For some years after the re-establishment of the company, it continued to prosecute its efforts to consolidate and extend its commerce. But the unsettled state of the Mogul empire, coupled with the determination of the company to establish factories in every convenient situation, exposed their affairs to perpetual vicissitudes. In 1715 it was resolved to send an embassy to Delhi, to solicit from Furucksur, an unworthy descendant of Aurengzebe, an extension and confirmation of the company's territory and privileges. Address, accident, and the proper application of *presents* conspired to insure the success of the embassy. The grants or patents solicited by the company were issued in 1717—thirty-four in all. The substance of the privileges they conferred was, that English vessels wrecked on the coast of the empire should be exempt from plunder; that the annual payment of a stipulated sum to the government of Surat should free the English trade at that port from all duties and exactions, that those villages contiguous to Madras, formerly granted and afterward refused by the government of Arcot, should be restored to the company; that the island of Dieu, near the port of Masulipatam, should belong to the company, paying for it a fixed rent; that in Bengal, all persons, whether European or native, indebted or accountable to the company, should be delivered up to the presidency on demand; that goods of exp rt or import, belonging to the English, might, under a *dustuck* or passport from the president of Calcutta, be conveyed duty free through the Bengal provinces; and that the English should be at liberty to purchase the lordship of thirty-seven towns contiguous to Calcutta, and in fact commanding both banks of the river for ten miles south of that city. (Grant's *Sketch of the History of the East India Company*, p. 128.)—The important privileges thus granted were long regarded as constituting the great charter of the English in India. Some of them, however, were not fully conceded, but were withheld, or modified by the influence of the emperor's lieutenants, or soubahdars.—In 1717 the company found themselves in danger from a new competitor. In the course of that year some ships appeared in India, fitted out by private adventurers from Ostend. Their success encouraged others to engage in the same line, and in 1722 the adventurers were formed into a company under a charter from his imperial majesty. The Dutch and English companies, who had so long been hostile to each other, at once laid aside their animosities, and joined heartily in an attempt to crush their new competitors. Remonstrances being found ineffectual, force was resorted to; and the vessels of the Ostend company were captured under the most frivolous pretenses, in the open seas and on the coasts of Brazil. The British and Dutch governments abetted the selfish spirit of hostility displayed by their respective companies; and the emperor was, in the end, glad to purchase the support of Great Britain and Holland to the pragmatic sanction, by the sacrifice of the company at Ostend.—Though the company's trade had increased, it was still inconsiderable; and it is very difficult, indeed, when one examines the accounts that have from time to time been published of the company's mercantile affairs, to imagine how the idea ever came to be entertained that their commerce was of any considerable, much less paramount, importance. At an average of the ten years ending with 1724, the total value of the British manufactures and other products annually exported to India amounted

to only £92,410 12s. 6d. The average value of the bullion annually exported during the same period amounted to £518,102 11s.; making the total annual average exports £617,513 3s. 10d.—a truly pitiful sum, when we consider the wealth, population and industry of the countries between which the company's commerce was carried on, and affording by its smallne-s a strong presumptive proof of the effect of the monopoly in preventing the growth of the trade.—In 1730, though there were three years still unexpired of the company's charter, a vigorous effort was made by the merchants of London, Bristol and Liverpool to prevent its removal. It has been said that the gains of the company, had they been exactly known, would not have excited any very envious feelings on the part of the merchants; but, being concealed, they were exaggerated; and the boasts of the company as to the importance of their trade contributed to spread the belief that their profits were enormous, and consequently stimulated the exertions of their opponents. Supposing, however, that the real state of the case had been known, there was still enough to justify the utmost exertions on the part of the merchants; for the limited profits made by the company, notwithstanding their monopoly, were entirely owing to the misconduct of their agents, which they had vainly endeavored to restrain, and to the waste inseparable from such unwieldy establishments.—The merchants on this occasion followed the example that had been set by the petitioners for free trade in 1656. They offered, in the first place, to advance the £3,200,000 lent by the company to the public, on more favorable terms; and, in the second place, they proposed that the subscribers to this loan should be formed into a *regulated* company, for opening the trade, under the most favorable circumstances, to all classes of their countrymen.—It was not intended that the company should trade upon a joint stock, and in their corporate capacity, but that every individual who pleased should trade in the way of private adventure. The company were to have the charge of erecting and maintaining the forts and establishments abroad; and for this, and for other expenses attending what was called the enlargement and preservation of the trade, it was proposed that they should receive a duty of 1 per cent. upon all exports to India, and of 5 per cent. upon all imports from it. For ensuring obedience to this and other regulations, it was to be enacted that no one should engage in trade to India without license from the company; and it was proposed that thirty-one years, with three years' notice, should be granted as the duration of their peculiar privilege.—"It appears from this," says Mr. Mill, "that the end which was proposed to be answered by incorporating such a company was the preservation and erection of the forts, buildings and other fixed establishments required for the trade of India. This company promised to supply that demand which has always been held forth as peculiar to the Indian trade, as the grand exigency which, distinguishing the traffic with India from all other branches of trade, rendered monopoly advantageous in that peculiar case, how much soever it might be injurious in others. While it provided for this real or pretended want, it left the trade open to all the advantages of private enterprise, private vigilance, private skill and private economy—the virtues by which individuals thrive and nations prosper; and it gave the proposed company an interest in the careful discharge of its duty by making its profits increase in exact proportion with the increase of the trade, and, of course, with the facilities and accommodation by which the trade was promoted.—Three petitions were presented to the house of commons in behalf of the proposed company, by the merchants of London, Bristol and Liverpool. It was urged that the proposed company would, through the competition of which it would be productive, cause a great extension of the trade; that it would produce a larger exportation of English produce and manufactures in India, and reduce the price of all Indian commodities to the people at home; that new channels of traffic would be opened in Asia and America as well as in Europe; that the duties of customs and excise would be increased; and that the waste and extravagance caused by the monopoly would be entirely avoided." (Mill's *India*, vol. iii., p. 37.)—But these arguments did not prevail. The company magnified the importance of their trade, and contended that it would be unwise to risk advantages already realized for the sake of those that were prospective and contingent. They alleged that, if the trade to India were thrown open, the price of goods in India would be so much enhanced by the competition of different traders, and their price in England so much diminished, that the freedom of the trade would certainly end in the ruin of all who had been foolish enough to adventure in it. To enlarge on the fallacy of these statements would be worse than superfluous. It is obvious that nothing whatever could have been risked, and that a great deal would have been gained, by opening the trade in the way that was proposed. And if it were really true that the trade to India ought to be subjected to a monopoly, lest the traders by their competition should ruin each other, it would follow that the trade to America—and not that only, but every branch both of the foreign and home trade of the empire—should be surrendered to exclusive companies. But such as the company's arguments were, they seemed satisfactory to parliament. They, however, consented to reduce the interest on the debt due to them by the public from 5 to 4 per cent., and contributed a sum of £200,000 for the public service. On these conditions it was agreed to extend their exclusive privileges to Lady-day, 1766, with the customary addition of three years' notice.—For about fifteen years from this period the company's affairs went on without any very prominent changes. But notwithstanding the

increased importation of tea, the consumption of which now began rapidly to extend, their trade continued to be comparatively insignificant. At an average of the eight years ending with 1741, the value of the British goods and products of all sorts, exported by the company to India and China, amounted to only £157,944 4s. 7d. a year! During the seven years ending with 1748 they amounted to only $188,176 16s. 4d. When it is borne in mind that these exports included the military stores of all sorts forwarded to the company's settlements in India and at St. Helena, the amount of which was at all times very considerable, it does appear exceedingly doubtful whether the company really exported, during the entire period from 1730 to 1748, £150,000 worth of British produce as a legitimate mercantile adventure! Their trade, such as it was, was entirely carried on by shipments of bullion; and even its annual average export, during the seven years ending with 1748, only amounted to £548,711 19s. 2d. It would seem, indeed, that the company had derived no perceptible advantage from the important concessions obtained from the Mogul emperor in 1717. But the true conclusion is, not that these concessions were of little value, but that the deadening influence of monopoly had so paralyzed the company that they were unable to turn them to account; and that, though without competitors, and with opulent kingdoms for their customers, their commerce was hardly greater than that carried on by some single merchants.—In 1732 the company were obliged to reduce their dividend from 8 to 7 per cent, at which rate it continued till 1744.—The opposition the company had experienced from the merchants when the question as to the renewal of their charter was agitated in 1730 made them very desirous to obtain the next renewal in as quiet a manner as possible. They therefore proposed, in 1743, when twenty-three years of their charter were yet unexpired, to lend £1,000,000 to government, at 3 per cent., provided their exclusive privileges were extended to 1780, with the usual notice; and, as none were expecting such an application, or prepared to oppose it, the consent of the government was obtained without difficulty.—But the period was now come when the mercantile character of the East India company—if, indeed, it could with propriety be at any time said to belong to them—was to be eclipsed by their achievements as a military power, and the magnitude of their conquests. For about two centuries after the European powers began their intercourse with India, the Mogul princes were regarded as among the most opulent and powerful of monarchs. Though of a foreign lineage—being descended from the famous Tamerlane, or Timur Beg, who overran India in 1400—and of a different religion from the great body of their subjects, their dominion was firmly established in every part of their extensive empire. The administration of the different provinces was committed to officers, denominated soubahdars, or nabobs, intrusted with powers, in their respective governments, similar to those enjoyed by the Roman prætors. So long as the emperors retained any considerable portion of the vigor and bravery of their hardy ancestors, the different parts of the government were held in due subordination, and the soubahdars yielded a ready obedience to the orders from Delhi. But the emperors were gradually debauched by the apparently prosperous condition of their affairs. Instead of being educated in the council or the camp, the heirs of almost unbounded power were brought up in the slothful luxury of the seraglio; ignorant of public affairs; benumbed by indolence; depraved by the flattery of women, of eunuchs and slaves; their minds contracted with their enjoyments; their inclinations were vilified by their habits; and their government grew as vicious, as corrupt and as worthless as themselves. When the famous Kouli Khan, the usurper of the Persian throne, invaded India, the effeminate successor of Tamerlane and Aurengzebe was too unprepared to oppose, and too dastardly to think of avenging, the attack. This was the signal for the dismemberment of the monarchy. No sooner had the invader withdrawn than the soubahdars either openly threw off their allegiance to the emperor, or paid only a species of nominal or mock deference to his orders. The independence of the soubahdars was very soon followed by wars among themselves; and, being well aware of the superiority of European troops and tactics, they anxiously courted the alliance and support of the French and English East India companies. These bodies, having espoused different sides, according as their interests or prejudices dictated, began very soon to turn the quarrels of the soubahdars to their own account. Instead of being contented, as hitherto, with the possession of factories and trading towns, they aspired to the dominion of provinces; and the struggle soon came to be, not which of the native princes should prevail, but whether the English or the French should become the umpires of India.—But these transactions are altogether foreign to the subject of this work; nor could any intelligible account of them be given without entering into lengthened statements. We shall only, therefore, observe that the affairs of the French were ably conducted by La Bourdonnais, Dupleix and Lally, officers of distinguished merit, and not less celebrated for their great actions than for the base ingratitude of which they were the victims. But though victory seemed at first to incline to the French and their allies, the English affairs were effectually retrieved by the extraordinary talents and address of a single individual. Colonel (afterward Lord) Clive was equally brave, cautious and enterprising; not scrupulous in the use of means; fertile in expedients; endowed with wonderful sagacity and resolution; and capable of turning even the most apparently adverse circumstances to advantage. Having succeeded in humbling the French power in the vicinity of Madras, Clive landed at Calcutta in 1757, in order to chastise

the soubdahdar, Surajah ul Dowlah, who had a short while before attacked the English factory at that place, and inhumanly shut up 146 Englishmen in a prison, where, owing to the excessive heat and want of water, 123 perished in a single night. Clive had only 700 European troops and 1,400 Sepoys with him when he landed; but with these, and 570 sailors furnished by the fleet, he did not hesitate to attack the immense army commanded by the soubahdar, and totally defeated him in the famous battle of Plassey. This victory threw the whole provinces of Bengal, Bahar and Orissa into the hands of the English, and they were finally confirmed to them by the treaty negotiated in 1765.—Opinion has been long divided as to the policy of English military operations in India; and it has been strenuously contended that England should never have extended its conquests beyond the limits of Bengal. The legislature seems to have taken this view of the matter; the house of commons having resolved, in 1782, "that to pursue schemes of conquest and extent of dominion in India are measures repugnant to the wish, the honor and the policy of this nation." But others have argued, and apparently on pretty good grounds, that, having gone thus far, England was compelled to advance. The native powers, trembling at the increase of British dominion, endeavored, when too late, to make head against the growing evil. In this view they entered into combinations and wars against the English; and the latter having been uniformly victorious, their empire necessarily went on increasing, till all the native powers have been swallowed up in its vast extent.—The magnitude of the acquisitions made by Lord Clive powerfully excited the attention of the British public. Their value was prodigiously exaggerated; and it was generally admitted that the company had no legal claim to enjoy, during the whole period of their charter, all the advantages resulting from conquests to which the fleets and armies of the state had largely contributed. In 1767 the subject was taken up by the house of commons; and a committee was appointed to investigate the whole circumstances of the case, and to calculate the entire expenditure incurred by the public on the company's account. During the agitation of this matter the right of the company to the new conquests was totally denied by several members. In the end, however, the question was compromised by the company agreeing to pay £400,000 a year for two years; and in 1769 this agreement, including the yearly payment, was further extended for five years more. The company at the same time increased their dividend, which had been fixed by the former agreement at 10, to 12½ per cent.—But the company's anticipations of increased revenue proved entirely visionary. The rapidity of their conquests in India, the distance of the controlling authority at home, and the abuses in the government of the native princes, to whom the company had succeeded, conspired to foster a strong spirit of peculation among their servants. Abuses of every sort were multiplied to a frightful extent. The English, having obtained, or rather enforced, an exemption from those heavy transit duties to which the native traders were subject, engrossed the whole internal trade of the country. They even went so far as to decide what quantity of goods each manufacturer should deliver, and what he should receive for them. It is due to the directors to say that they exerted themselves to repress these abuses; but their resolutions were neither carried into effect by their servants in India, nor sanctioned by the proprietors at home; so that the abuses, instead of being repressed, went on acquiring fresh strength and virulence. The resources of the country were rapidly impaired; and while many of the company's servants returned to Europe with immense fortunes, the company itself was involved in debt and difficulties; and so far from being able to pay the stipulated sum of £400,000 a year to government, was compelled to apply in 1772 to the treasury for a loan!—In this crisis of their affairs government interposed, and a considerable change was made in the constitution of the company. The dividend was restricted to 6 per cent. till the sum of £1,400,000, advanced to them by the public, should be paid. It was further enacted that the court of directors should be elected for four years, six members annually, but none to hold their seats for more than four years at a time; that no person was to vote at the courts of proprietors who had not possessed his stock for twelve months; and that the amount of stock required to qualify for a vote should be increased from £500 to £1,000. The jurisdiction of the mayor's court at Calcutta was in future confined to small mercantile cases; and, in lieu of it, a new court was appointed, consisting of a chief justice and three principal judges appointed by the crown. A superiority was also given to Bengal over the other presidencies, Mr. Warren Hastings being named in the act as governor general of India. The governor general, councilors and judges were prohibited from having any concern whatever in trade; and no person residing in the company's settlements was allowed to take more than 12 per cent. per annum for money. Though strenuously opposed, these measures were carried by a large majority.—At this period (1773) the total number of proprietors of East India stock, with their qualifications as they stood in the company's book, were as follows:

PROPRIETORS.	No.	Amount of Stock. £ s d
Englishmen, possessing £1,000 stock and upwards	487	1,018,398 19 11
Foreigners, possessing £1,000 stock and upwards	325	890,940 17 0
Englishmen, possessing £500 stock and upwards	1,246	634,464 1 8
Foreigners, possessing £500 stock and upwards	95	50,226 0 0
Total	2,153	2,594,029 18 7

—Notwithstanding the vast extension of the company's territories, their trade continued to be apparently insignificant. During the three years ending with 1773 the value of the entire exports of British produce and manufactures, including military stores, sent out by the company to Ind a and China, amounted to £1,469,411, being at the rate of £489,803 a year; the annual exports of bullion during the same period being only £84,933! During the same three years twenty-three ships sailed annually for India. The truth, indeed, seems to be, that, but for the increased consumption of tea in Great Britain, the company would have entirely ceased to carry on any branch of trade with the east, and that the monopoly would have excluded the English as effectually from the markets of India and China as if the trade had reverted to its ancient channels, and the route by the cape of Good Hope been relinquished.—In 1781 the exclusive privileges of the company were extended to 1791, with three years' notice; the dividend on the company's stock was fixed at 8 per cent.; three-fourths of their surplus revenues, after paying the dividend and the sum of £400,000 payable to government, was to be applied to the public service, and the remaining fourth to the company's own use.—In 1780 the value of British produce and manufactures exported by the company to India and China amounted to only £386,152; the bullion exported during the same year was £15,014. The total value of the exports during the same year was £12,648,616; showing that the East India trade formed only *one thirty-second* part of the entire foreign trade of the empire.—The administration of Mr. Hastings was one continued scene of war, negotiation and intrigue. The state of the country, instead of being improved, became worse; so much so, that in a council minute by Marquis Cornwallis, dated Sept. 18, 1789, it is distinctly stated "*that one-third part of the company's territory is now a jungle for wild beasts.*" Some abuses in the conduct of their servants were, indeed, rectified; but, notwithstanding, the net revenue of Bengal, Bahar and Orissa, which in 1772 had amounted to £2,126,766, declined in 1785 to £2,072,963. This exhaustion of the country, and the expenses incurred in the war with Hyder Ally and France, involved the company in fresh difficulties; and being unable to meet them, they were obliged in 1783 to present a petition to parliament, setting forth their inability to pay the stipulated sum of £400,000 a year to the public, and praying to be excused from that payment and to be supported by a loan of £900,000.—All parties seemed now to be convinced that some further changes in the constitution of the company had become indispensable. In this crisis Mr. Fox brought forward his famous India bill, the grand object of which was to abolish the courts of directors and proprietors, and to vest the government of India in the hands of seven commissioners appointed by parliament. The coalition between Lord North and Mr. Fox having rendered the ministry exceedingly unpopular, advantage was taken of the circumstance to raise an extraordinary clamor against the bill. The East India company stigmatized it as an invasion of their chartered rights; though it is obvious that, from their inability to carry into effect the stipulations under which those rights were conceded to them, they necessarily reverted to the public; and it was as open to parliament to legislate upon them as upon any other question. The political opponents of the government represented the proposal for vesting the nomination of commissioners in the legislature as a daring invasion of the prerogative of the crown, and an insidious attempt of the minister to render himself all-powerful by adding the patronage of India to that already in his possession. The bill was, however, carried through the house of commons; but, in consequence of the ferment it had excited, and the avowed opposition of his majesty, it was thrown out in the house of lords. This event proved fatal to the coalition ministry. A new one was formed, with Mr Pitt at its head; and parliament being soon after dissolved, the new minister acquired a decisive majority in both houses. When thus secure of parliamentary support, Mr. Pitt brought forward his India bill, which was successfully carried through all its stages. By this bill a board of control was erected, consisting of six members of the privy council, who were "to check, superintend and control all acts, operations and concerns which in anywise relate to the civil or military government or revenues of the territories and possessions of the East India company." All communications to or from India, touching any of the above matters, were to be submitted to this board, the directors being ordered to yield obedience to its commands, and to alter or amend all instructions sent to India as directed by it. A secret committee of three directors was formed, with which the board of control might transact any business it did not choose to submit to the court of directors. Persons returning from India were to be obliged, under very severe penalties, to declare the amount of their fortunes; and a tribunal was appointed for the trial of all individuals accused of misconduct in India, consisting of a judge from each of the courts of king's bench, common pleas and exchequer; five members of the house of lords, and seven members of the house of commons; the last being chosen by lot at the commencement of each session. The superintendence of all commercial matters continued, as formerly, in the hands of the directors.—During the administration of Marquis Cornwallis, who succeeded Mr. Hastings, Tippoo Saib, the son of Hyder Ally, was stripped of nearly half of his dominions; the company's territorial revenue was, in consequence, greatly increased; at the same time that the permanent settlement was carried into effect in Bengal, and other important changes accomplished. Opinion has been long divided as to the influence of these changes. On

the whole, however, we are inclined to think that they have been decidedly advantageous. Lord Cornwallis was, beyond all question, a sincere friend to the people of India, and labored earnestly, if not always successfully, to promote their interests, which he well knew were identified with those of the British nation.—During the three years ending with 1793 the value of the company's exports of British produce and manufactures fluctuated from £928,783 to £1,031,262. But this increase is wholly to be ascribed to the reduction of the duty on tea in 1784, and the vast increase that consequently took place in its consumption. Had the consumption of tea continued stationary, there appear no grounds for thinking that the company's exports in 1793 would have been greater than in 1780, unless an increase had taken place in the quantity of military stores exported.—In 1793 the company's charter was prolonged till March 1, 1814. In the act for this purpose a species of provision was made for opening the trade to India to private individuals. All his majesty's subjects residing in any part of his European dominions were allowed to export to India any article of the produce or manufacture of the British dominions, except military stores, ammunition, masts, spars, cordage, pitch, tar and copper; and the company's civil servants in India, and the free merchants resident there, were allowed to ship, on their own account and risk, all kinds of Indian goods, except calicoes, dimities, muslins, and other piece goods. But neither the merchants in England, nor the company's servants and merchants in India, were allowed to export or import except in the company's ships. And in order to insure such conveyance, it was enacted that the company should annually appropriate 3,000 tons of shipping for the use of private traders; it being stipulated that they were to pay in time of peace £5 outwards, and £15 homewards, for every ton occupied by them in the company's ships; and that this freight might be raised in time of war with the approbation of the board of control.—It might have been, and indeed most probably was, foreseen that very few British merchants or manufacturers would be inclined to avail themselves of the privilege of sending out goods in company's ships, or of engaging in a trade fettered on all sides by the jealousy of powerful monopolists, and where consequently their superior judgment and economy would have availed almost nothing. As far, therefore, as they were concerned, the relaxation was more apparent than real, and did not produce any useful results. (In a letter to the East India company, dated March 21, 1812, Lord Melville says: "It will not be denied that the facilities granted by that act [the act of 1793] have not been satisfactory, at least to the merchants either of this country or of India. They have been the source of constant dispute, and they have even entailed a heavy expense upon the company, without affording to the public any adequate benefit from such a sacrifice." *Papers published by East India Company*, 1813, p. 84.) It was, however, made use of to a considerable extent by private merchants in India, and also by the company's servants returning from India, many of whom invested a part and some the whole of their fortune in produce fit for the European markets.—The financial difficulties of the East India company led to the revolution which took place in its government in 1784. But notwithstanding the superintendence of the board of control, its finances have continued nearly in the same unprosperous state as before. We have been favored from time to time with the most dazzling accounts of revenue that was to be immediately derived from India; and numberless acts of parliament have been passed for the appropriation of surpluses that never had any existence except in the imagination of their framers. The proceedings that took place at the renewal of the charter in 1793 afford a striking example of this. Lord Cornwallis had then concluded the war with Tippoo Saib, which had stripped him of half of his dominions; the perpetual settlement, from which so many benefits were expected to be derived, had been adopted in Bengal; and the company's receipts had been increased, in consequence of accessions to their territory, and subsidies from native princes, etc., to upwards of *eight* millions sterling a year, which it was calculated would afford a future annual surplus, after every description of charge had been deducted, of £1,240,000. Mr. Dundas (afterward Lord Melville), then president of the board of control, availed himself of these favorable appearances to give the most flattering representation of the company's affairs. There could, he said, be no question as to the permanent and regular increase of the company's surplus revenue; he assured the house that the estimates had been framed with the greatest care; that the company's possessions were in a state of prosperity till then unknown in India; that the abuses which had formerly insinuated themselves into some departments of the government had been rooted out, and that the period had at length arrived when India was to pour her golden treasures into the lap of England! Parliament participated in these brilliant anticipations, and in the act prolonging the charter it was enacted, 1. That £500,000 a year of the surplus revenue should be set aside for reducing the company's debt in India to £2,000,000; 2 That £500,000 a year should be paid into the exchequer, to be appropriated for the public service as parliament should think fit to order; 3. When the India debt should be reduced to £2,000,000, and the bond debt to £1,500,000, *one-sixth* part of the surplus was to be applied to augment the dividends, and the other *five-sixths* were to be paid into the bank, in the name of the commissioners of the national debt, to be accumulated as a *guarantee fund*, until it amounted to £12,000,000; and when it reached that sum, the dividends upon it were to be applied to make up the dividends on the capital stock of the company to 10

per cent., if at any time the funds appropriated to that purpose should prove deficient, etc.—Not one of these anticipations was realized! Instead of being diminished, the company's debts began immediately to increase. In 1795 they were authorized to add to the amount of their floating debt. In 1796 a new device to obtain money was fallen upon. Mr. Dundas represented that as all competition had been destroyed in consequence of the war, the company's commerce had been greatly increased, and that their mercantile capital had become insufficient for the extent of their transactions. In consequence of this representation, leave was given to the company to add *two millions* to their capital stock by creating 20,000 new shares; but as these shares sold at the rate of £173 each, they produced £3,460,000. In 1797 the company issued additional bonds to the extent of £1,417,000; and notwithstanding all this, Mr. Dundas stated in the house of commons, March 13, 1799, that there had been a deficit in the previous year of £1,319,000.—During the administration of the Marquis Wellesley, which began in 1797–8 and terminated in 1805–6, the British empire in India was augmented by the conquest of Seringapatam and the whole territories of Tippoo Saib, the cession of large tracts by the Mahratta chiefs, the capture of Delhi, the ancient seat of the Mogul empire, and various other important acquisitions; so that the revenue, which had amounted to £8,059,000 in 1797, was increased to £15,403,000 in 1805. But the expenses of government and the interest of the debt increased in a still greater proportion than the revenue, having amounted in 1805 to £17,672,000, leaving a deficit of £2,269,000. In the following year the revenue fell off nearly £1,000,000, while the expenses continued nearly the same; and there was, at an average, a continued excess of expenditure, including commercial charges, and a contraction of fresh debt, down to 1811–12.—Notwithstanding the vast additions made to their territories, the company's commerce with them continued to be very inconsiderable. During the five years ending with 1811 the exports to India by the company, exclusive of those made on account of individuals in their ships, were as follows: 1807, £952,416; 1808, £919,544; 1809, £866,153; 1810, £1,010,815; 1811, £1,033,816. The exports by the private trade, and the *privilege* trade, that is, the commanders and officers of the company's ships, during the above-mentioned years, were about as large. During the five years ending with 1807–8 the annual average imports into India by British private traders, only amounted to £305,496. (*Papers*, published by the East India company in 1813, 4to, p. 56.) The company's exports included the value of the military stores sent from Great Britain to India. The ships employed in the trade to *India and China* during the same five years varied from 44 to 53, and their burden from 36,671 to 45,342 tons.—For some years before the termination of the company's charter in 1813, the conviction had been gaining ground among all classes that the trade to the east was capable of being very greatly extended; and that it was solely owing to the want of enterprise and competition, occasioned by its being subjected to a monopoly, that it was confined within such narrow limits. Very great efforts were, consequently, made by the manufacturing and commercial interests to have the monopoly set aside, and the trade to the east thrown open. The company vigorously resisted these pretensions, and had interest enough to procure a prolongation of the privilege of carrying on an exclusive trade to China to April 10, 1831, with three years' notice; the government of India being continued in their hands for the same period. Fortunately, however, the trade to India was opened, under certain conditions, to the public. The principal of these conditions were, that private individuals should trade, directly only, with the presidencies of Calcutta, Madras and Bombay, and the port of Penang; that the vessels fitted out by them should not be under 350 tons burden; and that they should abstain, unless permitted by the company or the board of control, from engaging in the carrying trade of India, or in the trade between India and China. And yet, despite these disadvantages, such is the energy of individual enterprise as compared with monopoly, that the private traders gained an almost immediate ascendency over the East India company, and in a very short time more than *trebled* English trade with India! In the report of the committee of the house of lords on the foreign trade of the country, printed in May, 1821, it is stated that the greatly increased consumption of British goods in the east since the commencement of the free trade can not be accounted for by the demand of European residents, the number of whom does not materially vary; and it appears to have been much the greatest in articles calculated for the general use of the natives. That of the cotton manufactures of England alone is stated, since the first opening of the trade, to have been augmented from *four* to *five*-fold. The value of the merchandise exported from Great Britain to India, which amounted in 1814 to £870,177, amounted in 1819 to £3,052,741, [this is the amount of the company's exports only, and the sum is not quite accurate. *Post*]; and although the market appears to have been so far overstocked as to occasion a diminution of nearly one-half in the exports of the following year, that diminution appears to have taken place more in the articles intended for the consumption of Europeans than of natives; and the trade is now stated to the committee by the best informed persons to be reviving. When the amount of population, and the extent of the country over which the consumption of these articles is spread, are considered, it is obvious that any facility which can, consistently with the political interests and security of the company's dominions, be given to the private trader for the distribution of his exports, by increasing the number of ports at

which he may have the option of touching in pursuit of a market, can not fail to promote a more ready and extensive demand."—Besides the restraints imposed by the act of 1813 on the proceedings of the free traders (these restraints were a good deal modified by the act of 3 Geo. IV., c. 80, which was passed in pursuance of the recommendation of the committee quoted above), they frequently experienced very great loss and inconvenience from the commercial speculations of the East India company. The latter had commercial residents, with large establishments of servants, some of them intended for coercive purposes, stationed in all the considerable towns; and the Marquis Wellesley has stated "that the intimation of a wish from the company's resident is always received as a command by the native manufacturers and producers." The truth is, that it was not in the nature of things that the company's purchases could be fairly made; the natives could not deal with their servants as they would have dealt with private individuals: and it would be absurd to suppose that agents authorized to buy on account of government, and to draw on the public treasury for the means of payment, should generally evince the prudence and discretion of individuals directly responsible in their own private fortunes for their transactions. The interference of such persons would, under any circumstances, have rendered the East India trade peculiarly hazardous. But their influence in this respect was materially aggravated by the irregularity of their appearances. No individual, not belonging to the court of directors, could foresee whether the company's agents would be in the market at all; or, if there, to what extent they would either purchase or sell. So capricious were their proceedings that in some years they laid out £700,000 on indigo, while in others they did not lay out a single shilling; and so with other things. A fluctuating demand of this sort necessarily occasioned great and sudden variations of price, and was injurious alike to the producers and the private merchants. —And besides being injurious to the private trader, and to the public generally, both in India and England, this trade was of no advantage to the East India company. How, indeed, could it be otherwise? A company that maintained armies and retailed tea, that carried a sword in one hand and a ledger in the other, was a contradiction; and, had she traded with success, would have been a prodigy. It was impossible for her to pay that attention to details which is indispensable to the carrying on of commerce with advantage. She may have gained something by the monopoly of the tea trade, though even that is questionable; but it is admitted on all hands that she lost heavily by her trade to India. When, therefore, the question as to the renewal of the charter came to be discussed in 1832 and 1833, the company had no reasonable objection to urge against their being deprived of the privilege of trading. And the act 3 & 4 Wm. IV., c. 85, for continuing the charter till 1854 *terminated the company's commercial character*, by enacting that the company's trade to China was to cease on April 22, 1834, and that the company was, as soon as possible after that date, to dispose of their stocks on hand and close their commercial business; and the wonderful increase that has since taken place in the trade with the east is the best proof of the sagacity and soundness of the opinions of those by whose efforts the incubus of monopoly was removed.—From this period down to 1858, when the company was, as a governing body, finally abolished, its functions were wholly political, and the directors were, in truth, little more than a council to assist and advise the president of the board of control During the period now alluded to (from 1834 to 1858) some most important events have taken place in India. The British empire has been increased by the acquisition in 1845 of the territory of Scinde, at the mouths of the Indus; in 1849 of the extensive and fertile country of the Punjab (Five Rivers), in northwest India, between the Sutlej and the Indus; and in 1852 of Pegu and Martaban in Burmah. Being occupied by comparatively brave and hardy races, the subjugation of Scinde and the Punjab was not effected without much difficulty, and after the occurrence of several well-fought battles.—The period referred to is also distinguished by the ill-advised invasion of Afghanistan in 1839. This unprovoked aggression led to the greatest reverse that has ever happened to the English in India But the disastrous retreat from Caubul having been avenged, and the *prestige* of English arms restored, England finally withdrew from the country in 1842. And it is to be hoped that she may never again, unless from the most urgent necessity, attempt to extend her empire in that quarter beyond its present limits —A conviction had been for a lengthened period gaining ground that the company's intervention in the government of India had become inexpedient, and that it should be directly administered by the crown In 1853 a step was taken in this direction by the act 16 & 17 Vict., c. 95, which reduced the number of directors from twenty-four to eighteen, part of which were to be nominated by the crown, and made other changes It is not easy to say how long this modified system might have gone on, had it not been for the outbreak of the gigantic mutiny of 1857. It would be foreign to our object to introduce details with respect to the origin of this insurrection, its progress and suppression. These are known to all our readers. Here it is sufficient to mention that the incipient prejudice against the company having been strengthened, though without much reason, by the disasters in India, advantage was taken of their occurrence to introduce a bill into parliament for transferring its government from the company to the crown, which soon after (Aug. 2, 1858) became the act 21 and 22 Vict., c. 106. Its commercial had long been sunk in its military and polit-

ical character. It had subjugated one of the most extensive empires in the world. And though its policy has been in many respects of a very questionable description, it is entitled to the high praise of having vigorously exerted itself to restrain abuses on the part of its servants, to protect the vast population within its dominion, and provide for their well-being.—This once great and powerful corporation, having existed nearly 275 years, was, after the transfer of its remaining functions to the secretary of state for India in council, finally dissolved in 1873, by the 36 and 37 Vict., c. 17.

J. R. M'Culloch and Hugh G. Reid.

EAST INDIES, a popular geographical term not very well defined, but generally understood to signify the continents and islands to the east and south of the river Indus, as far as the borders of China, including Timur and the Moluccas, but excluding the Philippine islands, New Guinea and New Holland. China and the Philippine islands were, however, included within the limit of the East India company's peculiar privileges.—1. *Distinction of Castes in India. Inaccuracy of the Representations as to the Inhabitants being unalterably attached to ancient Customs and Practices.* We have taken occasion in the preceding sketch of the history of the East India company, repeatedly to notice the small extent of the trade carried on by its agency. It was contended, however, that this was to be ascribed, not to the deadening influence of monopoly, but to the peculiar state of the people of India. A notion has long been prevalent that the Hindoos are a race unsusceptible of change or improvement of any sort; that every man is brought up to the profession of his father, and can engage in none else; and that, owing to the simplicity and unalterableness of their habits, they never can be consumers, at least to any considerable extent, of foreign commodities. "What is now in India has always been there, and is likely still to continue" (Robertson's *Disquisition*, p. 202.) The Hindoos of this day are said to be the same as the Hindoos of the age of Alexander the Great. The description of them given by Arrian has been quoted as applying to their actual situation. It is affirmed that they have neither improved nor retrograded, and we are referred to India as to a country in which the institutions and manners that prevailed 3,000 years ago may still be found in their pristine purity. The president de Goguet lays it down distinctly in his learned and invaluable work *On the Origin of Laws, Arts and Sciences*, that in India "every trade is confined to a particular caste, and can be exercised only by those whose parents professed it." (*Origin of Laws*, etc., English translation, vol. iii., p. 24.) Dr. Robertson says that the "station of every Hindoo is unalterably fixed; his destiny is irrevocable; and the walk of life is marked out from which he must never deviate." (*Disquisition on India*, p. 199.) The same opinions are maintained by later authorities. Dr. Tennant says that "the whole Indian community is divided into four great classes; and each class is stationed between certain walls of separation, which are impassable by the purest virtue and most conspicuous merit." (Quoted by Mr Rickards, p 6.) This unalterable destiny of individuals has been repeatedly assumed in the dispatches and official papers put forth by the East India company, and has been referred to on all occasions by them and their servants as a proof that the depressed and miserable condition of the natives is not owing to misgovernment, or to the weight of the burdens laid upon them; and that it is in vain to think of materially improving their condition, or of making them acquainted with new arts, or giving them new habits, so long as the institution of castes, and the prejudices to which it has given rise, preserve their ascendency unimpaired. — But notwithstanding the universal currency which the opinions now referred to have obtained, and the high authority by which they are supported, they are, in all the most essential respects, entirely without foundation! The books and codes of the Hindoos themselves, and the minute and careful observations that have recently been made on Indian society, have shown that the influence ascribed to the institution of castes by the ancients, and by the more early modern travelers, has been prodigiously exaggerated. In the first part of his work on India, Mr. Rickards established, partly by references to the authoritative books of the Hindoos, and partly by his own observations, and those of Mr. Colebrooke, Dr. Heber, and other high authorities, that the vast majority of the Hindoo population may, and in fact do, engage in all sorts of employments. It has been further shown that there is nothing in the structure of Indian society to oppose any serious obstacle to the introduction of new arts, or the spread of improvement; and that the causes of the poverty and misery of the people must be sought for in other circumstances than the institution of castes and the nature of Hindoo superstition —The early division of the population into the four great classes of priests (Brahmans), soldiers (Cshatryas), husbandmen and artificers (Vaisyas), and slaves (Sudras), was maintained only for a very short period. The Hindoo traditions record that a partial intermixture of these classes took place at a very remote epoch; and the mixed brood thence arising were divided into a vast variety of new tribes, or castes, to whom, speaking generally, no employments are forbidden.—"The employments," says Mr. Rickards, "allowed to these mixed and impure castes may be said to be every description of handicraft and occupation for which the wants of human society have created a demand. Though many seem to take their names from their ordinary trade or profession, and some have duties assigned them too low and disgusting for any others to perform but from the direst neces-

sity, yet no employment, generally speaking, is forbidden to the mixed and impure tribes, excepting three of the prescribed duties of the sacerdotal class, viz., teaching the *Vedas*, officiating at a sacrifice, and receiving presents from a pure-handed giver; which three are exclusively *Brahminical*."—Mr. Colebrooke, who is acknowledged on all hands to be one of the very highest authorities as to all that respects Indian affairs, has a paper in the fifth volume of the *Asiatic Researches*, on the subject of castes. In this paper Mr. Colebrooke states that the *Jatimala*, a Hindoo work, enumerates *forty-two* mixed classes springing from the intercourse of a man of inferior class with a woman of superior class, or in the *inverse* order of the classes. Now, if we add to these the number that must have sprung from intermixture in the *direct* order of the classes, and the hosts further arising from the continued intermixture of the mixed tribes among themselves, we shall not certainly be disposed to dissent from Mr. Colebrooke's conclusion "that the subdivisions of these classes have further multiplied distinctions to an *endless variety*"—Mr. Colebrooke has given the following distinct and accurate account of the professions and employments of the several classes at the present day. It forms a curious commentary on the "irrevocable destiny" of Dr. Robertson, and the "impassable walls" of Dr. Tennant.—"A *Brahman*, unable to subsist by his duties, may live by the duty of a soldier; if he can not get a subsistence by either of these employments, he may apply to tillage and attendance on cattle, or gain a competence by traffic, avoiding certain commodities. A *Cshatrya* in distress may subsist by all these means; but he must not have recourse to the highest functions. In seasons of distress a further latitude is given. The practice of medicine and other learned professions, painting and other arts, work for wages, menial service, alms, and usury, are among the modes of subsistence allowed both to the *Brahman* and *Cshatrya*. A *Vaisya*, unable to subsist by his own duties, may descend to the servile acts of a *Sudra;* and a *Sudra*, not finding employment by waiting on men of the higher classes, may subsist by handicrafts; principally following those mechanical operations, as joinery and masonry, and practical arts, as painting and writing, by which he may serve men of superior classes, and although a man of a lower class is in general restricted from the acts of a higher class, the *Sudra* is expressly permitted to become a trader or a husbandman.—Besides the particular occupation assigned to each of the mixed classes, they have the alternative of following that profession which regularly belongs to the class from which they derive their origin on the mother's side: those at least have such an option who are born in the direct order of the classes. The mixed classes are also permitted to subsist by any of the duties of a *Sudra;* that is, by menial service, by handicrafts, by commerce, and agriculture. Hence it appears that almost every occupation, though regularly it be the profession of a particular class, is open to most other classes; and that the limitations, far from being rigorous, do in fact reserve only the peculiar profession of the *Brahman*, which consists in teaching the *Veda*, and officiating at religious ceremonies." "We have thus," says Mr. Rickards, by whom this passage has been quoted, "the highest existing authority for rejecting the doctrine of the whole Hindoo community 'being divided into four castes,' and of their peculiar prerogatives being guarded inviolate by 'impassable walls of separation.' It is also clear that the intermixture of castes had taken place, to an indefinite extent, at the time when the *Dherma Sastra* was composed, which Sir William Jones computes to be about 880 years B. C.; for the mixed classes are specified in this work, and it also refers in many places to past times, and to events which a course of time only could have brought about. The origin of the intermixture is therefore lost in the remotest and obscurest antiquity; and having been carried on through a long course of ages, a heterogeneous mass is everywhere presented to us, in these latter times, without a single example, in any particular state, or kingdom, or separate portion of the Hindoo community, of that quadruple division of castes which has been so confidently insisted upon. I have myself seen carpenters of five or six different castes, and as many different bricklayers, employed on the same building. The same diversity of castes may be observed among the craftsmen in dockyards, and all other great works; and those who have resided for any time in the principal commercial cities of India must be sensible that every increasing demand for labor, in all its different branches and varieties of old and new arts, has been speedily and effectually supplied, in spite of the tremendous institution of castes, which we are taught to believe forms so impassable an obstruction to the advancement of Indian industry."—2. *Growing Demand for English Goods.* It is difficult to suppose that the directors of the East India company should not have been early aware of the fallacy of the opinions as to the fixedness of Indian habits. So far, however, as we know, they did not, in this instance, evince any acquaintance with the discoveries of their servants. On the contrary, in all the discussions that took place with respect to the opening of the trade in 1814, the company invariably contended that no increase of trade to India could be expected. In a letter of the chairman and deputy chairman to the Right Honorable Robert Dundas, dated Jan. 13, 1809, it is stated that the small demand for foreign commodities in India "results from the nature of the Indian people, their climate and their usages. The articles of first necessity their own country furnishes more abundantly and more cheaply than it is possible for Europe to supply them. The labor of the great body of the common peo-

ple only enables them to subsist on rice, and to wear a slight covering of cotton cloth; they, therefore, *can purchase none of the superfluities the English offer them.* The comparatively few in better circumstances restricted, like the rest, by numerous religious and civil customs, of which all are remarkably tenacious, find few of English commodities to their taste; and their climate, so dissimilar to England, renders many of them unsuitable to their use; so that a commerce between them and England can not proceed far upon the principle of supplying mutual wants. Hence, except woolens in a very limited degree, for mantles in the cold season, and metals, on a scale also very limited, to be worked up by their own artisans for the few utensils they need, hardly any of English staple commodities find a vent among the Indians; the other exports which Europe sends to India being chiefly consumed by the European population there, and some of the descendants of the early Portuguese settlers; all of whom, taken collectively, form but a small body in view to any question of national commerce." (*Papers published by authority of the East India Company*, 1813, p. 21.)—The volume from which we have made this extract, contains a variety of passages to the same effect So confident, indeed, were the company that they had carried the trade to India to the utmost extent of which it was capable, that it was expressly stated, in resolutions passed in a general court held at the India house on Jan. 26, 1813, "that no large or sudden addition can be made to the amount of British exports to India or China," that the company had suffered a loss in attempting to extend this branch of their trade, that the warehouses at home were glutted with Indian commodities for which there was no demand, and that to open the outports to the trade would be no other than "a ruinous transfer of it into new channels, to the destruction of immense and costly establishments, and the beggary of many thousands of industrious individuals"—Luckily, however, these representations were unable to prevent the opening of the trade, and the result has sufficiently demonstrated their fallacy The enterprise and exertion of individuals have vastly increased English exports to India—to that very country which the company had so confidently pronounced was, and would necessarily continue to be, incapable of affording any additional outlet for English peculiar products!—The commercial accounts for 1812 and 1813 were unfortunately destroyed by the fire at the custom house The trade to India was opened on April 10, 1814; and in that year the declared or real value of the products exported from Great Britain to the countries eastward of the cape of Good Hope, excepting China, by the East India company, was £826,558, and by the private traders, £1,048,132 In 1817 the company's exports had declined to £638,382, while those of the private traders had increased to £2,750,333, and in 1828 the former had sunk to only £488,601, while the latter had increased to £3,979,072, being more than double the total exports to India, as well by the company as by private traders, in 1814! Since then the market has continued progressively to increase At an average of the six years ending with 1849, the declared value of the exports of British goods amounted to no less than £6,313,668 a year; the declared value of those exported in 1849 being £6,803,274. In 1854, previously to the outbreak, the exports to India had reached the sum of £10,025,969.—The company stated, and no doubt truly, that they lost a very large sum in attempting to extend the demand for British woolens in India and China, which, notwithstanding, continues very limited. But in their efforts to force the sale of woolens, they seem to have entirely forgotten that England had attained to great excellency in the manufacture of cotton stuffs, the article principally made use of as clothing in Hindostan; and that, notwithstanding the cheapness of labor in India, the advantage derived from England's superior machinery might enable her to offer cotton stuffs to the natives at a lower price than they could afford to manufacture them for. No sooner, however, had the trade been opened to private adventurers than this channel of enterprise was explored; and the result has been, that, instead of bringing cottons from India to England, the former has become *one of the best and most extensive markets for the cottons of the latter.* We question, indeed, whether, in the whole history of commerce, another equally striking example can be produced of the powerful influence of competition in opening new and almost boundless fields for the successful prosecution of commercial enterprise.—In 1814, the first year of the free trade to India, the exports of cotton amounted to 817,000 yards, of which only about 170,000 yards, valued at £17,778, were exported by the company' The progress of the trade has since been such, that in 1866 England exported to India 544,699,474 yards of cotton stuffs, and 19,849,460 lbs. twist and yarn, ex. hosiery, lace and small wares, the aggregate declared value of the whole being £12,773,302 —The demand for several other articles of British manufactures has increased with great rapidity. Notwithstanding all that has been said as to the immutability of Hindoo habits, the fact is not to be denied that a taste for European products and customs is rapidly spreading itself over India; and the fair presumption is, that it will continue to gain ground according as education is more generally diffused, and as the natives become better acquainted with English language, arts and habits. The authenticity of Dr. Heber's statements can not be called in question; and there are many passages in different parts of his journal that might be quoted corroborative of what has now been stated. Our limits, however, will only permit of our making a very few extracts.—"Nor have the religious prejudices and the unchangea-

bleness of the Hindoo habits been less exaggerated. Some of the best informed of their nation, with whom I have conversed, assure me that half their most remarkable customs of civil and domestic life are borrowed from their Mohammedan conquerors; and *at present there is an obvious and increasing disposition to imitate the English in everything*, which has already led to very remarkable changes, and will, probably, to still more important. The wealthy natives now all affect to have their houses decorated with Corinthian pillars, and filled with English furniture, they drive the best horses and the most dashing carriages in Calcutta; many of them speak English fluently, and are tolerably read in English literature, and the children of one of our friends I saw one day dressed in jackets and trousers, with round hats, shoes and stockings. In the Bengalee newspapers, of which there are two or three, politics are canvassed with a bias, as I am told, inclined to Whiggism; and one of their leading men gave a great dinner, not long since, in honor of the Spanish revolution: among the lower orders the same feeling shows itself more beneficially in a growing neglect of caste." (Vol. ii., p. 306.)—"To say that the Hindoos or Mussulmans are deficient in any essential feature of a civilized people, is an assertion which I can scarcely suppose to be made by any who have lived with them; their manners are at least as pleasing and courteous as those in the corresponding stations of life among ourselves; their houses are larger, and, according to their wants and climate, to the full as convenient as ours; their architecture is at least as elegant; nor is it true that in the mechanic arts they are inferior to the general run of European nations. Where they fall short of us (which is chiefly in agricultural implements, and the mechanics of common life), they are not, so far as I have understood of Italy and the south of France, surpassed in any degree by the people of those countries. Their goldsmiths and weavers produce as beautiful fabrics as our own; and it is so far from true that they are obstinately wedded to their old patterns, that they show an anxiety to imitate our models, and do imitate them very successfully. The ships built by native artists at Bombay are notoriously as good as any which sail from London or Liverpool. The carriages and gigs which they supply at Calcutta are as handsome, though not as durable, as those of Long Acre. In the little town of Monghyr, 300 miles from Calcutta, I had pistols, double barreled guns and different pieces of cabinet-work brought down to my boat for sale, which in outward form (for I know no further) nobody but perhaps Mr. —— could detect to be of Hindoo origin; and at Delhi, in the shop of a wealthy native jeweler, I found brooches, ear-rings, snuff-boxes, etc., of the latest models (so far as I am a judge), and ornamented with French devices and mottoes." (Vol. ii., p. 382.)—As Bishop Heber penetrated into the interior of India, he found the same taste as in Calcutta, for European articles and for luxuries, prevalent everywhere among the natives. Of Benares he writes as follows: "But what surprised me still more, as I penetrated farther into it, were the large, lofty and handsome dwelling houses, the beauty and apparent richness of the goods exposed in the bazaars, and the evident hum of business. Benares is in fact a very industrious and wealthy as well as a very holy city. It is the great mart where the shawls of the north, the diamonds of the south, and the muslins of Dacca and the eastern provinces centre; and it has very considerable silk, cotton and fine woolen manufactories of its own, while English hardware, swords, shields and spears, from Lucknow and Monghyr, and *those European luxuries and elegancies which are daily becoming more popular in India*, circulate from hence through Bundelcund, Gorruckpoor, Nepaul, and other tracts which are removed from the main artery of the Ganges." (Vol. i., p 289.)—Proceeding still farther into the interior of the country, and when at Nusserabad, distant 1,051 miles from Calcutta, the bishop continues his journal in the same strain, viz.: "European articles are, at Nusserabad [near Ajmeer, in the heart of the Rajpoot country], as might be expected, very dear; the shops are kept by a Greek and two Parsees from Bombay; they had in their list all the usual items of a Calcutta warehouse. English cotton cloths, both white and printed, are to be met with commonly in wear among the people of the country, and may, I learned to my surprise, be bought best and cheapest, as well as all kinds of hardware, crockery, writing desks, etc., at Pallee, a large town and celebrated mart in Marwar, on the edge of the desert, several days' journey west of Joudpoor, where, till very lately, no European was known to have penetrated." (Vol. ii., p. 36.)—As to the character of the Hindoos, their capacity, and even anxious desire, for improvement, the bishop's testimony is equally clear and decided; and as this is a point of pre-eminent importance, the reader's attention is requested to the following statements: "In the schools which have been lately established in this part of the empire, of which there are at present nine established by the Church Missionary, and eleven by the Christian Knowledge societies, some very unexpected facts have occurred. As all direct attempts to convert the children are disclaimed, the parents send them without scruple. But it is no less strange than true, that there is no objection made to the use of the Old and New Testament as a class book; that so long as the teachers do not urge them to eat what will make them lose their caste, or to be baptized, or to curse their country's gods, they readily consent to everything else; and not only Mussulmans, but Brahmans, stand by with perfect coolness, and listen sometimes with apparent interest and pleasure, while the scholars, by the roadside, are reading the stories of the creation and of Jesus Christ." (Vol ii., p. 290.)—"Hearing all I had heard of the prejudices of the

Hindoos and Mussulmans, I certainly did not at all expect to find that the common people would, not only without objection, but with the greatest thankfulness, send their children to schools on Bell's system; and they seem to be fully sensible of the advantages conferred by writing, arithmetic, and above all by a knowledge of English There are now in Calcutta, and the surrounding villages, 20 boys' schools, containing 60 to 120 each; and 23 girls', each of 25 or 30." (Vol. ii, p. 300.)—"In the same holy city [Benares] I visited another college, founded lately by a wealthy Hindoo banker, and intrusted by him to the management of the Church Missionary society, in which, besides a grammatical knowledge of the Hindoostanee language, as well as Persian and Arabic, the senior boys could pass a good examination in English grammar, in Hume's History of England, Joyce's Scientific Dialogues, the use of the globes, and the principal facts and moral precepts of the gospel; most of them writing beautifully in the Persian, and very tolerably in the English character, and excelling most boys I have met with in the accuracy and readiness of their arithmetic." (Vol. ii., p. 388.)—"The different nations which I have seen in India (for it is a great mistake to suppose that all India is peopled by a single race, or that there is not as great a disparity between the inhabitants of Guzerat, Bengal, the Dooab, and the Deccan, both in language, manners and physiognomy, as between any four nations in Europe) have, of course, in a greater or less degree, the vices which must be expected to attend on arbitrary government, a demoralizing and absurd religion, and (in all the independent states, and in some of the districts which are partially subject to the British) a laxity of law, and an almost universal prevalence of intestine feuds and habits of plunder. The general character, however, has much which is extremely pleasing to me: they are brave, courteous, intelligent, and most eager after knowledge and improvement, with a remarkable talent for the sciences of geometry, astronomy, etc., as well as for the arts of painting and sculpture In all these points they have had great difficulties to struggle with, both from the want of models, instruments and elementary instruction; the indisposition, or rather the horror entertained, till lately, by many among their European masters, for giving them instruction of any kind; and now from the real difficulty which exists of translating works of science into languages which have no corresponding terms" (Vol. ii., p. 409.)—Even if our space permitted, it would be unnecessary to add to these extracts The facts and circumstances now mentioned, must, we think, satisfy every one that there is nothing in the nature of Indian society, in the institution of castes as at present existing, or in the habits and customs of the natives, to hinder them from advancing in the career of civilization, commerce and wealth. "It may safely be asserted," says Mr. Hamilton, "that with so vast an extent of fertile soil, peopled by so many millions of tractable and industrious inhabitants, Hindostan is capable of supplying the whole world with any species of tropical merchandise; the production, in fact, being only limited by the demand."—3. *Colonization of India.* Considerable obstacles were long thrown in the way of Europeans establishing themselves in India, and particularly of their acquiring or holding land. This policy was dictated by various considerations; partly by a wish to prevent the extrusion of the natives from the soil which it was supposed would be eagerly bought up by Europeans, and partly by the fear lest the latter, when scattered over the country, and released from any effectual control, should offend the prejudices of the natives and get embroiled with them. Now, however, it seems to be the general opinion of those best acquainted with India, that but little danger is to be apprehended from these circumstances; that the few Europeans established in it as indigo planters, etc., have contributed very materially to its improvement; and that the increase and diffusion of the English population, and their permanent settlement in the country, are at once the most likely means of spreading a knowledge of English arts and sciences, and of widening and strengthening the foundations of English ascendency It is obvious, indeed that the duration of the English power in India must depend on a very uncertain tenure unless they take root, as it were, in the soil and a considerable portion of the population be attached to them by the ties of kindred, and of common interests and sympathies. In this respect they should imitate the Roman in preference to the Lacedæmonian or Athenian policy. We formerly expressed the opinion that looking at the density of population in India, the low rate of wages, the nature of the climate, and other similar circumstances, it seemed very doubtful whether it would ever become the resort of any considerable number of English settlers, at least of such a number as would be sufficient, within any reasonable period, to form anything like a powerful native English interest; and we have now to state that these anticipations have been more than realized, and that though the restraints on the settlement of Englishmen in India have been practically at an end since 1834, very few have availed themselves of the privilege. There may no doubt, though we see little reason to anticipate such a result, be a greater emigration to India in time to come; and to whatever extent it may be carried, it promises to be highly advantageous. "We need not, I imagine," said Lord William Bentinck, "use any labored argument to prove that it would be infinitely advantageous for India to borrow largely in arts and knowledge from England. The legislature has expressly declared the truth; its acknowledgment has been implied in the daily acts and professions of government and in all the efforts of humane individuals and societies for the education of the people. Nor will it, I conceive, be doubted that the diffusion of use-

ful knowledge, and its application to the arts and business of life, must be comparatively tardy unless we add to precept the example of Europeans, mingling familiarly with the natives in the course of their profession, and practically demonstrating by daily recurring evidence, the nature and the value of the principles we desire to inculcate, and of the plans we seek to have adopted. It seems to be almost equally plain, that independently of their influencing the native community in this way, various and important national advantages will result from there being a considerable body of our countrymen and their descendants settled in the country. To question it, is to deny the superiority which has gained us the dominion of India; it is to doubt whether national character has any effect on national wealth, strength and good government, it is to shut our eyes to all the perils and difficulties of our situation; it is to hold as nothing community of language, sentiment and interest between the government and the governed; it is to disregard the evidence afforded by every corner of the globe in which the British flag is hoisted; it is to tell our merchants and manufacturers that the habits of a people go for nothing in creating a market; and that enterprise, skill and capital, and the credit which creates capital, are of no avail in the production of commodities."—In order to facilitate the development of agriculture and the employment of British capital in India, Lord Canning (being governor general) issued a series of ordinances in October, 1861, for the sale of waste lands, and the redemption of the land tax, the object being to effect "the sale of waste lands in perpetuity, discharged from all prospective demand on account of land revenue," and "permission to redeem the existing land revenue by the immediate payment of one sum equal in value to the revenue redeemed."

—*Advantage of India to England.* The popular opinions in regard to the vast advantages derived by England from the government of India are as fallacious as can well be imagined. It is doubtful, indeed, whether its advantages compensate for its disadvantages. India never has been, and never can be, a field for the resort of ordinary emigrants. It has, it is true, furnished an outlet for considerable numbers of well-educated young men of the middle classes, but the fortunes of those who return to spend the evening of their days in England are far short of compensating for the outlay on themselves and on those who die in the service. And there is but little ground to think that the legitimate trade England carries on with India (we say *legitimate*, for a considerable portion of English trade with India is carried on upon account of the British troops serving in the peninsula) is greater than it would have been had it continued subject to its native rulers; neither is it by any means improbable that the large public debt of India will, in the end, have to be partially or wholly provided for by England.—England may flatter her vanity by dwelling on the high destiny and glory of providing for the regeneration and well-being of 190 or 200 millions of human beings; but she has yet to learn whether this be not an undertaking that is greatly beyond her means, and whether, in attempting to elevate a debased and enervated race (supposing that she really make such an attempt) 12,000 miles from her shores, she may not be sapping the foundations of her own power and greatness.—Nothing during the outbreak of 1857 was more extraordinary than the fact of its having failed to bring forward a single native chief of talent. In every contest the inferiority even of the best drilled sepoys, when brought face to face with Europeans, was most striking. No superiority of numbers gave them a chance of success. They continue to be precisely what they were at Plassey and Assaye.

J. R. M'Culloch and Hugh G. Reid.

—*Constitution and Government of the East Indies.* The present form of government of the Indian empire is established by the act 21 and 22 Victoriæ, cap 106, called "An act for the better government of India," sanctioned Aug. 2, 1858. By the terms of this act, all the territories heretofore under the government of the East India company are vested in her majesty, and all its powers are exercised in her name; all territorial and other revenues and all tributes and other payments are likewise received in her name, and disposed of for the purposes of the government of India alone, subject to the provisions of this act. One of her majesty's principal secretaries of state, called the secretary of state for India, is invested with all the powers hitherto exercised by the company or by the board of control. By acts 39 and 40 Vict., cap. 10, proclaimed at Delhi, before all the princes and high dignitaries of India, Jan 1, 1877, the queen of Great Britain and Ireland assumed the additional title of Indiæ Imperatrix, or Empress of India.—The executive authority in India is vested in a governor general, or viceroy, appointed by the crown, and acting under the orders of the secretary of state for India. By acts 24 and 25 Vict., cap. 67, amended by act 28 Vict., cap. 17, and by acts 32 and 33 Vict., cap. 98, the governor general in council has power to make laws for all persons, whether British or native, foreigners or others, within the Indian territories under the dominion of her majesty, and for all subjects of the crown within the dominions of Indian princes and states in alliance with her majesty.—The government of the Indian empire is entrusted, by acts 21 and 22 Vict., cap. 97, to a secretary of state for India, aided by a council of fifteen members, of whom at first seven were elected by the court of directors from their own body, and eight were nominated by the crown. In future, vacancies in the council will be filled up by the secretary of state for India. But the major part of the council must be of persons who have served or resided ten years in India, and not have left India more than ten years previous to the date of their appoint-

ment; and no person not so qualified can be appointed unless nine of the continuing members be so qualified. The office is held for a term of ten years; but a member may be removed upon an address from both houses of parliament and the secretary of state for India may for special reasons reappoint a member of the council for a further term of five years. No member can sit in parliament.—The duties of the council of state are, under the direction of the secretary of state, to conduct the business transacted in the United Kingdom in relation to the government of and the correspondence with India; but every order sent to India must be signed by the secretary, and all dispatches from the governments and presidencies in India must be addressed to the secretary. The secretary has to divide the council into committees, to direct what departments shall be under such committees respectively, and to regulate the transaction of business. The secretary is to be president of the council, and has to appoint from time to time a vice-president. The meetings of the council are to be held when and as the secretary shall direct; but at least one meeting must be held every week, at which not less than five members shall be present.—The government in India is exercised by the "council of the governor general," consisting of five ordinary members, and one extraordinary member, the latter the commander in-chief. The ordinary members of the council preside over the departments of foreign affairs, finances, the interior, military administration, and public works, but do not form part, as such, of what is designated in European governments a "cabinet." The appointment of the ordinary members of the "council of the governor general," the governors of presidencies, and of the governors of provinces, is made by the crown. The lieutenant governors of the various provinces are appointed by the governor general, subject to the approbation of the secretary of state for India.—*Revenue and Expenditure.* According to the act of 1858 the revenue and expenditure of the Indian empire are subjected to the control of the secretary in council, and no grant or appropriation of any part of the revenue can be made without the concurrence of a majority of the council.—The subjoined table gives the total gross amount of the actual revenue and expenditure of India, distinguishing Indian and home expenditure, in each of the ten fiscal years, ending March 31, 1871–80:

YEARS.	Revenue	Expenditure.		Total Expenditure.
		In India.	In Great Britain	
1871	£51,413,686	£39 899,435	£10,031,261	£49,930,696
1872	50,110,215	37,282,803	9 703,205	46,986 038
1873	50.219,489	38,205 212	10.248,605	48,453,817
1874	49,598 253	42,094 995	9 310,926	51.405 921
1875	50,570,171	40,760,583	9.490.391	50.250.9.4
1876	51,810,063	40.486 068	9 155,050	49 641 118
1877	55,955,785	44,710,800	13.467,763	58,178.563
1878	58,969,301	48,464.038	14.048,350	62.512,388
1879	65 199,602	49,314,060	13 851,296	63.165,356
1880	68,484 666	55,119,951	14,547.664	69.667,615

—The following table shows the distribution of the revenue and the expenditure over the various presidencies and provinces in each of the two financial years, ending March 31, 1879 and 1880:

REVENUE.

Presidencies and Provinces	1879.	1880
India, under the governor general	£ 9,335,887	£10,275.311
Bengal, with Assam	18,987,131	19,382.693
Northwest provinces and Oudh	8,770,497	8,692,584
Punjab	3,665,766	4.075 776
Central provinces	1.204,851	1,299,130
British Burmah	2,039,233	2,262.889
Madras	9,908,079	10 108.295
Bombay, including Sind	11,047,063	12.164,215
Revenue in India	£64,958 517	£68,160.893
Revenue in Great Britain	241,085	323,773
Total Revenue	£65,199,602	£68,484,666

EXPENDITURE.

India, under the governor general	£17,589,063	£20,977,541
Bengal, with Assam	7,262,735	7.814,562
Northwest provinces and Oudh	4.097,922	3,892 143
Punjab	2,547,238	3.458,098
Central provinces	815,430	800,396
British Burmah	1,126,364	1.223,720
Madras	7,384,163	7,033,624
Bombay, including Sind	8,491,745	9,919,867
Expenditure in India	£49,314,060	£55,119,951
Expenditure in Great Britain	13.851,296	14,547,664
Total Expenditure	£63,165,356	£69,667,615

—In the budget estimates for the financial year 1878–9, the revenue was assessed at £64,562,000, and the ordinary expenditure at £65,917,000, leaving a deficit of £1,355,000. Besides the ordinary expenditure, a sum of £3,500,000 was set down as probable extraordinary expenditure for public works, raising the total deficit to £4,855,000. The budget estimates for 1879–80 fixed the total revenue at £64,620,000, and the total expenditure at £65,950,000, including £2,000,000 for the expenses of the Afghan war. The excess of ordinary expenditure over revenue in the year 1879–80 was estimated at £1,395,000, and the capital expenditure on productive public works at £3,500,000.—The following table, compiled from official documents, exhibits the growth of the three most important sources of the public revenue of India, namely, land, opium and salt, in the ten financial years, ending March 31, 1871–80:

YEARS	Land	Opium.	Salt.
1871	£20.622,823	£8,045,459	£6,106,280
1872	20 520,337	9 253.859	5 995 595
1873	21,348,669	8.684,691	6,165,630
1874	21 037.912	8 224 879	6,15 .662
1875	21.296 783	8.556,629	6 22",801
1876	21.503,742	8,471.425	6,244,415
1877	19 857,152	9.122 460	6,304.658
1878	20.026 096	9.182 722	6 460,082
1879	22,330,586	9.399,401	6 941,120
1880	22 463,548	10,319 162	7 266 413

—The following table shows the distribution of the three great sources of revenue over the different presidencies and provinces in the financial year ending March 31, 1879:

PRESIDENCIES AND PROVINCES.	Land	Opium.	Salt
India, under the governor general	£ 84,755	£ 56	£1,715,749
Bengal, with Assam	4,116,889	7,089,145	2,473,995
Madras	4,949,488	.....	1,573,338
Bombay	3,924,792	3,141,347	1,482,932
Punjab	2,046,497	215	.....
Northwest provinces, Oudh	5,765,763	37,206	.....
Central provinces	606,007	17,911	.....
British Burmah	969,357	33,282	20,309
Total	£22,463 548	£10,319,162	£6,941 120

—The most important source of public revenue to which rulers in India have, in all ages, looked for obtaining their income, is the land, the revenue from which, in the year before the mutiny, furnished more than one-half of the total receipts of the East India company's treasury. At present, when the necessities of the Indian exchequer require that government should resort more largely to the aid of duties levied on the continually increasing trade of the country, the revenue from land produces not quite so much in proportion, but it still forms two-fifths of the total receipts of the empire.—The land revenue of India, as of all eastern countries, is generally regarded less as a tax on the landowners than as the result of a joint proprietorship in the soil, under which the produce is divided, in unequal and generally uncertain proportions, between the ostensible proprietors and the state. It would seem a matter of justice, therefore, as well as of security for the landowners, that the respective shares should, at a given period, or for specified terms, be strictly defined and limited. Nevertheless, the proportion which the assessment bears to the full value of the land varies greatly in the several provinces and districts of India. Under the old native system a fixed proportion of the gross produce was taken; but the British system ordinarily deals with the surplus or net produce which the land may yield after deducting the expenses of cultivation.—In Bengal a permanent settlement was made by Lord Cornwallis, by which measure the government was debarred from any further direct participation in the cultivation of the country. The division of Benares was also permanently settled about the same time. In the northwestern provinces, a general settlement of the revenue was completed in 1840, fixing the amount to be paid by each village for a period of thirty years; and a similar course was adopted in the Punjab. Some of the districts of the Punjab were inadequately assessed at former settlements, and these have therefore been confirmed for a term of ten years only. In many cases these expired in 1874 and 1875, and the revised settlements which were subsequently made were generally for thirty years. It is estimated that in most cases the assessment is about two-thirds of the yearly value—that is, the surplus after deducting expenses of cultivation, profits of stock, and wages of labor. In the revised settlements more recently made it was reduced to one-half of the yearly value.—In the Madras presidency there are three different revenue systems. The zemindary tenure exists in some districts, principally in the northern circars; the proprietors, of whom some possess old ancestral estates, and others were created landholders in 1802, hold the land direct from the government, on payment of a fixed annual sum. In the second, the village renting system, the villages stand in the position of the zemindar, and hold the land jointly from the government, allotting the different portions for cultivation among themselves. Under the third, the ryotwar system, every registered holder of land is recognized as its proprietor, and pays direct to the government. He can sublet, transfer, sell or mortgage it; he can not be ejected by the government, and so long as he pays the fixed assessment he has the option of annually increasing or diminishing the cultivation on his holding, or he may entirely abandon it. In unfavorable seasons remissions of assessment are granted for loss of produce. The assessment is fixed in money, and does not vary from year to year, except when water is obtained from a government source of irrigation; nor is any addition made to the rent for improvements effected at the ryot's own expense. He has, therefore, all the benefits of a perpetual lease without its responsibilities, as he can at any time throw up his lands, but can not be ejected so long as he pays his dues, and receives assistance in difficult seasons. An annual settlement is made, not to reassess the land, but to determine upon how much of his holding the ryot shall pay; when no change occurs in the holding, the ryot is not affected by the annual settlement, and is not required to attend it. The ryotwar system may be said to essentially prevail throughout the presidency of Madras, as the zemindar and village renter equally deal with their tenants on this principle.—In Bombay and the Berars the revenue management is generally ryotwar; that is, as a rule, the occupants of government lands settle for their land revenue, or rent, with the government officers direct, and not through the intervention of a middleman. Instances, however, occasionally occur in which the government revenues of entire villages are settled by individual superior holders, under various denominations, or by a copartnership of superior holders. The survey and assessment of the Bombay presidency has been almost completed on a system introduced and carefully elaborated about twenty years ago. The whole country is surveyed and mapped, and the fields distinguished by permanent boundary marks, which it is penal to remove; the soil of each field is classed according to its intrinsic qualities and to the climate; and the rate of assessment to be paid on fields of each class in each subdivision of a district is fixed on a careful consideration of the value of the crops they are capable of producing, as affected by the proximity to market towns, roads, canals, railways, and similar external incidents, but not by improve-

ments made by the ryot himself. This rate was probably about one-half of the yearly value of the land, when fixed; but, owing to the general improvement of the country, it is not more than from a fourth to an eighth in the districts which have not been settled quite recently. The measurement and classification of the soil are made once for all; but the rate of assessment is open for revision at the end of every thirty years, in order that the ryot, on the one hand, may have the certainty of the long period as an inducement to lay out capital, and that the state, on the other, may secure that participation in the advantages accruing from the general progress of society to which its joint proprietorship of the land entitles it. In the thirty years revision, moreover, only public improvements and a general change of prices, but not improvements effected by the ryots themselves, are considered as grounds for enhancing the assessment. The ryot's tenure is permanent, provided he pays the assessment — The important questions of the propriety of settling in perpetuity the amount of revenue to be paid to the government by landholders, of permitting this revenue to be redeemed forever by the payment of a capital sum of money, and of selling the fee simple of waste lands not under assessment, have been within the last few years fully considered by the government of India The expediency of allowing owners of land to redeem the revenue has long been advocated as likely to promote the settlement of European colonists; but experience seems to show that advantage is very rarely taken of the power which already exists in certain cases to redeem the rent by a quit payment; and it appears unlikely that such a permission would be acted upon to any great extent, while the rate of interest afforded by an investment in the purchase of the land assessment is as low as at present in India.—Next in importance to the land revenue is the income derived from the opium monopoly. The cultivation of the poppy is prohibited in Bengal, except for the purpose of selling the juice to the officers of the government at a certain fixed price. It is manufactured into opium at the government factories at Patna and Ghazipore, and then sent to Calcutta, and sold by auction to merchants who export it to China. In the Bombay presidency, the revenue is derived from the opium which is manufactured in the native states of Malwa and Guzerat, on which passes are given, at the price of £60 per chest, weighing 140 lbs. net, to merchants who wish to send opium to the port of Bombay. The poppy is not cultivated in the presidency of Madras. The gross revenue derived from opium averaged, during the ten years, 1869 to 1878, the sum of £8,500,000.—The largest branch of expenditure is that for the army, equal to the aggregate annual revenue from salt and opium The maintenance of the armed force to uphold British rule in India cost £12,000,000 the year before the great mutiny, and subsequently rose to above £25,000,000; but after the year 1861 sank, for a short period, to less than £15,000,000. It was £16,793,306 in the financial year 1865–6; £16,329,739 in 1869–70; £15,228,429 in 1873–4; £15,308,460 in 1875–6; £16,639,761 in 1877–8; £17,092,488 in the financial year 1878–9, and £21,712,862 in the financial year 1879–80. The amount of the public debt in India, including that incurred in Great Britain, was £59,943,814 on April 30, 1857. In the course of the next five years the debt was largely increased, and on April 30, 1862, it had risen to £99,652,053. From 1862 to 1868 the government was enabled to pay off some portion, and at the end of the financial year1868 the total had been reduced to £95,054,858. In the course of the eleven years, 1868 - 78, there was again an increase of nearly £39,000,000 in the total debt.—The subjoined table shows the amount of the public debt of British India, both the interest bearing and not interest bearing, and distinguishing the debt in India and in Great Britain, in each of the financial years ending March 31, 1871–80:

YEARS	In India.		In Great Britain	
	Bearing Interest	Not Bearing Interest	Bearing Interest.	Not Bearing Interest
1871	£66,573,347	£ 125,421	£37,606,700	£20,917
1872	66,499,704	1,356,981	38,991,700	20,917
1873	66,168,427	289,941	39,991,700	20,917
1874	66,273,249	144,041	41,095,700	20,917
1875	69,757,679	92,280	48,576,116	20,917
1876	72,705,641	67,340	49,776,116	20,917
1877	71,865,936	57,190	55,376,116	20,917
1878	74,906,450	48,070	59,656,116	20,917
1879	78,797,856	41,070	59,008,200	20,917
1880	82,729,163	143,346	68,834,639	20,918

The total debt in India and Great Britain amounted to £96,194,642 on March 31, 1869, and had increased to £151,728,065 on March 31, 1880. Not included in the latter total were "obligations"—including treasury notes and bills, service funds, and savings bank balances—to the amount of £1,406,620, bringing the entire liabilities up to £153,134,685. The total interest on debt and obligations amounted to £4,954,021 in the financial year 1879–80.— The currency of India is chiefly silver, and the amount of money coined annually is large. In the ten financial years ending March 31, 1871–80, the value of the new coinage was as follows:

YEARS.	Gold	Silver	Copper.	Total.
1871	£ 4,143	£1,718,197	£ 6,121	£1,728,461
1872	15,413	1,690 395	25 049	1,780,857
1873	31,795	3,981,436	10,500	4,025,731
1874	15,498	2,370,013	14,461	2,399,972
1875	14,034	4,896,884	111,334	5,022,252
1876	17,150	2,550.218	150,660	2,718,028
1877	.....	6,271 122	123,429	6,394,551
1878	15,636	16,180 326	148.591	16,344,553
1879	85	7,210.770	66.648	7,277,503
1880	14.730	10,256,967	67,300	10,338,997

—On July 16. 1861, an act was passed by the government of India, providing for the issue of a paper currency through a government department of public issue, by means of promissory

notes. Circles of issue were established from time to time, as found necessary, and the notes were made legal tender within the circle in which they were issued, and rendered payable at the place of issue, and also at the capital city of the presidency within which that place was situated. Under the provisions of further laws, consolidated by a statute known as Act III. of 1871, the issue was regulated in seven descriptions of notes, namely, for 10,000 rupees, or £1,000; for 1,000 rupees, or £100; for 500 rupees, or £50; for 100 rupees, or £10; for 50 rupees, or £5; for 20 rupees, or £2; for 10 rupees, or £1; and for 5 rupees, or 10s. There are ten currency circles, the headquarters of which are at Calcutta, Allahabad, Lahore, Nagpore, Madras, Calicut, Cocanada, Bombay, Kurrachee and Akolah. (Official Communication)—The following were the total amounts of notes in circulation—calculated at 2s. the rupee—on March 31 in each year, since the introduction of the state paper currency in 1861:

1862	£3 690,000	1872	£13,167 917
1863	4.926,000	1873	12,864.037
1864	5.350 000	1874	11.145.191
1865	7.427,327	1875	10.670.107
1866	6.898,481	1876	11,352 662
1867	8,090 868	1877	11.641,654
1868	9 069,569	1878	13.250,247
1869	9 959,296	1879	13.190,508
1870	10,472,883	1880	12,798 303
1871	10,487,291		

—Nearly two-thirds of the total note circulation are in the currency circles of Calcutta and Bombay. The circulation in Calcutta was to the amount of £6,436,556, and in Bombay to the amount of £3,345,067, March 31, 1880.—*Army.* The act of parliament which transferred the government of India to the crown, in 1858, directed that the military forces of the East India company should be deemed to be Indian military forces of her majesty, and should be "entitled to the like pay, pensions, allowances and privileges, and the like advantages as regards promotion and otherwise, as if they had continued in the service of the said company." It was at the same time provided that the secretary of state for India should have "all such or the like powers over the officers appointed or continued under this act as might or could have been exercised or performed by the East India company."—The following table gives the established strength of the European and native army in British India, exclusive of native officers and followers, March 31, 1880:

CORPS	Officers.	Non-commissioned Officers and Privates	Total.
EUROPEAN ARMY.			
Royal artillery	609	11 623	12,232
Cavalry	252	4,095	4,347
Royal engineers	349	.....	349
Infantry	1,650	44,312	45,962
Invalid and veteran establi't	41	108	149
Staff corps	1,146	.....	1,146
General list, cavalry	73	.....	73
General list, infantry	176	.....	176
Unattached officers	9	.....	9
General officers unemployed	77	.....	77
Total European Army	4,382	60,138	64 520

CORPS	Officers.	Non commissioned Officers and Privates	Total
NATIVE ARMY.			
Artillery	19	883	902
Body guard	8	194	202
Cavalry	303	18,043	18,346
Sappers and miners	226	3 019	3.245
Infantry	1,068	101,215	102,283
Total Native Army	1,624	123,354	124,978
Total European and Native Army	6,006	183,492	189,498

—In the army estimates laid before parliament in the session of 1880, the strength of the British regular army in India for the year 1881–2 was given as follows:

TROOPS	Officers	Non-commissioned Officers.	Rank and File.	Total.
Royal horse artillery	84	166	2,044	2,294
Cavalry of the line	216	423	3.672	4,311
Royal artillery and eng'rs	840	724	8,626	10 190
Infantry of the line	1.450	3,318	41,000	45,768
Total	2,590	4.631	55,342	62.563

Returns of the year 1879 reported the combined armies of the native chiefs of India to number 305,235 men, with an artillery of 5,252 large guns.—*Area and Population.* The first general census of British India was taken during the years 1868 to 1876. According to the revised returns of this census, the total population numbered 191,096,603, living on an area of 899,341 English square miles, being an average of 212 inhabitants to the square mile. The following table shows the area and population of each of the divisions of India under direct British administration:

PRESIDENCIES & PROV Under the Administrat'n of	Area Sq. Mls	Population 1868-76	Population 1881.
The Gov. Gen. of India:			
Ajmere	2.711	396,889	453,076
Berar	17,711	2.227,654	2,670,982
Mysore	29,325	5.055 412	4,186.399
Coorg	2,000	168,312	178,283
Andaman and Nicobar Islands (1880)	3.285	.....	25,945
Governors:			
Madras	138 856	31,672,613	30,839,181
Bombay (incl. Sind)	123,142	16,349,206	16,388,422
Lieutenant Governors:			
Bengal	156,200	60.502,897	68,829,920
Northwest provinces	81.403	30,781,204	32,699,436
Punjab	104,975	17,611,498	18,794,280
Chief Commissioners:			
Oudh	23,992	11.220,232	11.407,625
Central provinces	84,208	8,201,519	8,173.824
British Burmah	88,256	2,747,148	3,707.646
Assam	45.302	4,162.019	4,815,157
Total British Adm'n	898.381	191,096,603	209,159,156

—Besides the provinces of India under direct British administration, there are, more or less under the control of the Indian government, a number of feudatory or native states, covering an extent of 573,193 English square miles, with 49,674,827 inhabitants.—According to the last

official reports the native states exceed 450 in number. Various frontier countries, like Nepaul, merely acknowledge British superintendence; while others pay tribute or provide military contingents. New states are gradually drawn within the circle of British supremacy, either for the consolidation or the protection of the existing boundaries. The latest movement in this direction, toward the northwest, was the invasion of Afghanistan, a country of about the size of the United Kingdom, with an estimated population of four millions.—Including the feudatory states, the total area and population of British India, according to the preliminary results of the census of 1881, are as follows:

PROVINCES AND STATES	Area, Eng. Sq. Mls.	Population
Provinces under direct British administration	902,500	203,159,156
Feudatory or native states	575,263	49,674,827
Total, British India	1,477,763	252,833,983

—Enumerations to ascertain the religious creed of the inhabitants of India were taken in the various provinces during the years 1868 to 1876; in Berar and the Punjab, 1868; in Oudh, 1869; in Ajmere and Coorg, 1871: and in the remaining provinces from 1872 to 1876. A verification of all these returns with the results of the general census of India furnished the following classification of the leading creeds in the provinces under British administration:

Hindoos	139,248,568
Mohammedans	40,882,537
Buddhists	2,832,851
Sikhs	1,174,456
Christians	897,216
Other creeds	5,102,823
Religion not known	1,977,400
Total	192,115,831

—The British-born population in India, exclusive of the army, amounted, according to a census taken June 15, 1871, to 64,061 persons. Of these there were 38,946 of the male, and 25 115 of the female sex. The largest number, at the date of the census, was in the province of Lower Bengal, namely 16,402, comprising 10,625 males and 5,777 females; the next largest number in the provinces of Bombay, namely 10,921, comprising 6,786 males and 4,135 females; and the next largest number in the northwest provinces, namely 6,910, comprising 3,843 males and 3,067 females. In the central provinces there were, at the date of the census, only 276 British-born subjects, namely, 173 males and 103 females. In the three capital cities of India, the number of British subjects was as follows, at the census of June 15, 1871:

CITIES	Males	Females	Total
Calcutta	5,536	2,784	8,320
Bombay	2,996	1,800	4,796
Madras	778	528	1,306

—The occupations of the British-born subjects in India were as follows, at the census of 1871, under the six classes adopted by the English registrar general:

I.	Professional class, including civil service	14,822
II.	Domestic class	12,708
III.	Commercial class	7,993
IV.	Agricultural class	614
V.	Industrial class	2,595
VI.	Indefinite and non-productive class, including women and children	25,329
	Total	64,061

—At the last enumerations there were in British India forty-four towns with a population of over 50,000 inhabitants. The occupations of the adult male population of British India, calculated to number 57,508,150, were classified as follows at the last enumerations:

Government service and professions	2,404,855
Domestic occupations	4,137,429
Agriculture	37,462,220
Commerce	3,440,951
Industrial occupations	8,746,503
Laborers	8,174,600
Independent and non-productive persons	2,264,858
Total adult male population	66,631,416

—In the northwest provinces and Madras the foundation has been laid of a national system of education; while public instruction throughout the whole of India has made great progress in recent years. Three universities, at Calcutta, Madras and Bombay, were incorporated by acts of the government of India, in 1857. In the year ending March, 1880, there passed 787 candidates for admission at Calcutta, 1,094 at Madras, and 436 at Bombay. — *Trade and Commerce* The total value of the imports and exports of the Indian empire, including bullion and specie, was as follows in each of the ten fiscal years, ending March 31, 1871-80:

YEARS.	Total Imports	Total Exports
1871	£39,913,942	£57 556,951
1872	43,665,663	61,685.374
1873	36,431,210	56,540.042
1874	39,628,562	56,940,073
1875	44,363,134	57,984,539
1876	44,188,062	60,291,731
1877	48,876,751	65,043,789
1878	58,819,644	67,423,324
1879	44,857,343	64,919,741
1880	52,821,398	69,247.511

The total imports, if divided into merchandise and "treasure," the latter term meaning bullion and specie, were as follows in each of the ten fiscal years 1871-80:

YEARS.	Merchandise	Treasure	Total.
1871	£33,348,246	£ 5,444,823	£38,793,069
1872	30 810,776	11,573,813	42,384,589
1873	30,473,069	4.556,585	35,029,654
1874	31,628,497	5,792,534	37,421,031
1875	34.645,262	8,141,047	42,786.309
1876	37,112.668	5,300,722	42,413,390
1877	35,367,177	11,436,118	46,803,295
1878	39,326,003	17,355,459	56,681,462
1879	36.566,194	7,056,749	43,622,943
1880	41,166.003	11,655,395	58.821,398

—The exports in the same ten years classified as merchandise and treasure, were as follows:

YEARS.	Merchandise.	Treasure.	Total.
1871	£55,336,186	£2,220,765	£57,556,951
1872	63,209,282	1,476,094	64,685,376
1873	55,250,763	1,298,079	56,548,842
1874	54,996,010	1,914,071	56,910,081
1875	56,359,240	1,625,809	57,984,549
1876	58,091,495	2,200,236	60,291,731
1877	61 013,891	4,029,898	65,043,789
1878	65,222,328	2,210,996	67,433,324
1879	60,937,513	3,982,228	64,919,741
1880	67,212,363	2,035,148	69,247,511

—The amount of bullion and specie imported annually into India is very large; but though it has been greatly on the increase in recent years, it is, on the whole, very fluctuating, especially as regards silver. The following table gives the imports, distinguishing gold and silver, in each of the ten fiscal years, ending March 31, from 1871 to 1880, inclusive:

YEARS	Imports of Gold	Imports of Silver	Total Bullion and Specie
1871	£2,782,574	£2,662,249	£ 5,444,823
1872	3 575,778	8,000.035	11,573,813
1873	2,622.371	1,934.214	4,556,585
1874	1,648.808	4,143.726	5.792,534
1875	2.089,236	6,051,811	8,141,047
1876	1,836,381	3,464,341	5 300,722
1877	1,443,712	9,992,408	11,436.120
1878	1,578,927	15,776,532	17.355,459
1879	1,463.050	5,593,699	7,056,749
1880	2,050.393	9,605,002	11,655,395

—The following table shows the exports of bullion and specie, distinguishing gold and silver, in each of the ten fiscal years, ending March 31, from 1871 to 1880, inclusive:

YEARS.	Exports of Gold	Exports of Silver.	Total Bullion and Specie.
1871	£ 500,453	£1,720,312	£2,220,765
1872	8,434	1,467 660	1,476,094
1873	79,009	1,219,070	1,298,079
1874	266,169	1,647.902	1,914 071
1875	215 701	1,409.608	1,625,309
1876	291,250	1,908,986	2,200,236
1877	1,236,362	2,793,536	4,029,898
1878	1,110.798	1,100,198	2,210,996
1879	2,859,223	1,623,005	3,982,228
1880	299,889	1,735,259	2,035,148

—The imports of bullion and specie into India are mainly from the United Kingdom and from China; while the exports are shipped principally to the United Kingdom, Ceylon, China and South Africa.—The extent of the commercial intercourse between India and the United Kingdom is shown in the subjoined table which gives the total value of the exports from India to Great Britain and Ireland, and of the imports of British produce and manufactures into India in each of the ten years, 1871–80:

YEARS.	Exports from India to Great Britain and Ireland.	Imports of British Home Produce into India.
1871	£30,737,385	£18.053,478
1872	33,682,156	18,471,394
1873	29,890,802	21,354,205
1874	31,198,446	24,080,693
1875	30,137,295	24,246,106
1876	30,025,024	22,405 420
1877	31,224,763	25 338 2-6
1878	27,470,473	23,276,89)
1879	24,698 213	21,374 404
1880	30,117,980	30,451,314

—The staple article of export from India to the United Kingdom is raw cotton; but the quantities, and still more the value of the exports, have been greatly on the decrease within the decennial period. The following table exhibits the quantities and value of the exports of raw cotton from India to Great Britain in each of the ten years from 1871 to 1880, inclusive:

YEARS.	Quantities	Value.
	Cwts.	
1871	3,843,191	£ 1.711,349
1872	3,934.546	12,862.300
1873	3,278,986	19,812,086
1874	3,668.928	325,600
1875	3,413,546	19,173,275
1876	2,448.738	5 874.704
1877	1,725.582	4,230.803
1878	1 433,104	3.513,595
1879	1,616,633	3,914,301
1880	1,841,059	4,781,541

—Next to cotton, the most important articles of export from India to the United Kingdom in the year 1880 were jute, 4,633,327 cwts., of the value of £4.014,699; rice, 6,563,849 cwts., of the value of £3,134,556; tea, 45,138,111 lbs., of the value of £3,072,922; and untanned hides, 463,764 cwts., of the value of £1,616,634.—The chief articles of British produce imported into India are cotton goods and iron. The imports of cotton manufactures, averaging two-thirds of the total British imports into India, were of the value of £12,835,744 in 1870; of £13,101,645 in 1871; of £13,078,831 in 1872; of £15,020,646 in 1873; of £16,216,491 in 1874; of £15,699,731 in 1875; of £14,934,370 in 1876; of £16,692,865 in 1877; of £15,078,497 in 1878; of £14,415,456 in 1879; and of £22,099,267 in 1880. Of iron the imports amounted to £1,637,584 in 1876, to £1,923,820 in 1877, to £1,767,526 in 1878, to £1,535,901 in 1879, and to £2,415,309 in 1880.—Next to the United Kingdom, the countries having the largest trade with India are China, the straits settlements, and Ceylon.—The internal commerce of India has been vastly developed of late years by the construction of several great lines of railways, made under the guarantee of the government. In the year 1845 two great private associations were formed for the purpose of constructing lines of railroad in India; but the projectors found it impossible to raise the necessary funds for their proposed schemes, without the assistance of the state. It was,

therefore, determined by the Indian government to guarantee to the railway companies for a term of ninety-nine years, a rate of interest of 5 per cent. upon the capital subscribed for their undertakings; and in order to guard against the evil effects of failure on the part of the companies, the power was reserved by the government to surpervise and control their proceedings by means of an official director The lands are given by the government free of expense, and the stipulated rate of interest is guaranteed to the shareholders in every case, except that of the traffic receipts of the line being insufficient to cover the working expenses, in which event the deficiency is chargeable against the guaranteed interest. Should the net receipts be in excess of the sum required to pay the guaranty, the surplus is divided into equal parts between the government and the shareholders, until the charge to the government for interest in previous years with simple interest thereon, has been repaid, after which time the whole of the receipts are distributed among the shareholders The government has the power, at the expiration of twenty-five or fifty years from the date of the contracts, of purchasing the railways at the mean value of the shares for the three previous years, or of paying a proportionate annuity until the end of the ninety-nine years, when all of the lands and works will revert from the companies to the government. In 1869 the government of India decided on carrying out all the new railway extensions by means of direct state agency, that is, without the intervention of guaranteed companies.—The progress of the railway system in India since 1854 is here shown Length of lines open for traffic Jan 1, 1854, 21; 1860, 624, 1867, 3,567; 1872, 5,072, 1878, 7,324, 1879, 7,994; 1880, 8,228.—The number of passengers carried on the railways of India largely increased in the course of ten years, rising from 15,999,633 in 1869 to 43,144,608 in 1879.—The gross receipts of all the railways during the year 1879 amounted to £11,231,108, while the gross expenses in the same year were £5,858,512, equal to 52.16 per cent of the earnings.—The total amount of guaranteed capital raised for the construction of railways up to March 31, 1879, amounted to £96,444,666, while the total outlay upon railways, both state and guaranteed, amounted to £119,979,139 at the same date.—For the year ending March 31, 1879, the number of miles of line of all the telegraphs in India amounted to 18,589; the total receipts were £353,741, and the working expenditure £305,381 At that time there were 250 telegraph offices.—

BIBLIOGRAPHY: Karl Ritter, *Erdkunde von Asien*, vols 3–5, Leipzig, 1834–7; Thornton, *A Gazetteer of the Territories under the Government of the East India Company*, 2d ed., London, 1857, Montgomery Martin, *British India, its History, Topography, Government, etc.*, London, 1857; and *The Progress and Present State of British India*, London, 1862; Bell, *The Empire in India*, London, 1864; Lott and Hughes, *A Manual of the Geography of India*, London, 1863; Latham, *Ethnology of India*, London, 1859; H., A. and R. Schlagintweit, *Results of a Scientific Mission to India and High Asia, undertaken between the years* 1854 *and* 1858, *etc.*, vols. 1–4, Leipzig, 1860–66, with Atlas; *Zur Erinnerung an die Reise des Prinzen Waldemar von Preussen nach Indien in den J.*, 1844–6, 2 vols, Berlin, 1855; Von Orlich, *Indien und seine Regierung*, Leipzig, 1859–61, and *Reise nach O.*, Leipzig, 1845; Andrassy, *Reise in O., Ceylon, Java, etc.*, from the Hungarian, Pesth, 1859; Balbezen, *Les Anglais de l'Inde*, Paris, 1875; Duncan, *Geography of India* Madras, 1876; The *Guide Books* of Murray, Bradshaw, etc. The best works on the early history of India are: Lassen, *Ind. Alterthumskunde*, 4 vols., Bonn, 1844–62, 2d ed., 1 vol., Leipzig, 1866, Duncker, *Geschichte des Alterthums*, 3d ed., 2 vols., Leipzig, 1867; Wheeler, *History of India during the Hindoo Period* 2 vols., London, 1867; Elliott, *The History of India, comprising the Mussulman Period*, 3 vols., London, 1867; Sullivan, *The Conquerors, Warriors and Statesmen of India*, London, 1867; Wheeler, *The History of India from the Earliest Ages*, vols. 1–4, London, 1867–75 The history of the Anglo-Indian empire is treated of in the works of Malcolm, 1784–1823, 3 vols., London, 1826; Mill, 5th ed., by Wilson, London, 1855; Elphinstone, 5th ed., 2 vols., London, 1866, Thornton, 6 vols., London, 1842–5; Neumann, *Geschichte des engl Reichs in Asien*, 2 vols., Leipzig, 1857, and *Ostasiat Geschichte*, Leipzig, 1861; Torrens, *Empire in Asia, How we came by it*, London, 1872, etc. The histories devoted to the earliest events are Trotter, *The History of the British Empire in India*, 1844 to 1862, London, 1865; Arnold, *The Marquis of Dalhousie's Administration*, 2 vols., London, 1862; Kaye, *History of the Sepoy War in India*, 2d ed., 3 vols., London, 1866–76; Rennie, *Bhotan and the Story of the Dooar War*, London, 1866; Markham, *Statement Exhibiting the Moral and Material Progress and Condition of India*, vols. 1–6, London, 1873.

FREDERICK MARTIN.

ECONOMY, Political. (See POLITICAL ECONOMY.)

ECUADOR. This state was formerly part of the immense colonial possessions of Spain, and afterward, till 1831, constituted, together with New Grenada and Venezuela, the republic of Colombia. Ecuador had to pass through many an ordeal of civil and foreign war before it was able to give itself a definite constitution. It has frequently modified its constitution of 1835, without ceasing, however, to be a republic. The attempts of Gen. Flores to establish a monarchy proved abortive. The legislative power is in the hands of an elective congress, and the executive power is in a president.—The president exercises his functions through a cabinet of three ministers, who, together with himself and the vice-president, are

responsible, individually and collectively, to the congress. There is no power of veto with the president, nor can he dissolve, shorten or prorogue the sittings of congress. By the terms of the constitution no citizen can enjoy titular or other distinctions, nor are hereditary rights or privileges of rank and race allowed within the territory of the republic.—Ecuador forms a triangle, bounded by the lesser chain of the Cordilleras, which separates it from Colombia, by the Pacific ocean, and by the river Amazon. The area of Ecuador is estimated at 248,372 English square miles, and its population in 1875 was 1,066,137.—The public revenue in the year 1876 was reported to have amounted to $1,655,000; and the expenditure to $2,400,000. About one half of the revenue is derived from customs duties on imports at the port of Guayaquil, which produced $838,615. At the commencement of 1877 the liabilities of the republic amounted, according to returns of that date, to about $16,370,000, made up of a foreign debt of $9,120,000, contracted in England in 1855, and internal liabilities, $7,250,000. The standing army is estimated to number 1,200 men, while the navy consisted in 1879 of three small steamers.—The country is one of the most beautiful. Although situated under the equator, it has every variety of climate, the Cordilleras containing a large number of peaks covered with perpetual snow. Nowhere is the vegetation so luxuriant and so rich in valuable products; the country has minerals of various kinds, but as yet little attention has been paid to working them. —The foreign commerce of Ecuador is mainly with the United Kingdom, and centres in Guayaquil. The total value of the exports of Ecuador to Great Britain, and of the imports of British produce into Ecuador, was as follows in the five years 1875–9:

YEARS	Exports from Ecuador to Great Britain.	Imports of British Home Produce into Ecuador
1875	$1,169,900	$ 651,025
1876	1,222,585	1,126,365
1877	928,955	1,259,375
1878	1,498,920	1,000,556
1879	2,615,860	1,409,925

The chief articles of export from Ecuador to Great Britain in the year 1879 consisted of Peruvian bark of the value of $1,008,045, and cocoa, of the value of $1,271,365. Of the imports of British produce into Ecuador, cotton goods, to the value of $958,505, formed the principal article in 1879. (See Statesman's Year Book, 1881.)

EDUCATION AND THE STATE. The legal right of any state to expend its revenues in the education of the children of its subjects or citizens must be governed by the terms of its constitution. In an absolute government it can have no limit. In a government, like that of Germany, which may be defined as that of absolutism, criticized and to some extent checked by a parliament, it must depend partly on the will of the ruler and to a less degree upon the purpose of the parliament. In a strictly parliamentary government, like that of Great Britain, and, with exceptions which need not here be noted, that of France, it is regulated by the majority in the legislature, or in the controlling house of the legislature In a representative republican government, like that of the United States and of each state, it depends on the provisions of the constitution, and where these confer discretionary authority, as is the case in most of the state constitutions, upon the will of the legislature from time to time. The broader question of the proper limitations, arising from consideration of the greatest good to the greatest number, or from consideration of the nature of the trust imposed in governments, that should be observed in the establishment, regulation and scope of schools, can only arise in an imperative manner, under the more liberal governments, such as those of Great Britain, France and the United States, or the individual members of the American Union. As a matter of fact it is chiefly under these that the question of the function of the state as to education has been discussed with a direct view to practical results. The present article will be devoted mainly to the question as it presents itself in the United States. Upon that question, however, the principles and policy of foreign nations necessarily throw much light. The avowed purpose of the German system is to extend education up to a certain point, which would be a high one if taken upon any standard applied in the United States, compulsorily to the youth of both sexes, and beyond that point to offer opportunity at very small cost for the highest possible education to all who choose to seek it. All education is assumed to be a state affair, and is either directed by the officers of the state, or is immediately controlled by them Entire singleness of purpose and practical uniformity of method are required. The state assumes at once the power and the obligation implied in this policy. Each of the smallest divisions—commune or parish—has its local board, above these is the regency, and above these the province; but over all is the central government with its extensive and minute system of inspection, its absolute veto over specific acts, and its strict enforcement of subordination. The necessary funds are provided from a very low rate of tuition from scholars able to pay, from civil appropriations, from endowments, or, in case of deficiency, from local taxation. Every child from seven to fourteen is obliged to attend school, and the neglect or refusal of parents to comply with this requirement is punished by an elaborate system of penalties, sustained by public opinion and sanctioned by long usage. Beyond the age of fourteen direct compulsion ceases, and powerful inducement takes its place. The learned professions are confined to the graduates of the universities; certain civil positions are limited in like

manner; all teachers are required to have taken a university degree, and the university can only be reached through the intermediate schools. Up to the age of fourteen the instruction given may fairly be compared to that afforded in the "grammar" schools of the larger American cities. Beyond that the range is practically unlimited. The universities, which are the crowning stage of the general system, are kept within the vigilant general direction of the central government. Throughout the system the complete separation of the church from any authoritative share in education is now a fixed principle, though the comparatively recent date of its adoption—1870—and the conservative disposition of the government in dealing with so delicate a matter still leave considerable actual influence to the clergy.—In France a principle, in effect the same as that of Germany, is adopted and is being gradually enforced: Compulsory primary education under entire control by the state, and the direct provision or the encouragement and subvention as well as general regulation of higher instruction. The theory of the secularization of education has been ardently advocated and widely favored, but is not completely adopted or applied as yet. Whether it will finally be established is a question too intimately involved in the changing phases of French politics to admit of positive determination. It is probable, however, that the curious tendency of French political leaders to follow almost literally the more striking features of the conduct of their conquerors in the memorable struggle of 1870–71, will be as marked in educational as it has been in military affairs. The temperament and mental qualities of the two nations will enforce some radical differences in methods and in results, but France is apparently moving steadily, and, for the time, very rapidly in the direction of universal, uniform, compulsory primary instruction, and of higher education more and more developed and maintained under the narrow supervision of the central government.—One significant difference, however, is already to be remarked between the systems of the two nations and the manner in which they are being unfolded. The German system is modeled on that of Prussia, where it originated in the purpose of an enlightened and determined ruler to bring a relatively backward people, surrounded by powerful and jealous rivals, to a condition of general intelligence and practical efficiency that would enable them to take a higher rank both in peace and in war. This people, comparatively homogeneous, and holding, though unquestionably in a narrow and rather bigoted fashion, the doctrines of the Protestant religion, and submitted to its influence toward independent judgment and self-control, were not only permitted but encouraged to press their way in the world of thought, with marked freedom in whatever direction their leading minds should choose. The intervention of the clergy, though active and constant, was never peculiarly repressive, and intellectual enterprise, for its own sake, received a considerable degree of cordial recognition and encouragement. In France, the beginnings of intellectual and political freedom were made in open revolt against political and ecclesiastical despotism, and the revolution was followed by the restoration of both these reactionary forces. The progress that has been conquered since has been steadily and often violently opposed by the party of absolute monarchy and of the Roman Catholic church, and both have been constantly arrayed against the principle of general education. It thus happens that at this time the advocates of general education are forced to make secularization of the school system their objective point, and this necessity introduces elements of confusion, of difficulty and of passion into the problem which it would be very desirable to avoid, and which must retard and perhaps compromise the result. It will be several generations, with every possible success for the movement toward universal instruction, before the French people can furnish the intellectual material for a system as complete, vigorous, well organized and highly developed as the German system. In the meantime, the battle for education is, what it can never be in the United States, a battle with clericalism on the one hand, and with political reaction on the other. —If now we turn to the American Union we find conditions entirely different from those either in Germany or France, and much more nearly those existing in Great Britain, though differing from these also, and, in all regards, presenting a problem far more easily solved, and the solution of which promises more immediately valuable results. In the first place, the work of popular education in the United States is not now and is not likely ever to be either directly in the hands of the general government or under its close control. Were the popular sentiment of the country less definitely formed or less firmly established for the promotion of education, this fact might be regarded with regret. As it is, it is a hopeful element in the future. If American education may lack something of the symmetry and precision that might be obtained from the initiative of a central government, it will have qualities far outweighing these in value. It will be more free, more varied, in closer harmony with the intellectual needs of different sections and different classes, and will draw its vigor from surer and more enduring sources. The task of imposing general instruction upon the citizens of the country is one which is not required in the United States. By a happy combination of circumstances the necessity for such instruction was early recognized here, and not only has it never been ignored, but the appreciation of it has steadily grown. The early settlers of New England were profoundly impressed by it. They came to found here a state in which every citizen should bear his part, and should be fitted to bear

it. The conditions of citizenship were narrow and rigid. No heterogeneous community was intended or expected. The state was to be intimately bound up with the church, and the members of the one were to be the members of the other; but the church as well as the state was substantially democratic, and authority rested largely on the conscience and reason of those over whom it was exercised, but who, also, delegated it. Both religious and civil duties required a certain free exchange of opinion and the instruction that is a condition of such exchange. Schools were provided for at the start, and were carefully and devotedly sustained. The two great colleges of the Union at the present time, widely separated as they now are in methods and purpose, had their common origin in the conviction of the enlightened founders of New England commonwealths that education was, if not a function, a proper object of care for the state. In other states the sentiment in support of public education was not so strong or so general and active, but it existed, in various degrees, and it steadily advanced. The self-government in which every colony largely engaged, and which became complete after the revolution, brought to public life the most keenly intelligent and best instructed men of the comparatively small and homogeneous communities, and these early perceived that the condition precedent of the successful maintenance of representative government was general instruction. Neither the then current ideas, nor the resources then available, were consistent with any elaborate system. The most that could be hoped for or had, and all that was sought, was the widest possible extension of elementary knowledge. This placed those who received it on no very high intellectual plane, but upon a common plane, on which all were fairly equal, and comparatively few were essentially ignorant. The absence of any strong central government and the necessity in each community of providing for its own needs, kept alive the interest of each community, and tended to create that ineradicable and universal belief in the common school which has become traditional in the United States. This tendency, already strong while the population of the Union remained, in substance, native, was intensified when the volume of immigration became large. It was then seen not only that general education was more than ever necessary to bring the mass of voters up to a tolerable standard of intelligence, but that free public schools were the only instrumentality which could be relied on to promote the assimilation of the enormous additions to the population. The immigrants were of diverse nationalities. The two most important bodies were the Irish and the Germans, but there were considerable contingents from other sources. Left to themselves, these people would naturally keep and transmit to their children the ideas, the prejudices, the mental and social habits of the races from which they sprung, and these would ever tend to become more narrow and obstinate in the isolation caused by a surrounding population different and, to some extent, unfriendly. The free public school was not only the best, but the only, means of bringing the children of these parents of various races together and of imbuing all with the general ideas and sentiments that would enable them to act together, in mature life, as one people. Had there been no other *raison d'être* for the free public school this would have been amply sufficient. Whatever defects or errors may exist in the system in the United States, and they are certainly many, it is not too much to say that the Union as it is to-day, with its vast possibilities of development, its rich promise to the hundred or more millions who are to occupy and possess the continent under its rule, would have been impossible without it. To be convinced of this fact one has only to consider what were the conditions under which the armies of the Union were recruited in the war of the rebellion, and what was the origin of that general, steadfast, potent sentiment of fidelity to the institutions of free government which made vain the gallant and passionate struggle of the southern states; but beyond this must be considered what it is that has so far rendered possible the adjustment of that momentous dispute, the re-establishment of a peaceful and effective Union on the ruins of the southern confederacy, the enfranchisement of a servile race on an equality with their former masters, the beginning throughout the south, of a career of sound industrial and commercial activity and of a rational political existence. Bitter and violent as have been some of the experiences of the Union since the war, the condition of affairs finally arrived at is a marvel in the history of civil struggles, and the forces which have brought it about could never have been called into play but for the free public school throughout the north and its steady progress in the south.—We have, then, in the United States, the public school firmly established, sustained by an intelligent and ardent public sentiment, destined to extend the field of its influence and to become a constantly more important element in the national life. It may be regarded as secure from even any serious discussion of its right to exist. It has no enemies worthy of attention. Religious prejudice, which alone can be suspected of opposing any barrier to it, is sure, in the future, only to strengthen the popular sense of its value and necessity. The most excessive factional feeling has never dared to assail it. The questions, therefore, which remain to be discussed, are: in what way can the school be made most useful? within what limits can it be properly maintained at the general cost? and at what point should it turn its pupils over to the agencies provided by private educational enterprise? These questions must necessarily engage more and more the attention of our publicists and of our educators. At present, and for some time to come, they must concern only

the more populous cities and the more advanced states. For a very large part of the country they can hardly be said to exist, because a very large proportion of the public schools are, and for a considerable period must remain, very crude and imperfect, far within the lowest limit which they should observe, and, from the condition of the population, the available resources and the direction of public sentiment, obliged to fulfill only the lowest functions of which they are capable In districts, for instance, where for eight weeks in the year a scanty attendance is secured for a single school, taught by an inexperienced girl or boy at a pay of $12 to $16 a month, it is quite absurd to suggest the discussions to which reference has been made. But in cities like Chicago, New York, Boston and Philadelphia, the system has reached a point where these questions become imperative; in many others they are important, while the rapid advance of every part of the country in population and wealth constantly extends the area in which they will present themselves for consideration. The tendency of opinion with reference to them among those engaged in the public schools themselves is undoubtedly toward extending the scope of public gratuitous instruction, developing the "high school" and the "college," giving every applicant access to the highest available education. The evidence of this tendency is to be found in the journals devoted to education, in the discussions of public school teachers in their "institutes," in the reports of city, county and state superintendents, and especially in the papers and debates of the annual meetings of superintendents under the auspices of the bureau of education, in the department of the interior at Washington. The tendency is entirely natural. It is the effect of the desire which has given rise to the well-known maxim in law that every court will extend its own jurisdiction as far as it can. But the time has come when the question must be treated from the standpoint of the statesman rather than that of the teacher. The public school in the United States has passed beyond the comparatively narrow field which it once occupied; its maintenance involves the expenditure of a vast sum every year Its influence upon the political as well as the social life of the people must be more carefully regarded, and its regulation and development should proceed on reasonably defined and comprehensive principles —In a representative republican government, such as that of the United States and those of the several states, there is one simple general rule in regard to the use of the money raised by taxation from the community. It is that it should be employed for those purposes only which are of general necessity or of supreme utility, and which can be attained by the state only, or by the state to a degree or in a way very far superior to those of private effort. Obviously this rule, simple in itself, is not always easily defined or clearly applied. It is, in that regard, like nearly all the general principles which guide the course of government, and which, nevertheless, are of great value. It is the business of the publicist to make such use of them as can be made in the circumstances by which he finds himself surrounded. He has no right to abandon them or to violate them because they can not be reduced to the precision of a mathematical formula, or be adjusted to legislation as readily as an engineer's drawing to a piece of masonry. Between a measure which plainly accords with such a principle and one which does not accord with it at all there are many stages, and from one to the other of these the advance may well be regarded as involving an excusable variation, but it is the duty of the statesman to draw the line firmly at that medium which, though arbitrarily fixed, nevertheless secures a practical compliance with the principle, a substantial gain of its real advantages, and the avoidance of any serious evils arising from its violation. The principle which has been stated clearly justifies the free public school in the several states of the Union, the expenditure of the public revenue for its maintenance, and, under existing circumstances, the appropriation of a reasonable sum from federal taxation for the encouragement and support of schools in those states which are either unable or, for the time, indisposed to maintain them. General public instruction is a recognized need of the republic. As has been pointed out, it has been, so far as it has been carried, fully approved by public opinion. The question now is, how far it can rightly be carried, and how, within the limits set for it, it can be made most fruitful of the greatest good to the greatest number. The radical objection to what is called higher education by the state in the United States is, that it is a direct violation of the principle which has been above laid down. The education afforded in the high schools and public colleges now in existence, and that proposed in the like schools which have from time to time been advocated, is certainly not a work of general necessity, and its utility is very far from being of so elevated and certain a character as to approach very closely to necessity. Just as certainly it is not a work which can not be done by private agencies, and done equally well or very much better. It is not a work of necessity, because it is not requisite for any of the ordinary and essential functions of the citizen's life, as is shown by the fact that the majority of citizens in states where it is conferred at public expense have never enjoyed its advantages, and political life in these states is, nevertheless, above the average in wholesome activity and intelligence. It is further incidentally shown by the fact that many of our most efficient public men who have done service of no mean value, have never had schooling of this character. That it is desirable, no one, probably, will seriously deny, but it is no more desirable than many other things which the state is not, and should not be,

called upon to supply. Moreover, however desirable it may be, it is not unattainable without state aid. In this country, and in almost every section of it, any young man or young woman, who values higher education enough to be willing to seek it with energy, patience and self-denial, and who has capacity enough to make a good use of it when obtained, can get it. Again, it is easily seen by any one who will examine any of the free schools for higher education now in existence that a very large proportion, probably much more than one-half, of those who attend them are the children of parents who are entirely able to provide such education at their own proper cost; very many of these would undoubtedly do so if they were forced to If, then, it be conceded that the state can, as a rule, furnish higher education of a kind as valuable and as perfectly suited to the needs of the scholars as would be obtained from private agencies—a concession which is open to much question—it still remains true that this is not a proper object for the expenditure of the common fund derived from taxation It benefits too small a class of the citizens, and it benefits a class who least require public aid to secure it. It is argued that those whose children reap the advantages of this sort of public education pay taxes in proportion to their means, which is roughly true, but they do not pay in proportion to what they get, while the poorer class, who get nothing whatever, pay what to them is a very much higher and more burdensome tax. By the operation of the laws which govern the incidence of taxation, and which the intimate intercommunication of modern life makes very certain and remorseless, taxes upon real estate tend to fall more heavily on the poor than on those who are not poor; it even happens in no small number of cases that the taxes of the wealthier are thrown off upon the poorer. There is, then, an obvious injustice in maintaining at public expense schools which those can rarely or never use who are compelled to make the greatest sacrifices in maintaining them.—If it be conceded that high schools, and those schools which are not accessible to the children of persons of moderate means, may properly be maintained in communities where the tax payers shall have clearly expressed their desire for such use of the school funds, it must still be required that before any such use of the fund be made, the primary schools shall be of the best possible kind, and give ample opportunity for instruction to all children of the age, say from six to fourteen, at which instruction may fairly be made obligatory It is so closely logical as hardly to need more than statement, that what the state may properly require the parents to submit to their children receiving at a direct loss of time and services, that, at least, the state should provide (1) of the highest practicable character, and (2) in a form entirely available. It is notorious that in no part of the United States is the first of these conditions completely complied with, while in far the greater part of the Union neither of them is complied with. The primary instruction which is supplied in the public schools, even the best equipped and the most carefully arranged, is essentially defective, while even in those communities where the most care has been taken, and the most money has been expended, there is still a very noticeable and much-to-be-regretted want of accommodation for the primary scholars. In the major portion of the country not only is the primary instruction very much below what is known now to be the best, but the schools are wanting as to their number, their sittings, the force of teachers and the needed school equipment The first work, therefore, to which the state is bound to direct its attention and its energies is, not the creation of so-called "high" schools, but the increase of the number of primary schools and the improvement of the instruction which they afford.—In this connection the term "primary instruction" is applied, as above indicated, to that which may conveniently be given to the children of the age at which instruction may be made compulsory. What that age should be is an open question, but it may roughly be indicated as from six to fourteen years. These limits might, with profit, be changed in certain cases, according to the circumstances of the various communities. Instruction might be begun at an age earlier than six, and it might be desirable to release the child from school at an age earlier than fourteen. It would be quite practicable to commence with the age of four, under a completely organized system, and to teach as much by the age of twelve as the child under the ordinary methods has learned at fifteen, and very much more and of more worth. These are details which would settle themselves, if the correct and fruitful principle were adopted; the important thing to observe is, that the duty of the state is to do all that can be done for the child at as early an age as possible, and that when this has been done, the child may and ought to be turned over to private agencies, which can do the work of further education fully as well, and even better than those that the state can provide. Nor is it a question simply of what preference shall be given to one of two kinds of instruction for either of which the means are easily provided. It is rather a question of what shall be done with a sharply limited sum. There are certain bounds beyond which the public can not be taxed, even for the support of free schools, highly as these are valued and cheerfully as they are usually supplied. The load of taxation is already very heavy in all the older parts of the United States, and its tendency is to grow heavier rather than lighter. We have no such struggle for existence as many of the older parts of Europe experience, but the difficulty of keeping up the standard of comfort to which the great mass of Americans have become habituated is getting to be greater and greater in all of our larger cities, and in very many of our towns and

villages. The almost unbroken rise in rents and in the cost of many of the necessaries of daily life, together with the unfortunate but apparently inevitable tendency to extravagance, especially among persons of only moderate income, make the larger average annual earnings or profits of the American worker or American tradesman, go less far in the provision of essentials than a much more modest sum in older countries. In this curtailing of the real resources of the citizen, taxation necessarily bears a very large part. With our present very defective methods of getting public business done, with the lack of accountability and stability, of consistency and permanence, in the local public service, there is but little hope that the burden of taxation will be materially lightened, and the share of the revenue which can be counted on for the public schools is by no means indefinite. It is, therefore, absolutely required that it should be husbanded with great care, that it should be made to yield the greatest practicable results, and that these results should be, as far as possible, to the advantage of the greatest number. Already in some of the most advanced states, and in some of the largest and most liberal cities, there is a notable demand for economy in this direction, which is sure to grow stronger and more imperative. The answer to that demand certainly should not be a decrease in the salaries of teachers, or a general reduction in the cost of the schools, but a concentration of expenditure upon the more essential kind of instruction and the greatest possible development of that.—The argument for this policy is very far from being a negative one. It is not merely that the state ought not to devote the funds derived from common taxation to a class of schools which are of necessity useful only to a minority of the tax payers; it is that the field of primary education is quite worthy of the utmost that the state can do. It is a common error, that the teaching of children under the age of twelve or fourteen is something which can be safely left to unskilled persons; that it is a comparatively simple work, that it is necessary mainly to enable the pupil to take that which is afterward offered, but that in itself it is drudgery at once to the teacher and to the taught, which may be got through with as best may be. This error is, happily, no longer current among those who have given any considerable study to the subject, or who are entitled to be heard in regard to it; but it exists to an extent which few writers on education know, among those who have the determination of the character of our schools, of the studies that shall be followed in them, and of the manner in which they shall be taught. A close acquaintance with the school officers, and even with the school teachers, of the various states, a direct study of the schools themselves, a knowledge, though but partial, of the views of the average local legislator and the tax payers, would reveal a prevalence of this gravely mistaken notion which is of the utmost consequence in forecasting the future of our public school system.—The notion is not only mistaken but it is exceedingly mischievous. It tends directly to the neglect of the child at a period when, of all others, he can be most readily, most profitably and most completely taught, and this neglect can never be wholly made up to him. The condition of all valuable instruction is curiosity on the part of the learner, and curiosity is a natural, universal, persistent quality of the mind of the young child. The process of sane and useful education consists in very large part of the direction and satisfaction of this inherent curiosity, which, like every other quality, is developed and strengthened and rendered more active and efficient by legitimate exercise. If, at the age when this quality is strong in every healthy child, the work of learning is made hard or tedious, if the labor of acquisition is made too great for the obvious and appreciated results acquired, the faculty of curiosity is weakened, the instrument with which all future work must be done is blunted. The pupil may afterward reacquire it; his curiosity may be tardily awakened; he may be incited by other motives, such as fear, or emulation, to do the necessary labor of learning, but he will have lost much that he can never regain; his nature will have been crippled or stunted; he will never be so useful to himself or society as he might have been; he will do what he is capable of doing at a disadvantage, with greater effort and with less and less available result. Most of our primary schools ignore to a greater or less degree this most important fact. Children under ten or twelve years are crowded together, in the charge of teachers of immature age, little or no training, defective general education and undeveloped character. To each of these is given a number of scholars greater than the most skillful, alert and experienced teacher could deal with in a manner at all satisfactory. Much is done to benumb, almost nothing is done to awaken, direct or feed the desire of the child for learning. Arbitrary and conventional tasks are imposed. In the larger schools the necessities of the system adopted require rigid and minute uniformity of management. Each class is a part of a closely regulated and interconnected machinery. Individuality is repressed. The incitements of direct and intimate personal intercourse with the more highly developed mind of the teacher is nearly impossible. Classes follow each other in rapid succession; a series of hurried examinations or recitations leaves neither time nor chance for anything but the most monotonous and mechanical action of the pupil's faculties. The progress, such as it is, of each division, is measured by a standard based on that capacity for receiving instruction, thus faultily given, which exists not among the brightest, but among nearly the dullest of the members of the division. The more intelligent are held back; the weakest are driven forward; the progress of all is halting, unnatural and misdirected. That which is taught is necessarily confined to what can be

taught under these conditions. The system imposes itself upon those who have the administration of it, whether they will or no It is idle to think of teaching much that requires adaptation of means and methods by the teacher to the wants, the desires, the suggestions of the pupils' varying minds. The school is a mill which goes on day after day, grinding out as nearly a uniform grist as it can, with very little reference to the grain that is provided for it, or the uses to which its products may be devoted, or of which they may be capable. This is the condition of things in many of the larger schools in the larger cities. In the smaller towns or villages and rural districts, a like result is got by different means. Here the number of pupils is smaller, but the capacity of the teachers is even less. The supervision, which, to some extent, prevents the worst consequences of the bad methods in the larger schools, is generally wanting. The teachers, with little or no conception of the possibilities or requirements of their calling, imitate, as best they can, the model set up for them in the larger schools. The machine is smaller, but it is still a machine, constructed on the same principle, run for the same ends, and accomplishing its limited purposes with a like hard, mechanical, but more defective regularity The things taught are of substantially the same nature, but less in number, and usually even less adapted to what should be the object of the primary school. That the result is of considerable worth, and even of great worth, no one who knows the effect of the worst primary schools on the population to which they are directed will deny; what is obvious is, that the result is not nearly as great or as good as it might be, at the same cost of time, money and energy. This proposition is not easily proven by statistics, in the first place, because it is not easily susceptible of mathematical proof; in the next place because such statistics as would throw light upon it are not collected in this country. But it is quite susceptible of demonstration that our public schools turn out pupils very much less fitted for the common duties of life than they might, even after they have passed them through what are, with very doubtful accuracy, called the "upper" grades. Thus every school is supposed to be able to teach the "three R's," that is to say, to enable its pupils to read intelligibly, and to understand ordinary matter, to write legibly and correctly, and to go through with the elementary processes of dealing with numbers. During the last three years there have been competitive examinations for appointment in the New York custom house, based in part on questions in copying from dictation, in numeration and annotation, in addition, in fractions, in grammar, in letter writing and in penmanship. An official report of these examinations up to Feb. 21, 1881, gives the education of 731 competitors, and that of 471, or 64 per cent., is described as "common school." The mean standing of all the competitors, in the subjects named, fairly reflects the standing of these 471. It was, in copying, 74 02 (on a standard of 100); in numeration and notation, only 76.24; in addition, correctness only and not rapidity being regarded, it was but 72.05; in fractions, the problems being of the simplest character, it fell to 57.33; in grammar, it was 69.16; in letter writing, it was 65 66, and was decently high only in penmanship, where it was 80.91 Of the 731 competitors, 123 were appointed, with an average standing of 88.54. Of these, those having "common school education," were only 51 per cent., though they were 64 per cent. of the applicants, and the average age of the appointees was thirty-five years, which indicates that the more recent graduates of the common schools were at a marked disadvantage. These figures give a general idea unfavorable to the proficiency of the pupils in the public schools in the simpler and most valuable branches. A careful inspection of a large part of the papers with special reference to this question very strongly confirms that impression. It reveals, among those definitely traced to the schools, a variety of ignorance, a degree of failure on the part of the schools to fit them for the most common and necessary use of the knowledge pretended to have been imparted, which would be ludicrous if it were not disheartening. As has already been said, this evidence does not prove that the public schools, just as they are, do not do a great deal of good, or are not a great deal better than none, it does not prove that they are not a proper agency for the state to employ to secure the degree of instruction which is absolutely needed by its citizens; but it does prove, and conclusively, that they do not do the work for which they are specially intended, and for which they are specially fitted, as that work ought to be done. The causes for this relative failure are not far to seek. They may be fairly included in the statement that the schools seek to do too much, and do not seek to do that thoroughly which is the most important. And the remedy is plainly to confine their work within narrower limits, and to improve them, with reference to that work, to the greatest possible extent. This involves the surrender of the higher and more costly schools, the increase in number of the schools devoted to elementary instruction, the provision of a larger body of teachers, their better training and adequate supervision. Of these requirements the first is essential to the fulfillment of the others. The development of a complete system of elementary instruction is practically impossible while the present miscalled "higher" schools are maintained. These latter not only absorb a very large share of the money that is needed for the more essential schools, but they create a false standard; they turn the efforts of the teaching force in a wrong direction; they stimulate the desire both of teachers and pupils, not to the mastery of the substantial branches, but to "promotion" along the arbitrary line leading to these "upper" grades or schools. The whole energy of the system should be confined to complete and effective education

in the branches really necessary, and progress should be made, not in quantity but in quality. It is true that abolition of the upper schools is called for now only in the system of the larger cities and more advanced towns, but it is the more imperatively called for there, because this system is the model to which the schools in the smaller towns and less important districts are now adapted as much as possible. It is in the larger cities that the more serious evils of the present system are most clearly shown and tend most strongly to increase, and it is from these that the mischievous influence proceeds which constantly tends to produce these evils throughout the country and to prevent a needed and fruitful reform. It is from these that a contrary influence can be extended throughout the rest of the land, and the general system be brought nearer to that which must be created, if we are to get from our schools the full measure of utility that we are entitled to expect. If the reform can be begun in the larger cities and towns by gradually limiting instruction to that of an elementary character, that measure of itself will tend to improve the quality of the instruction given. The false and mistaken goal being removed, the natural effect will be to push toward the goal which is set up with greater zeal and intelligence. The intellectual and moral force of the teaching class, great as it unquestionably is, will cease to be wasted in the vain pursuit of vague or arbitrary objects, and be turned with certain gain in efficiency toward the objects at once more valuable and more attainable lying much nearer. The already considerable number of educators who are weary of the unprofitable pursuit of the multiplied and multiform purposes that they are now required to keep in view, will be encouraged to devote themselves to the simpler, worthier and more practical task presented to them, and they will be steadily re-enforced by others who would gladly adopt a reformed system, but have not the courage or the independence to propose it.—With the provision of a larger number of elementary schools, must necessarily come an increase in the number and a decided improvement in the character of the teachers employed in them. The schools being more numerous, the classes should be very much smaller, and a teacher should be required to take charge of only so many children as could be brought directly, easily and with benefit under his or her personal direction and influence. This involves an immediate, and, ultimately, a very large increase in the means for training teachers, and the provision of such means is one of the most obvious and proper functions of the state. If it can not be maintained that the state should provide what is now regarded as higher education for all applicants, gratuitously, it can not be denied that it should do all in its power to furnish an adequate supply of carefully chosen, highly trained teachers for the schools which it may establish and sustain. This is not only a legitimate but a necessary function of the state, in which any well-directed expenditure of care and money will be entirely justifiable. This principle has been rather vaguely but very generally recognized throughout the United States and is constantly gaining. Normal schools are already in existence in all but two or three of the states, and in some of them they are generously maintained and of high character. During the decade 1870–79 they increased in number and in attendance fully fourfold, and the tendency is fortunately still strong in the same direction. But there yet remain only too many sections of the country to which the quaint comment of Roger Ascham applies: "It is a pity, that commonly more care is had, yea and that among very wise men, to find out rather a cunning man for their Horse, than a cunning man for their Children. They say nay in word, but they do so in deed: For to the one they will gladly give a Stipend of two hundred Crowns by the year, and loth to offer to the other two hundred Shillings. God that sitteth in Heaven laugheth their Choice to scorn, and rewardeth their Liberality as it should: For he suffereth them to have tame and well ordered Horse, but wild and unfortunate Children, and therefore in the end they find more Pleasure in their horse, than Comfort in their children."—The value of the normal schools varies greatly in the cities and states in which they are now established. The best of them, however, are inadequate to the end which should be kept in view. The average term of instruction is but one year. This, with the necessary allowance for vacations, is but little more than two-thirds of a year, or eight months of direct study. It must be conceded that even in this time much is accomplished, and the graduates of these schools are among the most useful of the teachers now engaged in active work. It must be added, also, that it is in these schools that the better notions of pedagogics have taken root most readily and most firmly, and it is among their pupils that we find the most effective and intelligent application of such notions It is from these that many of the more thorough and ingenious of the primary teachers have sprung, who have at many widely separated points, established the *nuclei* of correct and profitable instruction. But no one familiar with the extent and delicacy and difficulty of the art of really good primary teaching, can for a moment suppose that any complete training, or even any satisfactory beginning of such training, can be had in the few months allowed to the ordinary normal school course. If we assume, what is very far from being the case, that the students admitted to the normal school are already fairly grounded in the elements of the studies which they are afterward to teach, the time is still very much too short. As a matter of fact the students are in great part very poorly prepared. At best they generally have only such preparation as can be got in what are called the grammar school grades, and can pass only routine examinations confined to the well-defined limits within which they have been drilled.

If they could be subjected to searching examinations to test their facile and familiar use of what they are supposed to have learned in the "three R's," it is probable that they would, in the words of Mr. Charles Francis Adams, Jun., to the Quincy scholars under like circumstances, "go to pieces." And it is the testimony of the managers of normal schools that it is often found necessary, not only to review, but to recommence the grammar school course. The material on which the normal schools have to work, though very ill-prepared, is in many respects otherwise exceedingly good. The spirit of the students is generally earnest; they are disposed and accustomed to patient industry, to self-denial, to discipline, and to the practical use of their opportunities. Though often too young, they are intent upon the end they have in view, and have, what is much more precious than mere mental brightness, the capacity for work. With proper means of instruction, sufficient time, the freedom from poverty which is their greatest drawback, and the incentive of a reasonable start in the profession that they have chosen, they are capable of becoming useful and admirable teachers.—In this connection there is an ample and inviting field for the intervention of the government, and particularly of the federal government. The latter has already, in the military school at West Point and the naval school at Annapolis, given examples of the peculiar excellence of the instruction for special purposes which it can command when it seeks it. There is no reason why it should not undertake the establishment of some like system for the training of teachers. The military and naval schools take their pupils after careful examination; the pupils are supported during the time they are engaged in their studies, and they are at once required to give to the government a fixed time of practical service in the branches for which they have been trained, and are secured a position for life, if they choose to retain it. The justification for this system on the part of the government is that it is the best available for providing officers for the army and navy, which may at any time become absolutely indispensable to the maintenance of the republic. It is not too much to say that the defense and support afforded to the government by an efficient and universal system of public schools are as valuable and even as indispensable as those derived from the army and navy. The utility of the latter is indeed only exceptional and contingent, though entirely established; but the utility of the former is certain, constant, absolute, and will necessarily increase with the growth of the country. The constitutional power of the federal government to establish normal schools can be easily and amply maintained. It is but a specific branch of the power already used in the appropriation of public lands for the maintenance of technical schools, such as agricultural colleges, and for general purposes of education. The federal government would be entirely within its clearly established sphere in either establishing normal schools, or in encouraging their establishment by the states. It could properly and effectively work in both directions. It is hardly desirable, in the present condition of the civil service of the federal government, that it should undertake the direct management of the educational system in any of the states, even though this could be done with the consent of the latter. Nor is it desirable that it should assume at once the task of furnishing trained teachers for all state schools. But it is exceedingly desirable that a definite system should be begun, which should be capable of expansion. This system might with advantage be based on the general principles that govern the military academy. The federal government might undertake the training of a number of pupils, moderate at first, in the art of primary teaching. To render practicable the selection of the most capable and promising, without reference to previous circumstances in life, these students should be supported during the term of study, which should be sufficiently long to admit of the most thorough instruction. They should, of course, be admitted from any part of the Union, and considering the peculiar needs of the southern states, ample provision should be made for colored pupils. They should be held to the most careful and complete compliance with all the conditions of successful study, and should be promptly dismissed if they failed in this compliance or showed incapacity for a fixed degree of excellence in their profession. Upon graduation, they should be assured of employment at a fair salary for a determined period. As the federal government has no schools of its own in which to employ them, an arrangement would have to be made with the states for this purpose; but this would offer no practical difficulty. The best aid that the federal government could afford to education in the states would be in the shape of trained teachers, whose salaries should be paid either by the national, the state, or the local governments according to conditions, which could be readily defined. In those states where application, based on the illiteracy of the population, should be made for assistance, the teachers might very wisely be paid wholly by the national government, and this would, of itself, be a field quite sufficient to furnish employment to all the federal teachers that could at first be supplied. When the system had once been fairly established, there would be no lack of demand for the graduates of the federal normal schools. It is now hardly doubtful, that before many years the federal government will take some definite and comprehensive action for the aid of public education in the states. This purpose has already been shown in the propositions submitted in congress, to devote a considerable portion of the revenue from public lands to the support of state schools. These propositions have received the support of leading representatives from all sections of the country, and of all shades of political opinion. They have been brought forward by the representatives of

New England states, which would not at all share in their benefits, and which have shown entire willingness and capacity to maintain free public schools of the highest existing order at their own expense. They have been supported ardently by the representatives of southern states, which have been as completely revolutionized by the war for the Union in their ideas and purposes regarding education as in their political and social organization. And to these propositions have been added others, for the appropriation to the support of free schools of considerable amounts from the direct revenues of the treasury, and particularly from those derived from the tax on brewed and distilled liquors. While these measures are in themselves well-intended, and would, in a general way, further the advancement of education where it is most needed, they could not have as wide, as good or as permanent an influence as the system of federal normal schools above suggested. This latter might at least with great benefit be added to the others should they be adopted. The supply of teachers by the national government would relieve the states of an expense far greater than that incurred in training and paying the teachers, since a like number of equally good teachers could not be obtained by the individual action of the state or local authorities at even a much greater cost On the other hand, the normal schools would enable the federal government to raise the character of the state schools, and to exercise a very desirable influence over them without the slightest direct or improper interference with them. The system would involve no departure from that wholesome principle of entire freedom on the part of the states which it is very important to preserve. For while the graduates of these schools would be trained under a generally uniform system, that system could and should be one which would rather develop their capacity than closely and narrowly direct their specific methods They would retain the same liberty of personal activity which obtains among the graduates of West Point or Annapolis, who are indeed taught how battles may be fought and armies and ships managed, but who are also especially trained to the apt and ingenious application of all available resources to the various requirements of the situations in which they may be called upon to act. A peculiar advantage which would accrue from this system would be that it would enable the federal government to supply a sufficient body of highly educated and carefully trained persons specially fitted for the work of superintendence of schools, and it is precisely these for which there is now the greatest need throughout the Union. The great body of schools, in fact, are at present practically without skilled supervision, and much of the teaching force which they employ is nearly wholly wasted on this account. A careful, well-equipped and energetic superintendent can multiply the efficiency of even ordinary teachers many times, and his influence may readily make exceedingly valuable what without it would be nearly worthless. Such superintendents are not only rarely employed, but they are very rarely to be found, and when found the chances for their engagement under conditions that would give them all their usefulness is almost impracticable. But if such officers could be furnished by the federal government with little or no cost to the state or local authorities, and if their engagement were made the condition of the aid furnished by the federal government, it can readily be seen that they would soon become a force of great and increasing efficiency.—In this connection, however, it would be important that the principle already defined regarding the legitimate limit of free public instruction should be carefully observed. The normal schools of the federal government should be devoted to the highest possible training of teachers of the elementary branches, and they should be confined to such training. The federal government, of all others, should faithfully observe and firmly enforce the rule that free public schools should give the best instruction, in those things which are essential to all future citizens, which are accessible to all, and that there they should stop It can not only be no part of the duty of the central government to furnish "higher education" to a comparatively small proportion of its citizens at the expense of all, but it is clearly its duty to refrain from so doing and to exert all its influence to discouraging such a tendency on the part of the individual governments. Within the field thus limited it would find ample scope for its utmost energies, and it would be one of its most honorable functions to occupy that field worthily If its influence were steadily and actively directed to providing complete instruction in the elements of education in those common, useful and necessary forms of knowledge and of mental activity for which children within the age, say, of fourteen are fitted, it would do as extensive work in shaping the future character of its people, and one most sorely needed. It can not be too often repeated or too clearly held, that within that age the child has at once the strongest claim upon the aid and guidance of the government, and the greatest aptitude in using them, and that beyond that, if the elementary work be even fairly done, all possible advancement lies within the reach of the great body of young Americans.—Obviously the acceptance of this proposition bars the way to the entrance of the federal government upon the schemes so freely proposed for the foundation of a national university or for the establishment of a series of colleges throughout the Union. The arguments by which these schemes are supported rest upon a radically mistaken conception of the functions and constitutional powers as well as of the practical capacity of the federal government. Such institutions could not themselves carry out any of the defined purposes for which the constitution clothes the national government with authority, nor are they in any strict sense means necessary or proper to the exercise of the powers

conferred. They differ radically and widely from schools intended and conducted to promote the common education needed by all, and they can only give that form of instruction which, on the one hand, the citizen has no right to claim at public expense, and which, on the other hand, the government neither has the right to give nor the means of giving in its best form. All the considerations that have been urged against the misdirection of public funds by states or municipalities in the support of high schools and colleges, apply with even greater force to the undertaking of still more advanced instruction by the federal government. In addition to these are others springing from the organization of the federal government. That organization aims neither at centralization nor permanence, and is opposed to both. The executive is submitted to popular election every four years. The more numerous and powerful branch of the congress is so submitted every two years, and at like periods one-third of the senate is passed upon by the state legislatures, under influences which are well known to be incompatible with consistency, much more with unity in the character of the senate. Under these circumstances, the difficulty of securing in the first instance an adequate plan for a national university would be very great, from the obvious lack of any considerable number of men engaged in the government capable of even understanding the requirements of such a plan, and from the fact that those who may at any one time happen to be so engaged are not secure of remaining long enough to enact the plan, or of exercising a controlling influence upon its character. Any university which can be regarded as possible would from the start be crude, empirical and defective in its character, and would tend gradually or perhaps rapidly to degenerate. Moreover a university is in its nature rather an organism than an organization. It is a thing of complicated purposes, of delicate instrumentalities, of constantly varying and developing needs. Its vital force must be within itself, and it depends for its efficiency, its adaptation to its work, upon the character of those who devote the energies of their life to its service. Such force could not be supplied by act of congress, and if in some measure it should chance to be provided at the outset, it would surely die out under the conditions that would attach to the administration of a government institution. It would be as difficult for congress to set up even the beginnings of a Harvard as for a chemist by uniting the elements disclosed to his analysis to reproduce the germ of a living plant. And in considering this fact, it must be borne in mind that Harvard is but an incomplete growth, the greatest value of which, even now, lies not so much in what it is as in what it has the power to be. Either as an instrumentality of higher education or as a means of promoting original investigation, on both of which grounds the plan has been advocated, a national university would be a singularly faulty contrivance, and destined rather to decay or perversion than to development and increase of usefulness. Similar institutions abroad are hardly models for the United States, since they exist under very different conditions. Those in Germany, which are most often cited, are maintained by a government which, on the one hand, is very nearly despotic and practically permanent, and which, on the other, accords to the universities, within certain broad lines, the greatest freedom. In other words, the government provides secure and uninterrupted means for the universities, to be used largely at the discretion of a permanent force of learned men, whose whole lives are given to the task. Such a scheme in the United States is almost "unthinkable." In France, where there has been far greater permanence and independence in its university than might have been expected from its frequently changing forms of government, the work of the university falls far short of that accomplished in Germany, while the most valuable and distinguished achievements of scholars and students have been due to men wholly unsupported and unaided by the government. In this connection may profitably be considered the history of England, which affords brilliant examples of the vigor and success with which the highest labors of science and scholarship have been pursued with little other encouragement than that supplied by the needs and aspirations of an intelligent people.—It may be objected, and with some plausibility, that the obstacles to the successful foundation and maintenance of a national university in the United States arising from the organization of the government, would equally oppose themselves to the successful establishment of adequate normal schools. It is not to be hoped that the elements of instability and of demoralization which inhere in the constitution and in our present political methods could be kept entirely from influencing such schools. But two facts are to be borne in mind in this connection: one is, that the establishment of good normal schools is by far a less difficult task than the foundation of a university; the other is, that it is a task clearly within the constitutional authority and the field of duty of the federal government, and therefore to be undertaken with the best means that can be commanded. It is reasonable to suppose that the project of the supply by the federal government of teachers, thoroughly trained in the art of elementary instruction, would, if properly presented, commend itself strongly to the majority of those in congress who are now disposed to extend federal aid to the public schools of the states. Once fairly started, the system would constantly strengthen itself in public opinion, because it would constantly respond to that universal demand for free and universal primary instruction, and it would not offend the principles of justice and of constitutional law as would a national university.—By the brief outline, which the limits of this article permitted, of the systems of education existing in Germany and

in France, it will be seen that the problem presented by the relations of the state to education in the United States is very different from that presented in the nations of which these may be taken as examples. The fact might be further illustrated by reference to the systems of the Scandinavian states, of Belgium and Holland, and of Italy, but this is neither convenient nor necessary. The specific question offered for study here, is how the children of the republic may be given, in the best manner and at the least cost either of the public revenue or of the time and energy of the pupils, the instruction which is needed by all as a condition to the reasonable performance of their duties as citizens. This is the problem, the solution of which has been undertaken by the states, by the municipalities, and by the lesser political bodies, in a more or less earnest manner, by various means, and with widely differing degrees of success. In the prosecution of this effort, the schools in most of the larger communities have extended, under complex influences and without consistent guidance, in directions quite wide of the mark to which they should have been confined. The needs and rights of the majority have been neglected and much money and force have been expended in an attempt to provide advantages by which only a minority, often very small, can profit. The result has been the general adoption of a false standard, the vicious multiplication of studies, the enforcement of arbitrary, conventional and barren methods of instruction, and a lamentable failure to turn out pupils fitted for those very duties which the schools are founded to aid the pupil in discharging. It has been shown that the proper and adequate performance of the function of the schools requires the abandonment of the elaborate, expensive and comparatively useless "upper grades" and "high schools," and the concentration of energy and expenditure upon ample provision for the very best form of elementary instruction, with direct and close attention to imparting practically useful knowledge, and to the training of the child's capacity for the intelligent employment and extension of such knowledge. It has been urged, that to this end the duty of the state—including in that term all the civil authorities having control of the common schools — is to provide a sufficient force of carefully trained teachers. In this important work the federal government is warranted by its constitution and bound by its general obligation as to the maintenance of free institutions, to engage, and it may with advantage establish normal schools for the free training of primary teachers, to be supported while under instruction, and to be employed by the federal government at fair salaries, for a fixed term. It has been suggested that in no other manner can the federal government do such great and valuable service in aid of general education in the states, or exercise so powerful and salutary an influence over the state schools, without in any degree interfering with that perfect freedom of action in the states which is at once demanded by the theory of the Union and required for the best development of education throughout the various states. It has been sought in this way to point out a line of development for the free public schools of the country which will, if steadily pursued, enable them to fulfill the high purpose for which they are meant, and by their success in attaining which they will ultimately be judged. What are believed to be the errors and defects in the system now in vogue have been pointed out in no spirit of depreciation, much less of hostility to the schools, but with a strong desire to aid, as far as may be, in giving them their greatest usefulness, and by directing them to what is thought the satisfaction of the most imperative and permanent needs of the people to secure for them a lasting and constantly strengthening affection and respect. The faults of the present are those of abounding energy misdirected and in danger of provoking unfortunate reaction. But a reform quite simple in its nature is capable of turning this energy into the most fruitful fields, where the harvest will be secure, of the richest, and continually increasing.

EDWARD CARY.

EDUCATION, Bureau of. The government of the United States, prior to 1867, had no concern with the education of the people, further than was evinced in several acts of congress giving public lands to the states for the promotion of school education. A summary of these land-grant provisions, with the amount of land thus located in each state and territory, will be found elsewhere. — Numerous propositions to establish a national university by act of congress have been made, from the time of Washington to this day, but thus far without practical effect. A national bureau of education, however, was created in 1867, in pursuance of a bill reported by a select committee of the house through its chairman, James A. Garfield, who took a leading part in urging its passage. By act of March 2, 1867 (14 Stat. at Large, p. 434), a department of education, with a commissioner and three clerks, was organized, "to collect statistics and facts showing the condition and progress of education in the several states and territories, and to diffuse such information respecting the organization and management of schools and school systems, and methods of teaching, as shall aid the people of the United States in the establishment and maintenance of efficient school systems, and otherwise promote the cause of education throughout the country." The following year the office of education was converted from an independent department into a bureau, attached to the department of the interior (15 Stat. at Large, p. 92). The commissioner of education is appointed by the president and senate, with a salary of $3,000, and is required to make an annual report to congress of the results of his investigations and labors. These annual reports (of which thirteen

bulky volumes have been issued from 1868 to 1881) cover a wide field, and, with the "circulars of information" occasionally issued in pamphlet form, embrace many subjects not directly connected with education. The annual reports, which have more recently assumed a systematic form, are in great part devoted to abstracts of the official reports of school officers of the various states and territories. These are followed by statistical tables in detail, summarizing, by states and territories, the numbers, attendance, instructors, expenditure, etc., in the primary schools, kindergärten, normal and higher schools, commercial colleges, universities, schools of science, theology, law, medicine, etc., throughout the United States. To these are added tabular statistics, also arranged by states, of institutions for the deaf, dumb and blind, charity schools, orphan asylums, industrial and reform schools, museums of art, natural history, etc., and (occasionally) of libraries. The commissioner of education also published in 1876 a valuable "Special Report on Public Libraries in the United States of America, their history, condition and management," a volume of over 1,200 pages. The circulars of information of the United States bureau of education have embodied much miscellaneous intelligence regarding education in foreign countries, with many monographs upon special topics. — The functions of the bureau of education, though most largely concerned with the collection and diffusion of knowledge respecting educational methods, and the statistics of institutions of learning, have become quite diversified, and its annual expenditure has grown from the insignificant sum of $9,400 in 1868, to $50,000 in 1882 (exclusive of printing). Its special reports, of much extent, relating to education in the District of Columbia (1871), and to the public libraries of the United States (1876), have been highly valued, and the bureau has become a recognized and widely useful medium for the diffusion of intelligence respecting all the varied interests and business of education in this country, as well as in foreign lands. Among topics treated in its circulars of information have been rural school architecture, the teaching of chemistry and physics in the United States, instruction in the countries of Europe, Asia and South America, college commencements, the legal rights of children, foreign universities, compulsory education, the spelling reform, proceedings of the national educational association, etc.—The commissioners of education since the creation of that office, have been Henry Barnard, March 16, 1867; John Eaton, March 16, 1870.—There has been collected a valuable though not complete library of works on education, elementary text-books, catalogues, etc., and an extensive series of illustrations of school buildings, school apparatus, etc., forming an educational museum of great interest.

A. R. SPOFFORD.

EDUCATION, Compulsory, a term used to denote the policy of requiring the parents of a state to furnish their children that degree and kind of education assumed as necessary for the citizen. Such a policy involves the liability of the state to provide opportunities for obtaining such an education, in case the parents are unable to do so. As a matter of fact, most civilized nations of modern times have gone very far toward providing such opportunities for all the children of the state, either free of cost (in the free school system), or at a nearly nominal price (in the rate-school system). The question then becomes merely one of compulsory attendance upon the schools so provided in case parents do not choose other schools.—In its widest sense compulsory education is as old as civilization. Long before a literary education was considered necessary, the nations of the east, Egypt, India, etc., had been in the habit of requiring all parents to train their children in the duties and routine of their caste. Of the classical nations, Athens and Sparta were among the first to recognize in their legislation the right and duty of the state to superintend the education of the children. Sparta carried this principle to its utmost extremes in the system of laws commonly attributed to Lycurgus. The entire training of the male children, after they became seven years of age, was in the hands of the state. A most rigorous system of discipline was enforced during the childhood, youth and early manhood of all male citizens. At Athens, Solon is said to have incorporated the following provisions in his legislation: 1. The boys must be taught to swim and to read; those of the poorer classes must be further trained to agriculture, commerce or some handicraft, those of the richer classes, to music, skill in handling horses, hunting and philosophy. 2. No son is bound to support his father in old age, if the latter has failed to instruct him in some profitable art. At Rome the state undertook no general superintendence of education, but left it almost entirely to the family. The compulsory military service of the early republics had a certain educating force in it, though that, of course, was not its primary object. It was not till long after the downfall of the Roman empire that any traces are found of attempts to provide for the education of the masses. The candidates for the priesthood, and the children of the nobles and of the well-to-do classes of the laity, received a sort of education in the various classes of schools, supported or favored by the church, but the vast majority of the population remained in ignorance which no government even tried to lessen.—With Charlemagne a new era begins. The idea of securing universal education by a system of compulsory attendance at school seems to have originated with him. At least he was the first to try it on a great scale. Not only did he found schools everywhere, but he expressly enjoined it upon all the bishops that they were to insist on the children of their dioceses all attending the pri-

mary schools, and that they were to be instructed not only in religion but also in science, *i. e.*, in reading, writing, arithmetic, grammar and singing. The wreck of his great empire prevented the ultimate success of his plans as he had laid them But the impulse he gave to the cause of universal education was great and lasting.—The revival of learning in the fifteenth and sixteenth centuries awakened a new interest in popular education. The spirit of Protestantism, which had begun to make itself felt in every department of life, was favorable to universal education as likely to break forever the power of the priesthood over the masses. Eminent thinkers and educators began to insist upon compulsory education as necessary to any great advance in national prosperity. Luther was an outspoken advocate of such a policy. The logical conclusion of all his writings upon education is that it is the duty of the state to provide for the education of all its citizens, and then to compel them to take advantage of the opportunities offered. As early as 1528 the school law of Saxony made it the duty of clergymen to admonish their parishioners to send their children to school, "in order that persons might be educated so as to be competent to teach in the church and to govern." The most interesting school law of the sixteenth century was that issued by Duke Christopher in 1559 for the duchy of Würtemberg. It provided not only that the pastors should admonish their congregations twice each year of the necessity and duty of sending their children to school, but also that the schoolmasters should keep a register of all the boys in the district according to the classes to which they belonged, and that after every recitation the roll should be called, and if the absentees could not give satisfactory excuses they were to be fined according to desert. The enforcement of the law, however, was very negligent. Similar provisions were adopted by many other German states. Compulsory attendance upon religious instruction was nearly universal, and tolerably well enforced. In 1640 the general synod of Würtemberg recognized the necessity of requiring all children to go to school, and resolved that all parents should be fined whose children failed to attend. It was found quite as difficult to enforce this law, however, as the former one, and new rescripts were issued in 1670, 1672 and 1679, to remind parents of their duties. The first law defining the school age of children was given by the duke of Brunswick, who commanded all parents and guardians of children to send them to school from the sixth year of age.—The thirty years war came near destroying the popular schools entirely, as it nearly put an end to all civilization in many parts of Germany. Duke Ernst, of Gotha, was among the first to resuscitate the public schools. The school law of Gotha, at first an object of ridicule, became later the model of nearly all school laws issued. It provided that all children, boys and girls, in the country as well as in the towns, should be sent to school as soon as they became six years of age, and that the pastor was to keep a register of all children from five to fourteen years of age. All parents who were so "debased, earthly and negligent" as to prevent their children from going to school, after being warned by the pastor should be fined one groschen for every hour the child was absent. The school should be kept the year round six days in the week except Wednesday and Saturday afternoons.—The movement in behalf of compulsory education now made steady though slow progress in all the German states. Prussia introduced it in 1732; Bavaria, which was one of the latest, in 1802. Compulsory education has, since the beginning of the nineteenth century, been the general rule in the German states; and it is a remarkable fact, that, in all the fierce conflicts which have been caused by educational legislation, no party has made any serious opposition to the principle, that the state government may and ought to demand that parents should provide some kind of instruction for their children. This kind of legislation in Austria began in the eighteenth century with laws providing that magistrates should send to school teachers twice a year lists of all children entering the sixth year of age, and that the teachers should return monthly lists of absence. Although the school attendance steadily increased, the number of children growing up without education was still very large. After the disastrous war with Prussia in 1866 the Austrian government hastened to introduce a new educational law similar to that of Prussia, providing for the rigorous enforcement of the principle of compulsory attendance. In some provinces it was found extremely difficult to provide for a sufficient number of teachers and schools and to compel the attendance of children. The statistics of school attendance, however, show a steady increase, and there is no systematic opposition to the principle which is now rapidly being carried into effect.—The cantons of Switzerland, with four exceptions, and the Scandinavian kingdoms, have enacted laws similar to those of Germany; and Denmark, in particular, has had a stringent law on compulsory education in operation since 1814, and has thus effected a remarkably high average education of its entire population.—In France the public school system was for the first time regulated by the educational law of 1833, which embodied the ideas of Guizot and Cousin. Neither this law, however, nor the subsequent regulations, recognized the principle of compulsory education; and the school attendance, especially in many of the rural districts, continued to be very small. Louis Napoleon favored the principle of compulsion and M Duroy, his minister of public instruction from 1863 to 1869, was one of its most zealous advocates; but the attempts made to introduce it into the legislation of France had to be abandoned in consequence of the powerful opposition it met with After the proclamation of the republic in 1870, one of the most enthusiastic champions of

compulsory education, Jules Simon, was appointed minister of public instruction; and the new educational law proposed by him, embodied the principle; but the national assembly refused to adopt the law, thirteen of the fifteen bureaus voting against it. The principle is generally advocated in France by the liberals, and opposed by the Catholic party.—In England public opinion, until very recently, has always been strongly adverse to a participation of the state government in school matters. An important advance toward the principle of compulsory education was, however, made in 1870, by the adoption of a bill brought in by Edward Forster, according to which, within one year, provision was to be made for the education of every child in England and Wales. The question of compulsory attendance was very earnestly discussed in parliament and was finally left to the separate school boards, which were to have a certain discretionary power of enforcing attendance. The policy of compulsion was finally adopted in the elementary education act of 1876, which went into operation Jan. 1, 1877, and which declares that it shall be the duty of the parent of every child between the ages of five and fourteen, to cause such child to receive efficient elementary instruction in reading, writing and arithmetic; the duty to be enforced by the orders and penalties specified in the act. The employment of children under the age of ten, or over that age without a certificate of proficiency or of previous due attendance at a certified efficient school, is prohibited, with certain exceptions. —The Italian parliament, in 1871, adopted a new school law, according to which elementary instruction is required to be given everywhere free of charge, and attendance at school is obligatory. —In Belgium and the Netherlands every commune is compelled by law to make provision for a public school; and in Belgium indigent children receive, on application of their parents, gratuitous instruction; but neither of these two states has, as yet, recognized the principle of compulsory education.—In Russia, Peter the Great desired to make education obligatory; but the obstinate resistance of his subjects who called education their destruction, prevented him from carrying out his design; and the consequence is that Russia is still among the least educated countries of Europe, there being, in 1875, one pupil for about every eighty-six inhabitants.—Turkey, in 1869, promulgated a law providing for the establishment of a school in every locality, and requiring all children, both boys and girls, to attend it. It is hardly necessary to say that it was not enforced. —Greece adopted the compulsory system nearly fifty years ago. Its success may be judged by the fact that in 1870, after it had been in operation for thirty-six years, only 33 per cent. of the grown-up men and only 7 per cent. of the grown-up women were able to read and write!—Spain and Portugal followed the example of Greece, with about the same success.—In America, twenty-two of the states and territories of the Union have compulsory education laws on their statute books. The right of state authorities to require the attendance of all children at school was asserted at an early date by some of the English colonies. B. G. Northrop, secretary of the Connecticut state board of education, in his annual report for 1871, says that Connecticut may justly claim to be one of the first states in the world that established the principle of compulsory education. Its code of laws adopted in 1650 contained stringent provisions for compulsory attendance; and these provisions, with unimportant modifications, remained in force until the revision of the code in 1810. With the changed conditions of society resulting from immigration, it was found impossible to enforce the law without important additions, amounting in reality to a set of factory laws forbidding the employment of children under fourteen years of age who have not attended school for at least three months in the year, and although a state agent was appointed to superintend the enforcement of the law, yet the success has only been partial.—As early as 1642 Massachusetts enjoined the selectmen of every town to see that all parents or guardians or masters taught their children, wards or apprentices so much learning as would enable them to read the English tongue and the capital laws, upon penalty of twenty shillings for each neglect therein. A factory law, similar to that of Connecticut, was passed in 1834. The present law compels parents and guardians to send children in their charge between the ages of eight and fourteen, to school twenty weeks every year; and no person can be excluded from the public schools on account of race, color or religion. Towns and cities are required to provide for the education of orphans and the children of drunken parents.—In Maine the school law of the state authorizes towns to make by-laws for the enforcement of attendance of children between six and seventeen years of age, and to annex a suitable penalty, not exceeding $20 for any breach thereof. In New Hampshire an act of the legislature, approved in July, 1871, provides that all parents, guardians or masters of a child between the ages of eight and fourteen, residing within two miles of a public school, shall send such child to school at least twelve weeks each year. Similar acts were passed the same year by the legislature of Michigan and Texas. Nevada passed a compulsory law in 1873, containing the ordinary provisions and providing a penalty of not less than $50 nor more than $100 for the first offense, and not less than $100 nor more than $200 for each subsequent offense. The laws of the other states and of the territories are very similar to those already mentioned. The tendency seems to be very strongly in favor of compulsory school laws. Many educators and statesmen go so far as to demand a national system of compulsion administered directly by federal officers.—The discussion as to the justification and expediency of compulsory education has been long and interesting. It

is safe to say that it is easier to prove that the state has the right to compel the attendance of its children at school than to show that such a policy is generally successful, in the widest sense of the term, and therefore expedient. It has been urged by American opponents that compulsory education is monarchical in its origin and history. The short account given above is a complete answer to any such objection. "Before the peace of Westphalia, before Prussia existed as a kingdom, and while Frederick William was only 'elector of Brandenburg,' Massachusetts and Connecticut adopted coercive education." The Connecticut laws were so stringent that they went to the extreme of taking the child away from the parent altogether, if the latter could not be brought to comply with the laws by fines. The common people of New England demanded a compulsory law. The laboring classes advocated and welcomed it, and the trades unions were nearly unanimous in its favor. The republic of Switzerland has compulsory laws in all but four of its cantons. The present system of Prussia was made efficient by men who were aiming at a free government for that kingdom. The liberal party in nearly every European government is in favor of compulsory education. Such a policy can hardly be called monarchical in its origin, then, since it was first adopted by the colonies of North America; nor in its history, since it has increased in popularity and universality as liberty has advanced; nor in its influence, since it tends to make monarchy less necessary by making republicanism possible.—A second argument has been advanced against it, that it arrogates new power for the government. This is of course clearly untrue. 1650 is an early date in American history, yet from that time this power has been exercised by the various state governments And even if the precedent could not be quoted, the right to compel attendance at school might be in a republic subserved under the general head of self-protection, along with quarantine and hygienic regulations. Nor does the objection that it is un-American have any greater force than the one just mentioned. Besides, it begs the whole question. "American" everything must be, which the American people have adopted and retained as a permanent part of their institutions. It has also been urged that it interferes with the liberty of the parents. No more, it may be returned, than many other laws which command universal assent, such as laws punishing the parent for abusing the child, for depriving it of necessaries which he is able to provide, etc. On the other hand, it may be claimed that the child has a right to an education such as will fit it to play a proper part in society, and it is the duty of the parent to furnish this. The state in compelling him to send the child to school does nothing more than secure the latter in its rights. A very common objection is, that such a system inflicts hardship upon many a parent who can neither spare the labor of his child nor pay for decent clothing and books. Such cases can easily be provided for, as they are in all successful systems now in operation. The community can much better afford to pay for clothing and books than to let the child grow up in ignorance. The arguments against the justice and constitutionality of compulsory laws may be fairly considered as answered by the foregoing. A strong plea may be made in favor of their justice, as follows: The state assumes and exercises the right of taxing all classes for the support of the public schools whether they have children to send or not. The state owes it to these tax payers to see that the taxes collected shall be used for the purpose for which they are levied. This is not possible unless it compels the attendance of all children at school. The tax payer, then, has a right to insist on a compulsory law, on the ground that it is necessary in order to enable the state to perform its duty toward him. As a matter of fact in this discussion those who object to compulsory laws on the ground of justice and constitutionality have been left in the minority everywhere, —answered by the logic of events. But the expediency of such laws is by no means so clear. That must be determined for each country by a careful study of the conditions there prevailing. Such laws may be good for one country under one set of conditions, and of no advantage or even of harm to another country with different circumstances. We add a few considerations on compulsory education in our own country.—Recent compulsory school laws in America have been chiefly remarkable for their utter failure to accomplish any of the results expected of them Of the twenty-two American states and territories, which have compulsory laws on their statute books, not a single one has been able to report, "they are a success." The same thing is true of similar laws in many other countries. The fact seems to be that compulsory school laws on a large scale have been successful only under conditions which would have made a voluntary system of attendance a success. The whole history of education in civilized countries justifies the claim that wherever plenty of good free schools have been provided, and the parents prevented from employing their children in factories and mines, there the attendance under a purely voluntary system has been as good as the compulsory system has been able to show anywhere, and that wherever a compulsory system has existed without these conditions it has been a failure. Prussia, the classic land of compulsion, provides in its school laws for an abundance of school room, well-equipped school houses, and a high grade of teachers, and her compulsory system is a fair success. Turkey, Greece, Portugal, etc., copy the compulsory features, omitting the essential conditions of success, and their laws are failures. Aside from this, however, a glance at the necessary conditions of a successful system of compulsion from an administrative point of view, will reveal the secret of the failure of American compulsory laws. A compulsory school law can be

made effective only on one of two conditions. There must either be such an overwhelming public sentiment in its favor that any parent who tries to evade it or officer who refuses to enforce it will fall as it were, under public ban and be exposed to universal execration; or there must be a thorough system of administration which will remove its enforcement from local authorities and put it in the hands of a power able and willing to enforce it, regardless of local influences and prejudices. The latter condition has, indeed, ordinarily been the presupposition of the former. Both conditions are realized to a certain extent in Prussia. The man who attempts to escape complying with the law is looked upon in a certain sense as a criminal. He feels that he is condemned by public sentiment and opinion around him, and feels that he is rightly condemned too. Compulsory education has done in Prussia its perfect work—it has converted involuntary into voluntary attendance. It has been asserted by men of wide and accurate observation that if the question were left to popular suffrage to-day, not one vote in a thousand would be cast against the compulsory laws. And it is an interesting fact in this connection that in all the popular party platforms adopted during the revolutions of 1848, and in all the socialistic platforms adopted since, universal compulsory education forms a prominent plank. Public sentiment, then, in Prussia favors the enforcement of the law. But it must be kept in mind that this public sentiment was not of spontaneous growth, but is the product of the most rigorous administrative system existing in any civilized nation. Frederick William I. of Prussia introduced the compulsory system. He was one of the most despotic monarchs that ever lived His will was law, and law enforced. The people must go to school, he said, and to school they went, because he introduced an administrative machine which extended from the capital to the remotest village of the kingdom, and of which he was the animating soul. Frederick the Great was too busy in the early years of his reign to devote much attention to school matters. His successor was of too light a turn of mind to appreciate their importance. But the Napoleonic wars, the greatest blessing that ever came to the German people, turned Prussia's attention to her schools, and the system was inaugurated which raised Prussia to the front rank of continental powers. Compulsory attendance was enforced, and has been ever since. It has blossomed and fruited into universal voluntary attendance. But it must not be forgotten, that it was only the thorough enforcement of the law through several generations that brought about the present state, and only the despotic measures of the government that made the enforcement possible.—If these considerations are just, we have not far to seek to find the reason for the failure of all American compulsory school laws. Both conditions necessary for an efficient law have been everywhere lacking and no attempt made to realize them anywhere. There is not a single section of our country where the public sentiment in favor of such a law is strong enough to secure its enforcement by the local authorities, and there have been no measures taken, worth mentioning, looking toward vesting its enforcement in other hands. Local enforcement is generally a dead letter, and the most utterly dead exactly where it is most needed, viz., in illiterate communities. For the more ignorant the population the less it feels its need of education, and the feebler the efforts it will put forth to secure educational advantages. Our only hope of success by such a system, then, lies in adopting a system of administration in which the execution of the law shall be taken from the local authorities and intrusted to a body of officials depending immediately upon the state, if not upon the national government. There is no probability that such a system will be adopted within any very short period, if, indeed, it ever will be *Direct* compulsion, then, will in all likelihood continue to be a failure in the future as it has been in the past.—A system of *indirect* compulsion might, however, be very effective. Let the state or general government appropriate a large sum of money, say one dollar per capita, to be distributed among the school districts according to population. Let this money be paid over only on the following condition, viz., that every district shall have presented proofs that it furnishes plenty of school room for all its school population, and plenty of good teachers and a fair amount of apparatus, etc., to be prescribed by a general law; provided, that only such a proportion of the sum due each district shall be paid over to it, as its actual attendance is of its possible attendance, *i. e.*, the attendance of all school children during the whole school year. Such a system will tend to beget that local sentiment in favor of enforcing attendance which is an absolutely necessary condition of success in our American society. For as the actual nears the perfect attendance it will become possible to lighten the local school taxes. It will thus be to the pecuniary interest of every tax payer to insist on the attendance of all school children. The essential elements of the plan have been tried under a variety of circumstances and always with marked success. The system of rewards is more powerful than the system of punishments. And it has been found true of communities as of individuals that they will put forth far greater efforts to secure a reward offered on condition of those efforts, than they will to avoid the fines and penalties (which after all may never be inflicted) for non-compliance with a law. The plan, then, is economical, and, politically, it is in complete harmony with our traditions and institutions—a claim which can not be substantiated for any recent system of successful *direct* compulsion.—LITERATURE: *Reports of U. S. Commissioner of Education; Reports of State Superintendents of Public Instruction; Special Report on Compulsory Education*, by V. M. Rice,

Albany, 1867; *Report on Compulsory Education*, by D A. Hawkins, New York, 1874; *Reports of National Educational Association; Geschichte der Paedagogik*, by Dr. Karl Schmidt, 1873–7; Barnard's *American Journal of Education;* occasional articles in educational periodicals; *Education Abroad*, by B. G. Northrop, New York, 1873; articles in the various encyclopædias, particularly the one on "Compulsory Education" in Steiger's *Cyclopædia of Education*, from which a portion of the historical account in this article is taken.

E. J. JAMES.

EGYPT, a country situated in the northeastern part of Africa, celebrated alike for the fertility of its soil and its commercial importance through the long lapse of ages.—The primitive civilization of Egypt, the oldest known, was effected during a long succession of centuries, under kings called in history the Pharaohs, who were at the head of a social organization, founded entirely upon the system of castes. The sacerdotal caste, whose principal functions were performed by princes of the royal family, was the educated part of the nation; its privileges comprised worship, justice, the levying and collection of taxes, and the entire civil administration. The military caste was charged with the maintenance of order at home and with the defense of the country from foreign enemies. The agricultural caste was devoted to the cultivation of the soil, whose products were subjected to taxes in kind, for the support of the king and of the upper castes. Artisans, workmen of all kinds and merchants constituted the fourth class of the nation, a class which by its labor contributed its share to the wealth and the burdens of the state. In each caste, according to historians, trades were hereditary in families, as was also the rank of the family; this was a powerful cause of perfection in the details of the arts, but at the same time it produced the immutability of character which has always distinguished Egyptian society, and which caused it to yield without resistance to the tyrannical rule of its masters and its invaders. This social state, which, after such a lapse of time, seems so extraordinary to us, does not perhaps greatly differ from the present state of the Arabian world, where we find, as in Egypt, a military aristocracy (caste of warriors), a religious aristocracy (caste of the Marabouts), and the fellahs. Although there is no natural or legal barrier between these different classes, almost all the members of the tribe live and die members of the caste into which they were born. India presents the same spectacle, but in a more striking manner; and all the East is imbued, in different degrees, with that principle of fatal inequality which yields only to the principles of liberty, of progress and of justice.—Egypt tempted the ambition of the Persians (B. C. 526), then of the Greeks (B. C. 332), and, later still (B. C. 29), of the Romans. The latter, after six centuries of rule, made way for the Arabs (638). The Koran determined only its religious destiny; the political sceptre of Egypt passed successively from the caliphs of Bagdad (639), to the Thulunide Emirs (870), to the Ikchidites (934), to the Fatimites (972), then to the Ayoubites (1171), to the Turkoman Mamelukes (1250), to the Circassian Mamelukes (1382), and finally to the Ottomans (1517), whose sultan, Selim I., subjected to his rule the region of the Nile, and by the renunciation of his claims obtained from the last Abbassi caliph, united the spiritual to the temporal power. Since then the sultans of Constantinople have been the chiefs of Islamism. Selim and his successors confided the government of Egypt to a pasha and his beys. This was an age of anarchy and oppression, which lasted till the end of the eighteenth century, when the expedition of Gen. Bonaparte conquered Egypt (1798–1801). The united efforts of England and Turkey having taken Egypt from the French, the porte re-established his sovereignty there, which soon became personified in a Macedonian soldier, chief of the Albanians, afterward celebrated under the name of Mehemet Ali. This able and audacious captain founded his personal power less on the distant and vacillating support of the porte, than upon the extermination of the Mamelukes, his rivals, and upon his own military and administrative genius. His ambition increased with his power. He thought he might be able to achieve his independence, and after having spread terror throughout Arabia, he attempted to add Syria to his domains. The victories of Konieh (1832), and of Nezib (1839), gained by his son Ibrahim, while enhancing his own successes, seemed to favor his designs; but immediately after each triumph, the will of Europe arrested the advance of the rebel conqueror. The great powers, devoted to the preservation of the Ottoman empire, as necessary to the equilibrium of Europe, refused to permit the detachment of Egypt, much less Syria, from it. After prolonged negotiations, the sultan Abd-ul-Medjid, who had succeeded his father Mahmoud at a very early age, in 1839, yielding to the counsels of Europe, delivered to Mehemet Ali a firman, dated June 1, 1841, which settled the political constitution of Egypt. The chief provisions of this firman are as follows: The sultan accorded to Mehemet the hereditary government of Egypt, with its old boundaries, as traced on a map annexed. It was provided that the line of succession should be from eldest son to eldest son in the direct male line, the nomination (or rather the investiture) to emanate invariably from the sublime porte. In case of the extinction of the male line, the sultan was to appoint a successor, to the exclusion of the male children of the daughters, who had no legal right or title to succession. Although the pashas of Egypt enjoy the hereditary exercise of government, they are ranked with the other viziers; they are treated as such by the sublime porte, from whom they receive the same titles as those given to any other governor of a province. (Since 1866 they bear

the title of khedive.) The principles established by the hatti-scheriff of Gulhane (1839), as well as all the existing and future treaties between the sublime porte and the friendly powers, are to have full force in the province of Egypt. It was to be the same with all laws made and to be made by the sublime porte, due regard being shown to local circumstances and to equity. All taxes and all revenues levied in Egypt are to be raised in the imperial name, and in conformity with the system pursued by the Turkish government. Every year, according to custom, corn and vegetables are to be sent to the holy cities of Mecca and Medina. The pasha, or rather the khedive, is to have the right to coin money in Egypt, but gold and silver pieces must bear the name of the sultan, and have the form and value of the coins struck at the mint in Constantinople. Four hundred Egyptian soldiers were to be sent annually to Constantinople. The decorations, flags, insignia and standards of the navy were to be the same as in Turkey. The khedive was empowered to appoint the officers of the army and navy up to the grade of colonel. Above that rank he had to follow the orders of the sultan. The khedive could build no vessel of war without the express and explicit authorization of the sublime porte. Finally it was made the duty of the khedive to follow orders of his suzerain upon all important questions which might be of interest to the country. Mehemet Ali, in his reply of June 25, 1841, accepted these conditions, which united his states, as a vassal fief, to the suzerainty of Turkey. The tribute, first fixed at a quarter of the gross receipts (hatti-scheriff of Feb. 13, 1841), was afterward reduced to 7,560,800 francs, but later on raised again to over twice that amount.—It was undoubtedly in consideration of the increase of the tribute, that a firman of the sultan, in September, 1867, extended the powers of the viceroy or khedive. The following are the words of the firman: "To my illustrious vizier Ismail-Pasha, Kedervi-el-Masr (sovereign of Egypt), acting grand vizier, decorated with the orders of Osmania and Medjidia, in diamonds. May God continue your glory and augment your power and happiness. On receipt of this imperial firman, learn our decision. Our firman, which accorded the Kedervi-el-Mesr the privilege of inheritance, ordered that Egypt should be governed, in conformity with the character of its people with right and with equity, according to the fundamental laws in force in the other parts of the empire, and based upon the hatti-humayoum of Gulhane. However, the internal administration of Egypt, that is to say, all that concerns its financial and local interests, being within the jurisdiction of the Egyptian government, we empower you, for the preservation of its interests, to make special regulations in regard to this internal administration only, while continuing to observe in Egypt the treaties of our empire. You are authorized to enter into conventions in relation to customs duties, to European subjects, to the transportation of goods and the postal service, upon condition that these agreements do not assume the form of international or political treaties. In event of the contrary, if these agreements should not conform to the above conditions and to our fundamental rights of sovereignty, they shall be considered null and void. In case the Egyptian government should have any doubt concerning the conformity of a contract of this kind with the fundamental laws of our empire, he must refer the matter to our sublime porte before coming to any definite decision. Whenever a special customs regulation in proper form shall be made in Egypt, our government shall be advised thereof in due course concerning it; and in the same way, in order to protect the commercial interests of Egypt in the commercial treaties which may be entered into between our own and foreign governments, the Egyptian administration shall be consulted And finally, that you may have full knowledge of our will as above expressed, we have ordered our imperial divan to draw up and address to you the present firman."—In point of fact, save the personal homage, followed by investiture, and a tribute in money and the subsidy of troops in time of war, the khedive, or viceroy of Egypt, governs according to his pleasure. He has his ministers, organizes his administration, collects and dispenses his revenues without the control of the divan.—The right of succession in the family of the khedive, from eldest son to eldest son, was at first interpreted in the sense of the Mussulman law, that is to say, in favor of the eldest of the surviving descendants, but an imperial decree of 1866 established the succession in the order of primogeniture, as in Christian Europe.

JULES DUVAL.

—The administration of Egypt is carried on at present [1882] under the supervision of the governments of France and Great Britain, represented each by a "Controller General" invested with great powers, indicated as follows in a decree of the khedive in seven articles, issued Nov. 10, 1879. Art. 1. The controllers general have full powers of investigation into every public service of the state, including that of the public debt. Ministers and all public officials of every rank are bound to furnish the controllers, or their agents, with all documents they may think fit to require. The minister of finance is bound to furnish them weekly with a statement of receipts and expenditures. Other administrations must furnish the same every month. Art. 2. The controllers general can only be removed from their posts by their own governments. Art. 3. The governments of England and France having agreed that, for the moment, the controllers general will not take the actual direction of the public service, their duties are limited at present to inquiry, control and surveillance. Art. 4. The controllers general take the rank of ministers, and will always have the right to assist and speak at the meetings of the council of ministers, but without the power to vote. Art. 5.

When they deem it necessary the controllers may unite with the commissioners of public debt to take such measures as they may deem fit. Art. 6. Whenever they may deem it useful, and at least once a year, the controllers will draw up a report on all questions for the khedive and his ministers. Art. 7. The controllers have the power of naming and dismissing all officials whose assistance is of no use to them. They shall prepare a budget; and monthly statements of all salaries and all resources shall be rendered to them.—The first controllers general of France and Great Britain were M. de Blignières and Major E. Baring, K. C. M. G.; but changes were made subsequently.—By another decree of the khedive, dated April 5, 1880, there was appointed an "International Commission of Liquidation," composed of seven members. The functions of the commission were defined in the decree as follows: After examining the whole financial situation of Egypt, and hearing the observations of the parties interested, the committee will draft a law of liquidation regulating the relations between Egypt and her creditors, and also between the daira khassa and their creditors. The conditions of the issue of the domain loan are excluded from the deliberations of the committee. The committee will work upon the basis furnished by the report of the committee of inquiry, and will sit for three months after the presentation of their own report, in order to watch, in concert with the English and French controllers general, the execution of the decisions arrived at. The law of liquidation will be binding upon all parties concerned. Representatives of the international tribunals and a delegate from the Egyptian government will attend the sittings of the committee. The preamble of the decree stated that England, France, Germany, Austria and Italy had already declared their acceptance of the law of liquidation, and will collectively request the adhesion of the other powers represented on the international tribunals.—The English and French controllers general presented their first report, dated Jan. 16, 1880, and sanctioned by the khedive, containing their definite scheme for settling the Egyptian financial situation. They fixed the interest on the unified debt at 4 per cent. Should the revenue from the provinces specially set apart for the service of the debt be insufficient to pay 4 per cent, the deficiency is to be made up out of the general revenue. If, on the other hand, the taxes assigned yield more than 4 per cent., the surplus is to be paid to the holders of the unified debt up to a maximum of 5 per cent. Any further surplus beyond that, is to be applied to half yearly purchases of stock in the open market. Any surplus of general revenue is to be divided as follows: One moiety to the administration, and the other moiety to the service of the debt.—The list of resources applied to the service of the general debt was settled by the controllers general as follows: Besides the revenues of the provinces Garbiah, Menoufieh, Béhéra and Siout, there are the octroi duties, set down as producing £248,000 for the year; customs, producing £623,000; the tobacco, salt and other direct revenues, calculated to more than cover the unified interest at 4 per cent.—In the budget for 1880, the first adopted by the "International Commission of Liquidation," the main heads were as follows:

Total revenue	£8,561,622
EXPENDITURE	
Privileged coupon, at 5 per cent.	£ 863,599
Unified coupon, at 4 per cent., including the small loans	2,308,537
Suez Canal shares, interest	193,858
Daira Khassa	34 000
Canal Ismailieh	14,000
Floating debt	324,598
Administration	4,173,030
Total expenditure	£7,911,622
Surplus	650,000
	£8,561,622

—The capital of the debt of Egypt was returned as follows at the end of 1880:

Unified 4 per cent. debt	£58,043,240
Privileged debt	22,609,800
Domain loans, at 5 per cent.	8,500,000
Daira Sanieh loans, at 4 to 5 per cent	8,800,000
Total	£97,953,040

Not secured by any stipulations on the part of the government is the floating debt of Egypt, the exact amount of which is not known, but which is estimated to be over £5,000,000.—The army of Egypt is raised by conscription. It consists, nominally, of eighteen infantry regiments of three batallions each, with four batallions of rifles, four regiments of cavalry, and 144 guns. But the number of men contained in the regiments and batteries varies continually, with the exigencies of the service and the state of the finances. At the close of the Russo-Turkish war, in which Egypt participated, the army was reduced to 15,000 men.—The Egyptian navy comprised, at the end of June, 1880, two frigates, two corvettes, three large yachts for the use of the khedive—one of them, the "Mahroussa," of 4,000 tons, with 800 horse power—and four gunboats, the whole of a burden of 16,476 tons.—The territories under the rule of the sovereign of Egypt, including those on the Upper Nile and Central Africa, conquered in 1875, are vaguely estimated to embrace an area of 1,406,250 English square miles, and to be inhabited by a population of 16,952,000, of whom about one-third are in Egypt proper. The following tabular statement gives the native population, distinguishing males and females, and inhabitants of rural and town districts, of Egypt proper, according to an official estimate of M. Amici, chief of the statistical department in the ministry of the interior, on Dec. 31, 1878:

DIVISIONS.	Males	Females.	Total Population.
Lower Egypt	1,385,258	1,438,737	2,823,995
Middle Egypt	322,672	330,447	653,119
Upper Egypt	738,598	732,800	1,471,398
Towns	278,711	290,404	569,115
Total	2,725,239	2,792,388	5,517,627

—The area of Egypt proper is estimated to comprise 175,130 English square miles, the annexed and conquered districts, including Nubia, the former kingdom of Ethiopia, and Darfur, being estimated at 1,231,120 English square miles, with 11,434,373 inhabitants.—Egypt proper is divided from of old into three great districts, namely, "Masr-el-Bahri," or Lower Egypt; "El Wustani," or Middle Egypt; and "El Said," or Upper Egypt—designations drawn from the course of the river Nile, on which depends the existence of the country. These three great geographical districts are subdivided into eleven administrative provinces, and had, as shown in the preceding table, a rural population of 4,948,512, and an urban population of 569,115 at the end of 1878. There are only two considerable towns, namely, Cairo, with 349,883, and Alexandria, with 212,054 inhabitants.—At the enumeration of 1878 there were in Egypt proper 79,696 foreigners. The foreign population consisted of 34,000 Greeks; 17,000 Frenchmen; 13,906 Italians; 6,300 Austrians; 6,000 Englishmen; 1,100 Germans; and 1,390 natives of other countries.—The commerce of Egypt is very large, but consists to a great extent of goods carried in transit. In the year 1879 the total value of the imports amounted to 500,216,341 piastres, or £5,156,869, and of the exports to 1,343,905,858 piastres, or £13,854,699. In the year 1880 the total value of the imports amounted to £6,752,500, and of the exports to £13,390,000. To the entire foreign trade Great Britain contributed 53 per cent., and the rest was divided between France, Austria, Italy and Russia, in descending proportions.—The subjoined tabular statement shows the total value of the exports from Egypt to Great Britain and Ireland, and of the imports of British and Irish produce and manufactures into Egypt, in each of the ten years 1870–79:

YEARS.	Exports from Egypt to Great Britain	Imports of British Home Produce into Egypt
1870	£14,116,820	£8,726,602
1871	16,387,424	7,088,795
1872	16,455,731	7,213,063
1873	14,155,913	6,222,013
1874	10,514,798	3,585,106
1875	10,895,043	2,945,846
1876	11,481,519	2,630,407
1877	11,101,785	2,273,311
1878	6,145,421	2,194,030
1879	8,890,052	2,143,681

—The considerable amount of the exports from Egypt to the United Kingdom is owing, partly to large shipments of raw cotton, and partly to the transit trade flowing from India and other parts of Asia through Egypt, which latter, however, has greatly declined in recent years, owing to the opening of the Suez canal. The exports of raw cotton from Egypt to Great Britain were of the following quantities and value in each of the ten years 1870–79:

YEARS.	Quantities.	Value.
	lbs.	
1870	143,710,448	£6,460,686
1871	176,166,480	6,416,729
1872	177,581,712	7,492,513
1873	204,977,136	8,628,733
1874	172,317,488	7,269,342
1875	163,912,336	6,668,340
1876	199,245,312	6,859,231
1877	176,558,256	5,587,248
1878	114,297,344	3,612,108
1879	158,232,032	5,088,109

—Next to cotton the largest articles of exports from Egypt to the United Kingdom in the years 1870–79 were corn and flour. The total corn exports of 1879 were of the value of £1,730,137, comprising wheat, valued at £995,986; beans, £694,988; barley, £34,407; and flour, £4,669.—The staple article of imports from the United Kingdom into Egypt consists of cotton goods, of the value of £4,290,953 in 1872, of £3,666,942 in 1873, of £1,922,505 in 1874, of £1,558,839 in 1875, of £1,436,232 in 1876, of £1,474,660 in 1877, of £1,255,938 in 1878, and of £1,416,615 in 1879. A part of these imports from the United Kingdom pass in transit through Egypt.

—BIBLIOGRAPHY. *Description de l'Egypte*, Paris, 1809–13, new edition, 26 vols., 1821–30, Lepsius, *Denkmaler aus Aegypten und Aethiopien nach Zeichnungen, etc.*, Berlin, 1849–59, 9 vols; *Denkmaler aus Aegypten und Aethiopien in photographischen Darstellungen ausgewählt und mit kurzen Erläuterungen versehen von Lepsius*, Berlin, 1874, Brugsch, *Monuments de l'Egypte*, Berlin, 1857, and *Recueil des monuments égyptiens*, 2 vols., Leipzig, 1862–3; Mariette, *Choix des monuments et des dessins*, Paris, 1856; Wilkinson, *Handbook for Travelers in Egypt*, London, 1847; Lane, *An Account of the Manners and Customs of the Modern Egyptians*, 2 vols., London, 1836, 5th ed., 2 vols, 1871; Busch, *Reisehandbuch fur Aegypten*, Trieste, 1858; Clot-Bey, *Aperçu général de l'Egypte*, 2 vols., Paris, 1840; Schölcher, *L'Egypte en 1845*, Paris, 1846; Pruner, *Aegyptens Naturgeschichte und Anthropologie*, Erlangen, 1847; Brugsch, *Reiseberichte aus Aegypten*, Leipzig, 1855; Von Kremer, *Aegypten, Forschungen über Land und Volk*, 2 vols., Leipzig, 1863; Hartmann, *Naturgeschichte der Nilländer*, Leipzig, 1865; Billard, *Les moeurs et le Gouvernement de l'Egypte*, Milan, 1867–8; Fairhold, *Up the Nile and home again*, London, 1868; Millie, *Alexandrie de l'Egypte et le Caire*, Milan, 1869; Bernard, *Notice géographique et historique sur l'Egypte*, Paris, 1868; Ronchetti, *L'Egypte et ses progrès sous Ismail-Pascha*, Marseilles, 1867; Regny, *Statistique de l'Egypte d'après des documents officiels*, Alexandria, 1871; Dümichen, *Resultate der auf Befehl des Königs Wilhelm I. von Preussen im Sommer 1868, nach Aegypten entsendeten archäolog.-photogr. Expedition*, 1 vol., Berlin, 1869; Rossi, *Geografia medica dell'Egitto*, Livorno, 1870; Stephan, *Das heutige Aegypten*, Leipzig, 1872; Lüttke, *Aegyptens neue Zeit*, 2 vols, Leipzig, 1873; Edouard Dorr, *L'instruction publique en*

Egypte, Paris, 1873; Prokesch-Osten, *Nilfahrt bis zu den zweiten Kataraklen*, Leipzig, 1874, Brugsch, *Histoire de l'Egypte*, Leipzig, 1859, 2d ed., 1875; Paton, *A History of the Egyptian Revolution, from the period of the Mamelukes to the death of Mehemed Ali*, 2 vols, London, 1863, 2d ed., 1869; Weil, *Geschichte des Abbasidenkhalifats in Aegypten*, 2 vols., Mannheim, 1860–62; Quatremère, *Histoire des sultans mamelouks*, from the Arabian of Makrizi, 2 vols., Paris, 1837–41; Mengin, *Histoire de l'Egypte sous Mehemed Ali*, 2 vols., Paris, 1823; Mouriez, *Histoire de Mehemed Ali*, Paris, 1823, 2 vols; Jolourcz, *Bibliotheca aegyptica*, Leipzig, 1857, Supplement, 1861; De Leon, *The Khedive's Egypt*, London, 1877; Duff-Gordon (Lady), *Last Letters from Egypt*, London, 1875; Ebers, *Aegypten in Bild und Wort*, Stuttgart, 1879; Edwards, *A Thousand Miles up the Nile*, London, 1877; Smith, *The Nile and its Banks*, 2 vols., London, 1868; Zincke, *Egypt of the Pharaohs and the Khedive*, London, 1872; Loftie, *A Ride in Egypt*, London, 1879; McCoan, *Egypt as it is*, London, 1877. FREDERICK MARTIN.

ELECTIONS, Primary. (See PRIMARY ELECTIONS.)

ELECTIVE JUDICIARY. (See JUDICIARY.)

ELECTORAL COLLEGE (IN U. S. HISTORY), the name commonly given to the electors (see ELECTORS) of a state, when met to vote for president and vice-president. The term itself is not used in the constitution, nor in the act of March 1, 1792, the "bill of 1800," or the act of March 26, 1804. Its first appearance in law is in the act of Jan. 23, 1845, which purported to empower each state to provide by law for the filling of vacancies in its "college of electors"; but it had been used informally since about 1821. Under the constitution and the laws the duties of the electors, or of the "electoral college," if the term be preferred, are as follows: 1. They are to meet on the day appointed by the act of 1845, at a place designated by the law of their state. No organization is required, though the electors do usually organize, and elect a chairman. 2. The electors are then to vote by ballot for president and vice-president, the ballots for each office being separate. Until the adoption of the 12th amendment, the electors were simply to vote for two persons, one at least an inhabitant of some other state than their own, without designating the office; and the candidate who obtained a majority of all the electoral votes of the country became president, the next highest becoming vice-president. 3. The original ballots are the property of the state, and, if its law has directed their preservation, they are to be so disposed of. The electors are (by the law of 1792) to make three lists, of the persons voted for, the respective offices they are to fill, and the number of votes cast for each. 4. They are to make and sign three certificates, one for each list, "certifying on each that a list of the votes of such state for president and vice-president is contained therein." 5. They are to add to each list of votes a list of the names of the electors of the state, made and certified by the "executive authority" (the governor) of the state. The name of the executive was left ambiguous, because several of the states in 1792 still retained the use of the title "president" of the state, instead of governor. 6. They are to seal the certificates, and certify upon each that it contains a list of all the electoral votes of the state. 7. They are to appoint by writing under their hands, or under the hands of a majority of them, a person to deliver one certificate to the president of the senate at the seat of government. 8. They are to forward another certificate by the postoffice to the president of the senate. 9. They are to cause the third certificate to be delivered to the (federal) judge of the district in which they assemble. The electoral college is then dead in law, whether it adjourns temporarily or permanently, or never adjourns.—There is no penalty to be inflicted upon the electors for an improper performance of their duties, or even for a refusal to perform them at all. If a vacancy occurs among the electors, by death, refusal to serve, or any other reason, the state is empowered by the act of 1845 to pass laws for the filling of the vacancy, by the other electors, for example. If no such state law has been passed, the vote or votes are lost to the state, as with Nevada in 1864. If a general refusal of the electors of the country to serve should cause no election to result, the choice of president and vice-president would devolve on the house of representatives and the senate respectively.—For authorities see those under ELECTORS. ALEXANDER JOHNSTON.

ELECTORAL COMMISSION, The (IN U. S. HISTORY). The act which created this body, which had hitherto been unknown to the laws of the United States, but whose idea seems to have been borrowed from the extra-legislative commissions of Great Britain, was approved Jan. 29, 1877. It is only necessary here to give the first three paragraphs of section second, the rest being matter of detail. Section first provides for the joint meeting of the two houses, the opening of the electoral votes, the entrance upon the journals of the votes to which no objection should be made, and the separate vote by each house on single returns from any state to which objection should be made, with the proviso that no such single return should be rejected except by concurrent vote of both houses. For double or multiple returns the electoral commission was provided, as follows: "§ 2. That if more than one return, or paper purporting to be a return, from a state shall have been received by the president of the senate, purporting to be the certificates of electoral votes given at the last preceding election for president and vice-president in such state (unless they shall be duplicates of the same return), all

such returns and papers shall be opened by him in the presence of the two houses, when met as aforesaid, and read by the tellers, and all such returns and papers shall thereupon be submitted to the judgment and decision, as to which is the true and lawful electoral vote of such state, of a commission constituted as follows, namely: During the session of each house on the Tuesday next preceding the first Thursday in February, 1877, each house shall, by *viva voce* vote, appoint five of its members, who with the five associate justices of the supreme court of the United States, to be ascertained as hereinafter provided, shall constitute a commission for the decision of all questions upon or in respect of such double returns named in this section."—The section proceeds to specify, though without directly naming them, four justices, those assigned to the 1st, 3d, 8th and 9th circuits, and directs them to select a fifth justice to complete the commission, which should proceed to consider the returns "with the same powers, if any, now possessed for that purpose by the two houses acting separately or together." It is concluded elsewhere (see ELECTORS) that the houses had no such powers, separately or together, and could delegate no such powers to a commission. The question of the legality of the commission itself will therefore not be revived in this article. The commission was to decide by a majority of votes, and its decisions were only to be reversed by concurrent action of both houses. As the senators appointed on the commission were three republicans to two democrats, the representatives three democrats to two republicans, and the justices were so selected as to be two democrats to two republicans, it is evident that the fifth justice was to be the decisive factor of the commission. The radically evil feature of the act was, therefore, that it shifted upon the shoulders of one man a burden which the two houses together were confessedly incompetent to dispose of. The fifth justice selected was Joseph P. Bradley, of the fifth circuit, and the commission, when it met for the first time, Jan. 31, 1877, was constituted as follows (republicans in Roman, democrats in italics): JUSTICES, *Nathan Clifford, 1st circuit, president;* William Strong, 3d circuit; Samuel F. Miller, 8th circuit; *Stephen J. Field, 9th circuit;* Joseph P. Bradley, 5th circuit. SENATORS, George F. Edmunds, Vt.; Oliver P. Morton, Ind., Fred. T. Frelinghuysen, N. J.; *Thos. F. Bayard, Del.; Allen G. Thurman, O.* REPRESENTATIVES, *Henry B. Payne, O.; Eppa Hunton, Va.; Josiah G. Abbott, Mass.;* Jas. A. Garfield, O.; Geo. F. Hoar, Mass. *Francis Kernan, N. Y.*, was substituted, Feb. 26, for senator Thurman, who had become ill. The bar, besides the ablest lawyers of both parties in both houses, who appeared as objectors to various returns, was composed of O'Conor, of New York, Black, of Pennsylvania; Trumbull, of Illinois; Merrick, of the District of Columbia; Green, of New Jersey; Carpenter, of Wisconsin; Hoadley, of Ohio; and Whitney, of New York, on the democratic side; and Evarts and Stoughton, of New York, and Matthews and Shellabarger, of Ohio, on the republican side. As the double returns from the four disputed states came to the commission, they were necessarily decided in alphabetical order: Florida, Louisiana, Oregon, and South Carolina; but the principle settled in the case of Florida practically decided all the cases, and longer space will be given to it.—I. FLORIDA. (For the laws of the United States governing the voting of electoral colleges, and the certification of the result by the state governor, see ELECTORS, IV.) Three returns from Florida were sent to the commission, Feb. 2, by the joint meeting of the two houses: 1, the return of the votes of the Hayes electors, with the certificate of the governor, Stearns, annexed, under the decision of the state returning board, which had cast out the vote of certain polling places; 2, the return of the Tilden electors, with the certificate of the state attorney general, who was one of the returning board, annexed, given according to the popular vote as cast and filed in the office of the secretary of state; 3, the same return as the second, fortified by the certificate of the new democratic governor, Drew, according to a state law of Jan. 17, 1877, directing a recanvass of the votes.—The line of attack of the democratic counsel upon the validity of the first (republican) return was twofold. 1. They offered to prove that the state returning board, on its own confession, had cast out the votes of rejected precincts without any pretense of proof of fraud or intimidation; that it had thus been itself guilty of conspiracy and fraud, which fraud and conspiracy they had a right to prove on the broad principle that fraud can always be inquired into by any court, with the exception of two specified cases, neither of which applied here, and that the supreme court of Florida had decided the action of the returning board to be *ultra vires*, illegal, and void. 2. They offered to prove that Humphreys, one of the Hayes electors, was a United States officer when elected, and therefore ineligible. The republican counsel argued that the first return was in due form according to the constitution and laws of the United States and the laws of Florida, that the second return, having been certified only by the electors and by an officer unknown to the laws as a certifying officer, was a certificate of unauthorized and uncertified persons, which could not be recognized or considered; and that the third return was entirely *ex post facto*, having been made and certified after the date on which the laws directed the votes of the electors to be cast, and when the electoral college was *functus officio* (see ELECTORAL COLLEGE). Holding that, if the first return was valid, it excluded the other two, they confined their argument to the capacity of the commission to invalidate it. This was denied on the ground that the question was not which set of Florida electors received a majority of the votes cast, for that was a matter which the state itself controlled, and its action could not be examined

or reversed by any other state, or by all the other states together; but that the question was, which set of electors, by the actual declaration of the final authority of the state charged with that duty, had become clothed by the forms of law with actual possession of the office; in short, that the commission's only duty was to count the electoral vote, not the vote by which the electors had been chosen. To the general offer of evidence they replied that the consideration of such evidence was, 1, physically impossible, since the commission "could not stop at the first stage of the descent, but must go clean to the bottom," and investigate every charge of fraud and intimidation in all the disputed states, which would be a labor of years; 2, legally impossible, since the law (of 1792) itself prescribed the evidence (the governor's certificate) which was competent, and, when the commission had ascertained its correctness, its work was concluded; and 3, constitutionally impossible, since the commission was not a court and could not exercise judicial powers, which by the constitution were vested in the supreme court and in inferior courts to be established; that the commission was not one of these inferior courts, since an appeal lay to congress, not to the supreme court; and that its functions were ministerial, and confined to ascertaining the regularity of the certificates sent. To the special offer in Humphreys' case they asserted, as the general rule of American law, that votes for disqualified persons were not void unless the disqualification were public and notorious, that voters would never be presumed guilty of an intention to disfranchise themselves, and that the *de facto* acts of even a disqualified elector were valid. Feb. 7, the commission voted, 1, to reject the general offer of evidence *aliunde* the certificates, and 2, to receive evidence in the case of Humphreys. Both votes were 8 to 7, Justice Bradley, the "odd man," voting on the first issue with the republicans, and on the second with the democrats. Evidence was then submitted to prove that Humphreys was a shipping commissioner, and that he resigned in October, 1876, by letter to the judge who had appointed him, but who was then absent from Florida on a visit to Ohio. The democratic counsel argued that this was no resignation, since the judge, while absent in Ohio, was not a court capable of receiving a resignation in Florida. To this it was replied that the resignation depended on the will of the incumbent, and took effect from its offer without regard to its acceptance. Feb. 9, by the usual vote of 8 to 7, the commission sustained the validity of the Hayes electoral ticket entire, on the grounds, 1, that the commission was not competent to consider evidence *aliunde* the certificates, and 2, that Humphreys had properly resigned his office when elected.—II. LOUISIANA. Feb. 12, three certificates from Louisiana were submitted to the commission. The first and third returns were identical, and were those of the Hayes electors, with the certificate of Gov. W. P. Kellogg, claiming under the count of the vote as finally made by the returning board. The second return was that of the Tilden electors, with the certificate of John McEnery, who claimed to be governor; they claimed under the popular vote as cast. The democratic counsel offered to prove that the average popular majority for the Tilden electors was 7,639; that the returning board had fraudulently, corruptly, and without evidence of intimidation, cast out 13,236 democratic and 2,173 republican votes, in order to make an apparent majority for the Hayes electors; that two of the Hayes electors held United States offices, and three others state offices, which disqualified them under state laws; that the returning board had violated the state law by refusing to select one of its members from the democratic party, and by holding its sessions in secret and not allowing the presence of any democrat, or even of United States supervisors; that McEnery, and not Kellogg, was legally governor; and they argued that the state law creating the returning board was void, as it conflicted with the constitution by erecting a government which was anti-republican and oligarchical, since the returning board was perpetual and filled its own vacancies. The arguments of the republican counsel were practically the same as on the Florida case, and the commission, by 8 to 7, upheld their view, Feb. 16. Nine successive motions by democratic commissioners to admit various parts of the evidence had been first rejected, each by a vote of 8 to 7.— III. OREGON. The facts in the case of this state were as follows: The three Hayes electors undoubtedly had a popular majority; one of them (Watts) was, when elected, a postmaster, and the democratic governor (Grover) declaring Watts ineligible, gave his certificate of election to the two eligible Hayes electors, and to Cronin, the highest Tilden elector. The two Hayes electors refused to recognize Cronin, accepted Watts' resignation, and at once appointed Watts to fill the resulting vacancy. Cronin therefore appointed two electors to fill the vacancies caused by the refusals to serve with him; these cast Hayes ballots, and Cronin a Tilden ballot. The result was two certificates from Oregon, submitted to the commission Feb. 21. The first return was that of the Hayes electors, with the tabulated vote of the state, and a certificate from the secretary of state. The second return was that of the Cronin electoral college, with the certificate of the governor, and the attest of the secretary of state. The democratic counsel held that the second return, with the governor's certificate, was legally the voice of Oregon, as the commission had decided in the case of Louisiana, and more exactly in the case of Florida; that it was strengthened by the attest of the secretary of state, who was the canvassing officer by the laws of Oregon; and that it necessarily excluded the first return. The reply of the republican counsel showed that, while they had avoided the Scylla of Florida, they had been equally successful in steering clear of the Charyb-

dis of Oregon. They held that the Florida case did not apply; that there the basis of the decision was, that the commission could only inquire whether the governor had correctly certified the action of the canvassing board appointed by the state; that in Florida and Louisiana the governor had so correctly certified, while in Oregon he had not so certified, but should have done so; and that the commission was competent to make his action conform to the laws of his state. Feb. 23, the commission, by votes of 8 to 7 in each instance, rejected five successive, but various, resolutions to reject the vote of Watts; by a vote of 15 to 0, rejected the second return entirely; and, by a vote of 8 to 7, accepted the first return.—IV. SOUTH CAROLINA. Feb. 26, two certificates from South Carolina were laid before the commission. The first return was that of the Hayes electors, with the certificate of Gov. Chamberlain. The second return was a certificate of the Tilden electors, claiming simply to have been chosen by the popular vote, to have been counted out by the returning board in contempt of the orders of the state supreme court, and to have met and voted for Tilden and Hendricks. The democratic counsel held that government by a returning board was not republican, and that under Pres. Grant's proclamation of Oct. 17, 1876, declaring part of the state to be in insurrection, military interference had made the election a nullity. No serious effort was made to establish the validity of the second return. Feb. 27, the commission, by a vote of 8 to 7, rejected the offer to prove military interference; by a vote of 15 to 0, rejected return No. 2; and, by a vote of 8 to 7, accepted return No. 1. March 2, 1877, the commission adjourned *sine die*. (For the successive actions taken by the joint meeting on the commission's decisions, see DISPUTED ELECTIONS, III) — It would seem no more difficult to impeach the constitutionality of the commission than that of the "twenty-second joint rule," under which so many former counts were made (see ELECTORS); and in that case the legal title given to the new president, through the mediation of the commission, would seem to be on an exact equality with that of Lincoln, Johnson or Grant. The cruelly vicious feature in the scheme was the fact that fourteen members of the commission were practically irresponsible, while the fifteenth was secure in advance of a monopoly of the anger of one party or of the other. In the case of Mr. Justice Bradley the censure was totally undeserved. If the constitutionality of the commission be granted, as it was by both parties, the weight of law, in spite of the brilliant arguments of Messrs. Merrick, Carpenter, Green, and others of the democratic counsel, lay in the republican scale; and even in Louisiana, where the proceedings of the returning board were shamefully, or rather shamelessly, defenseless, the censure should fall not on the commission but on the laws of Louisiana.—The *Proceedings of the Electoral Commission*, being Part IV., vol. V., of the *Congressional Record*, 1877, have been published in a single volume. It contains the arguments of counsel in full, the opinions of the commissioners, the journal of the commission, and all the certificates and objections.

ALEXANDER JOHNSTON.

ELECTORAL VOTES (IN U. S. HISTORY). I. 1789. The electoral votes, as counted Monday, April 6, 1789, for the first presidential term, were as follows:

STATES.	Geo. Washington.	John Adams.	Sam'l Huntingdon	John Jay.	John Hancock.	Robt. H. Harrison.	Geo Clinton.	John Rutledge	John Milton.	Jas Armstrong.	Edward Telfair.	Benj. Lincoln.
New Hampshire	5	5	...	...	...	...	...	...	...	...	...	...
Massachusetts	10	10	...	...	...	...	...	...	...	...	...	...
Connecticut	7	5	2	...	...	...	...	...	...	...	...	...
New Jersey	6	1	...	5	...	...	...	...	...	...	...	...
Pennsylvania	10	8	...	...	2	...	...	...	...	...	...	...
Delaware	3	...	...	3	...	...	...	...	...	...	...	...
Maryland	6	...	...	...	...	6	...	...	...	...	...	...
Virginia	10	5	...	1	1	...	3	...	...	...	...	...
South Carolina	7	...	...	...	1	...	...	6	...	...	...	...
Georgia	5	...	...	...	...	...	...	...	2	1	1	1
Total	69	34	2	9	4	6	3	6	2	1	1	1

"Whereby," says the official record of the proceedings, "it appeared that George Washington, Esq., was elected president, and John Adams, Esq., vice-president of the United States of America." (See ELECTORS, IV., 1).—II. 1793. The electoral votes, as counted Wednesday, Feb. 13, 1793, for the second presidential term, were as follows:

STATES.	Geo. Washington.	John Adams.	George Clinton	Thomas Jefferson	Aaron Burr
New Hampshire	6	6	...	...	...
Massachusetts	16	16	...	...	...
Rhode Island	4	4	...	...	...
Connecticut	9	9	...	...	...
Vermont	3	3	...	...	...
New York	12	...	12	...	...
New Jersey	7	7	...	...	...
Pennsylvania	15	14	1	...	...
Delaware	3	3	...	...	...
Maryland	8	8	...	...	...
Virginia	21	...	21	...	...
Kentucky	4	...	...	4	...
North Carolina	12	...	12	...	...
South Carolina	8	7	...	...	1
Georgia	4	...	4	...	...
Total	132	77	50	4	1

"Whereupon the vice-president declared George Washington unanimously elected president of the United States for the period of four years, to commence with the fourth day of March next, and John Adams elected, by a plurality of votes, vice-president of the United States, for the same period, to commence with the fourth day of

March." — III. 1797. The electoral votes, as counted Wednesday, Feb. 8, 1797, for the third presidential term, were as follows :

STATES.	John Adams.	Thomas Jefferson.	Thomas Pinckney.	Aaron Burr	Samuel Adams.	Oliver Ellsworth	Samuel Johnston.	James Iredell.	John Jay.	George Clinton.	Geo Washington.	Chas. C. Pinckney	John Henry.
N. Hampshire	6	....	....	....	....	6	....	....	....	....	....	....	....
Massachusetts	16	....	13	....	....	1	2	....	....	....	....	....	....
Rhode Island	4	....	....	....	....	4	....	....	....	....	....	....	....
Connecticut	9	....	4	....	....	....	....	....	5	....	....	....	....
Vermont	4	....	4	....	....	....	....	....	....	....	....	....	....
New York	12	....	12	....	....	....	....	....	....	....	....	....	....
New Jersey	7	....	7	....	....	....	....	....	....	....	....	....	....
Pennsylvania	1	14	2	13	....	....	....	....	....	....	....	....	....
Delaware	3	....	3	....	....	....	....	....	....	....	....	....	....
Maryland	7	4	4	3	....	....	....	....	....	....	....	....	2
Virginia	1	20	1	1	15	....	....	....	....	3	1	....	....
Kentucky	....	4	....	4	....	....	....	....	....	....	....	....	....
N'rth Carolina	1	11	1	6	....	....	....	3	....	....	1	1	....
Tennessee	....	3	....	3	....	....	....	....	....	....	....	....	....
SouthCarolina	....	8	8	....	....	....	....	....	....	....	....	....	....
Georgia	....	4	....	....	....	....	....	....	....	4	....	....	....
Total	71	68	59	30	15	11	2	3	5	7	2	1	2

Whereupon John Adams, of Massachusetts, and Thomas Jefferson, of Virginia, were declared elected president and vice-president —IV. 1801. The electoral votes, as counted Wednesday, Feb. 11, 1801, for the fourth presidential term, were as follows :

STATES	Thomas Jefferson	Aaron Burr.	John Adams.	C. C. Pinckney.	John Jay.
New Hampshire	....	....	6	6	....
Massachusetts	....	....	16	16	....
Rhode Island	....	....	4	3	1
Connecticut	....	....	9	9	....
Vermont	....	....	4	4	....
New York	12	12	....	....	....
New Jersey	....	....	7	7	....
Pennsylvania	8	8	7	7	....
Delaware	....	....	3	3	....
Maryland	5	5	5	5	....
Virginia	21	21	....	....	....
Kentucky	4	4	....	....	....
North Carolina	8	8	4	4	....
Tennessee	3	3	....	....	....
South Carolina	8	8	....	....	....
Georgia	4	4	....	....	....
Total	73	73	65	64	1

"The whole number of electors who had voted were one hundred and thirty-eight, of which number Thomas Jefferson and Aaron Burr had a majority ; but, the number of those voting for them being equal, no choice was made by the people, and consequently the remaining duties devolved on the house of representatives. On which the house of representatives repaired to their own chamber and the senate adjourned." (See DISPUTED ELECTIONS, I.)—V. 1805. The electoral votes, as counted Wednesday, Feb. 13, 1805, for the fifth presidential term, were as follows :

STATES.	President.		Vice-President.	
	Thomas Jefferson.	C. C. Pinckney.	Geo. Clinton.	Rufus King.
New Hampshire	7	.....	7	.....
Massachusetts	19	.....	19	.....
Rhode Island	4	.....	4	.....
Connecticut	.....	9	.....	9
Vermont	6	.....	6	.....
New York	19	.....	19	.....
New Jersey	8	.....	8	.....
Pennsylvania	20	.....	20	.....
Delaware	.....	3	.....	3
Maryland	9	2	9	2
Virginia	24	.....	24	.....
North Carolina	14	.....	14	.....
South Carolina	10	.....	10	.....
Georgia	6	.....	6	.....
Tennessee	5	.....	5	.....
Kentucky	8	.....	8	.....
Ohio	3	.....	3	.....
Total	162	14	162	14

"The vice president said, 'Upon this report it becomes my duty to declare, agreeably to the constitution, that Thomas Jefferson is elected president of the United States, for the term of four years from the third day of March next, and that George Clinton is elected vice-president of the United States, for the term of four years from the third day of March next.'"—VI. 1809. The electoral votes, as counted Wednesday, Feb. 8, 1809, for the sixth presidential term, were as follows :

STATES	President			Vice-President.				
	James Madison.	George Clinton.	C. C. Pinckney	George Clinton	James Madison.	James Monroe.	John Langdon.	Rufus King
New Hampshire	....	....	7	....	....	....	....	7
Massachusetts	....	....	19	....	....	....	....	19
Rhode Island	....	....	4	....	....	....	....	4
Connecticut	....	....	9	....	....	....	....	9
Vermont	6	....	....	....	....	....	6	....
New York	13	6	....	13	3	3	....	....
New Jersey	8	....	....	8	....	....	....	....
Pennsylvania	20	....	....	20	....	....	....	....
Delaware	....	....	3	....	....	....	....	3
Maryland	9	....	2	9	....	....	....	2
Virginia	24	....	....	24	....	....	....	....
North Carolina	11	....	3	11	....	....	....	3
South Carolina	10	....	....	10	....	....	....	....
Georgia	6	....	....	6	....	....	....	....
Kentucky	7	....	....	7	....	....	....	....
Tennessee	5	....	....	5	....	....	....	....
Ohio	3	....	....	....	....	....	3	....
Total	122	6	47	118	3	3	9	47

"By all which it appears that James Madison, of Virginia, has been duly elected president, and George Clinton, of New York, has been duly elected vice-president of the United States, agreeably to the constitution."—VII. 1813. The electoral votes, as counted Wednesday, Feb. 10,

1813, for the seventh presidential term, were as follows :

STATES.	President.		Vice-President.	
	James Madison.	De Witt Clinton.	Elbridge Gerry	Jared Ingersoll.
New Hampshire	.....	8	1	7
Massachusetts	.....	22	2	20
Rhode Island	.....	4	.....	4
Connecticut	.....	9	.....	9
Vermont	8	.....	8	.....
New York	.....	29	.....	29
New Jersey	.....	8	.....	8
Pennsylvania	25	.....	25	.....
Delaware	.....	4	.....	4
Maryland	6	5	6	5
Virginia	25	.....	25	.....
North Carolina	15	.....	15	.....
South Carolina	11	.....	11	.....
Geo gia	8	.....	8	.....
Kentucky	12	.....	12	.....
Tennessee	8	.....	8	.....
Ohio	7	.....	7	.....
Louisiana	3	.....	3	.....
Total	128	89	131	86

"Whereupon the president of the senate declared James Madison elected president of the United States for four years, commencing with the 4th day of March next, and Elbridge Gerry vice-president of the United States for four years, commencing on the 4th day of March next."—VIII. 1817. The electoral votes, as counted Wednesday, Feb. 12, 1817, for the eighth presidential term, were as follows:

STATES.	President		Vice-President.				
	James Monroe, Va	Rufus King, N. Y.	D. D Tompkins, N. Y	John E. Howard, Md.	Jas Ross, Penn	John Marshall, Va.	Robt. G. Harper, Md.
New Hampshire	8	.....	8	.....	.....	.....	.....
Massachusetts	.....	22	.....	22	.....	.....	.....
Rhode Island	4	.....	4	.....	.....	.....	.....
Connecticut	.....	9	.....	.....	5	4	.....
Vermont	8	.....	8	.....	.....	.....	.....
New York	29	.....	29	.....	.....	.....	.....
New Jersey	8	.....	8	.....	.....	.....	.....
Pennsylvania	25	.....	25	.....	.....	.....	.....
Delaware	.....	3	.....	.....	.....	.....	3
Maryland	8	.....	8	.....	.....	.....	.....
Virginia	25	.....	25	.....	.....	.....	.....
North Carolina	15	.....	15	.....	.....	.....	.....
South Carolina	11	.....	11	.....	.....	.....	.....
Georgia	8	.....	8	.....	.....	.....	.....
Kentucky	12	.....	12	.....	.....	.....	.....
Tennessee	8	.....	8	.....	.....	.....	.....
Ohio	8	.....	8	.....	.....	.....	.....
Louisiana	3	.....	3	.....	.....	.....	.....
Indiana	3	.....	3	.....	.....	.....	.....
Total	183	34	183	22	5	4	3

"Whereupon the president of the senate declared James Monroe elected president of the United States for four years, commencing with the fourth day of March next; and Daniel D. Tompkins vice-president of the United States, commencing with the fourth day of March next."—IX. 1821. The electoral votes, as counted Wednesday, Feb. 14, 1821, for the ninth presidential term, were as follows :

STATES.	President		Vice-President.				
	James Monroe, Va	John Q. Adams, Mass.	D. D Tompkins, N. Y.	Richard Stockton, N. J.	Robt. G Harper, Md.	Richard Rush, Penn	Daniel Rodney, Del.
New Hampshire	7	1	7	.....	.....	1	.....
Massachusetts	15	.....	7	8	.....	.....	.....
Rhode Island	4	.....	4	.....	.....	.....	.....
Connecticut	9	.....	9	.....	.....	.....	.....
Vermont	8	.....	8	.....	.....	.....	.....
New York	29	.....	29	.....	.....	.....	.....
New Jersey	8	.....	8	.....	.....	.....	.....
Pennsylvania	24	.....	24	.....	.....	.....	.....
Delaware	4	.....	.....	.....	.....	.....	4
Maryland	11	.....	10	.....	1	.....	.....
Virginia	25	.....	25	.....	.....	.....	.....
North Carolina	15	.....	15	.....	.....	.....	.....
South Carolina	11	.....	11	.....	.....	.....	.....
Georgia	8	.....	8	.....	.....	.....	.....
Kentucky	12	.....	12	.....	.....	.....	.....
Tennessee	7	.....	7	.....	.....	.....	.....
Ohio	8	.....	8	.....	.....	.....	.....
Louisiana	3	.....	3	.....	.....	.....	.....
Indiana	3	.....	3	.....	.....	.....	.....
Mississippi	2	.....	2	.....	.....	.....	.....
Illinois	3	.....	3	.....	.....	.....	.....
Alabama	3	.....	3	.....	.....	.....	.....
Maine	9	.....	9	.....	.....	.....	.....
Missouri	3	.....	3	.....	.....	.....	.....
Total	231	1	218	8	1	1	4

"The whole number of electors appointed being 235, including those of Missouri, of which 118 make a majority; or excluding the electors of Missouri, the whole number would be 232, of which 117 make a majority; but in either event, James Monroe, of Virginia, is elected president, and Daniel D. Tompkins, of New York, is elected vice-president of the United States. Whereupon the president of the senate declared James Monroe, of Virginia, duly elected president of the United States, commencing with the 4th day of March next; and Daniel D Tompkins, vice-president of the United States, commencing with the 4th day of March next." (See ELECTORS, III., 2). — X. 1825 The electoral votes, as counted Wednesday, Feb. 9, 1825, for the tenth presidential term, were as follows:

STATES.	President				Vice President				
	John Q Adams.	Wm. H. Crawford.	Andrew Jackson.	Henry Clay.	John C Calhoun	Nathaniel Macon	Andrew Jackson.	Nathan Sanford.	Henry Clay.	Martin Van Buren
Maine	9	.....	.....	.....	9	.....	.....	.....	.....	.....
New Hampshire	8	.....	.....	.....	7	.....	1	.....	.....	.....
Massachusetts	15	.....	.....	.....	15	.....	.....	.....	.....	.....
Rhode Island	4	.....	.....	.....	3	.....	.....	.....	.....	.....
Connecticut	8	.....	.....	.....	.....	.....	8	.....	.....	.....
Vermont	7	.....	.....	.....	7	.....	.....	.....	.....	.....
New York	26	5	1	4	29	.....	.....	7	.....	.....
New Jersey	.....	.....	8	.....	8	.....	.....	.....	.....	.....
Pennsylvania	.....	.....	28	.....	28	.....	.....	.....	.....	.....
Delaware	1	2	.....	.....	1	.....	.....	.....	.....	.....

(CONTINUED.)

STATES.	President.				Vice-President.					
	John Q. Adams.	Wm. H. Crawford.	Andrew Jackson.	Henry Clay.	John C. Calhoun.	Nathaniel Macon.	Andrew Jackson.	Nathan Sanford.	Henry Clay.	Martin Van Buren
Maryland	3	1	7	....	10	....	1	....	2	..
Virginia	....	24	....	....	....	24	....	....	....	..
North Carolina	....	....	15	....	15	....	....	....	....	..
South Carolina	....	....	11	....	11	....	....	....	....	..
Georgia	....	9	....	....	....	....	....	....	....	9
Kentucky	....	....	5	14	7	....	....	7	....	..
Tennessee	....	....	11	....	11	....	....	....	....	..
Ohio	....	....	....	16	....	....	....	16	....	..
Louisiana	2	....	3	....	5	....	....	....	....	.
Mississippi	....	....	3	....	3	....	....	....	....	..
Indiana	....	....	5	....	5	....	....	....	....	..
Illinois	1	....	2	....	3	....	....	....	....	..
Alabama	....	....	5	....	5	....	....	....	....	..
Missouri	....	....	....	3	....	....	3	....	....	..
Total	84	41	99	37	182	24	13	30	2	9

"The president of the senate then rose, and declared that no person had received a majority of the votes given for president of the United States; that Andrew Jackson, John Quincy Adams, and William H. Crawford, were the three persons who had received the highest number of votes, and that the remaining duties in the choice of a president now devolved on the house of representatives. He further declared that John C. Calhoun, of South Carolina, having received one hundred and eighty-two votes, was duly elected vice-president of the United States, to serve for four years from the 4th day of March next." (For the election of John Quincy Adams by the house see DISPUTED ELECTIONS, II.)—XI. 1829. The electoral votes, as counted Wednesday, Feb. 11, 1829, for the eleventh presidential term, were as follows:

STATES	President		Vice-President.		
	Andrew Jackson, Tenn.	John Quincy Adams, Mass.	J. C. Calhoun, S. C.	Richard Rush, Penn	Wm. Smith, S. C.
Maine	1	8	1	8	....
New Hampshire	....	8	....	8	....
Massachusetts	....	15	....	15	....
Rhode Island	....	4	....	4	....
Connecticut	....	8	....	8	....
Vermont	....	7	....	7	....
New York	20	16	20	16	....
New Jersey	....	8	....	8	....
Pennsylvania	28	....	28	....	....
Delaware	....	3	....	3	....
Maryland	5	6	5	6	....
Virginia	24	....	24	....	....
North Carolina	15	....	15	....	....
South Carolina	11	....	11	....	....
Georgia	9	....	2	....	7
Kentucky	14	....	14	....	....
Tennessee	11	....	11	....	....
Ohio	16	....	16	....	....
Louisiana	5	....	5	....	....
Indiana	5	....	5	....	....
Mississippi	3	....	3	....	....
Illinois	3	....	3	....	....
Alabama	5	....	5	....	....
Missouri	3	....	3	....	....
Total	178	83	171	83	7

"The result of the election was then again read by the vice-president, who thereupon said: 'I therefore declare that Andrew Jackson is duly elected president of the United States for four years, from the fourth of March next, and John C. Calhoun is duly elected vice-president for the same period.'"—XII. 1833. The electoral votes, as counted Wednesday, Feb. 13, 1833, for the twelfth presidential term, were as follows:

STATES	President				Vice-President			
	Andrew Jackson, Tenn.	Henry Clay, Ky.	John Floyd, Va.	Wm Wirt, Md.	Martin Van Buren, N. Y.	John Sergeant, Penn.	Wm. Wilkins, Penn.	Amos Ellmaker, Penn	Henry Lee, Mass.
Maine	10	....	....	....	10	....	....	....	....
New Hampshire	7	....	....	....	7	....	....	....	....
Massachusetts	....	14	....	....	....	14	....	....	....
Rhode Island	....	4	....	....	....	4	....	....	....
Connecticut	....	8	....	....	....	8	....	....	....
Vermont	....	....	....	7	....	....	....	7	....
New York	42	....	....	....	42	....	....	....	....
New Jersey	8	....	....	....	8	....	....	....	....
Pennsylvania	30	....	....	....	....	....	30	....	....
Delaware	....	3	....	....	....	3	....	....	....
Maryland	3	5	....	....	3	5	....	....	....
Virginia	23	....	....	....	23	....	....	....	....
North Carolina	15	....	....	....	15	....	....	....	....
South Carolina	....	....	11	....	....	....	....	....	11
Georgia	11	....	....	....	11	....	....	....	....
Kentucky	....	15	....	....	....	15	....	....	....
Tennessee	15	....	....	....	15	....	....	....	....
Ohio	21	....	....	....	21	....	....	....	....
Louisiana	5	....	....	....	5	....	....	....	....
Mississippi	4	....	....	....	4	....	....	....	....
Indiana	9	....	....	....	9	....	....	....	....
Illinois	5	....	....	....	5	....	....	....	....
Alabama	7	....	....	....	7	....	....	....	....
Missouri	4	....	....	....	4	....	....	....	....
Total	219	49	11	7	189	49	30	7	11

"Whereupon the president of the senate proclaimed that Andrew Jackson, of Tennessee, having a majority of the whole number of votes, was elected president of the United States for four years, from the fourth day of March next; and that Martin Van Buren, of New York, having a majority of votes therefor, was elected vice-president of the United States for the same term."—XIII. 1837. The electoral votes, as counted Wednesday, Feb. 8, 1837, for the thirteenth presidential term, were as follows:

STATES.	President.					Vice-President.			
	Martin Van Buren.	Daniel Webster.	Wm. H. Harrison	Willie P Mangum	Hugh L. White.	Rich. M. Johnson.	Francis Granger.	John Tyler	William Smith.
Maine	10	....	....	....	....	10	....	....	....
New Hampshire	7	....	....	....	....	7	....	....	....
Massachusetts	....	14	....	....	....	....	14	....	....
Rhode Island	4	....	....	....	....	4	....	....	....
Connecticut	8	....	....	....	....	8	....	....	....
Vermont	....	....	7	....	....	....	7	....	....
New York	42	....	....	....	....	42	....	....	....
New Jersey	....	....	6	....	....	....	8	....	....
Pennsylvania	30	....	....	....	....	30	....	....	....
Delaware	....	....	3	....	....	....	3	....	....

(CONTINUED.)

STATES.	President.					Vice-President.			
	Martin Van Buren.	Daniel Webster.	Wm. H. Harrison.	Willie P Mangum.	Hugh L. White	Rich. M Johnson.	Francis Granger.	John Tyler.	William Smith.
Maryland	....	....	10	....	....	....	....	10	....
Virginia	23	....	....	....	....	....	....	....	23
North Carolina	15	....	....	....	....	15	....	....	....
South Carolina	....	....	....	11	....	....	....	11	....
Georgia	....	....	....	....	11	....	....	11	....
Kentucky	....	....	15	....	....	....	15	....	....
Tennessee	....	....	....	....	15	....	....	15	....
Ohio	....	....	21	....	....	....	21	....	....
Louisiana	5	....	....	....	....	5	....	....	....
Mississippi	4	....	....	....	....	4	....	....	....
Indiana	....	....	9	....	....	....	9	....	....
Illinois	5	....	....	....	....	5	....	....	....
Alabama	7	....	....	....	....	7	....	....	....
Missouri	4	....	....	....	....	4	....	....	....
Arkansas	3	....	....	....	....	3	....	....	....
Michigan	3	....	....	....	....	3	....	....	....
Total	170	14	73	11	26	147	77	47	23

"It therefore appears that were the votes of Michigan to be counted, the result would be, for Martin Van Buren for president of the United States, 170 votes; if the votes of Michigan be not counted, Martin Van Buren then has 167 votes. In either event, Martin Van Buren, of New York, is elected president of the United States." (See DISPUTED ELECTIONS, III.) — XIV. 1841. The electoral votes, as counted Wednesday, Feb. 10, 1841, for the fourteenth presidential term, were as follows:

STATES.	President		Vice-President.			
	Wm. H Harrison, O	Martin Van Buren, N Y	John Tyler, Va	Rich M Johnson, Ky.	L W Tazewell, Va	Jas K Polk, Tenn
Maine	10	....	10	....	....	....
New Hampshire	....	7	....	7	....	....
Massachusetts	14	....	14	....	....	....
Rhode Island	4	....	4	....	....	....
Connecticut	8	....	8	....	....	....
Vermont	7	....	7	....	....	....
New York	42	....	42	....	....	....
New Jersey	8	....	8	....	....	....
Pennsylvania	30	....	30	....	....	....
Delaware	3	....	3	....	....	....
Maryland	10	....	10	....	....	....
Virginia	....	23	....	22	....	1
North Carolina	15	....	15	....	....	....
South Carolina	....	11	....	....	11	....
Georgia	11	....	11	....	....	....
Kentucky	15	....	15	....	....	....
Tennessee	15	....	15	....	....	....
Ohio	21	....	21	....	....	....
Louisiana	5	....	5	....	....	....
Mississippi	4	....	4	....	....	....
Indiana	9	....	9	....	....	....
Illinois	....	5	....	5	....	....
Alabama	....	7	....	7	....	....
Missouri	....	4	....	4	....	....
Arkansas	....	3	....	3	....	....
Michigan	3	....	3	....	....	....
Total	234	60	234	48	11	1

"The president of the senate then * * * * declared that William Henry Harrison, of Ohio, having a majority of the whole number of electoral votes, is duly elected president of the United States, for four years, commencing with the fourth day of March next, 1841; and that John Tyler, of Virginia, having a majority of the whole number of electoral votes, is duly elected vice-president of the United States, for four years, commencing with the fourth day of March next, 1841."—XV. 1845. The electoral votes, as counted Wednesday, Feb. 12, 1845, for the fifteenth presidential term, were as follows:

STATES.	President.		Vice President.	
	Jas K Polk	Henry Clay	Geo. M Dallas.	Th. Frelinghuysen.
Maine	9	....	9	....
New Hampshire	6	....	6	....
Massachusetts	....	12	....	12
Rhode Island	....	4	....	4
Connecticut	....	6	....	6
Vermont	....	6	....	6
New York	36	....	36	....
New Jersey	....	7	....	7
Pennsylvania	26	....	26	....
Delaware	....	3	....	3
Maryland	....	8	....	8
Virginia	17	....	17	....
North Carolina	....	11	....	11
South Carolina	9	....	9	....
Georgia	10	....	10	....
Kentucky	....	12	....	12
Tennessee	....	13	....	13
Ohio	....	23	....	23
Louisiana	6	....	6	....
Mississippi	6	....	6	....
Indiana	12	....	12	....
Illinois	9	....	9	....
Alabama	9	....	9	....
Missouri	7	....	7	....
Arkansas	3	....	3	....
Michigan	5	....	5	....
Total	170	105	170	105

The president of the senate then said: "I do, therefore, declare that James K. Polk, of Tennessee, having a majority of the whole number of electoral votes, is duly elected president of the United States for four years, commencing on the 4th day of March, 1845; and that George M. Dallas, of Pennsylvania, having a majority of electoral votes, is duly elected vice-president of the United States for four years, commencing on the 4th day of March, 1845."—XVI. 1849. The electoral votes, as counted Wednesday, Feb. 14, 1849, for the sixteenth presidential term, were as follows:

STATES.	President.		Vice-President.	
	Zachary Taylor, La	Lewis Cass, Mich	Millard Fillmore, N Y	Wm O Butler, Ky
Maine		9		9
New Hampshire		6		6
Massachusetts	12		12	
Rhode Island	4		4	
Connecticut	6		6	
Vermont	6		6	
New York	36		36	
New Jersey	7		7	
Pennsylvania	26		26	
Delaware	3		3	
Maryland	8		8	
Virginia		17		17
North Carolina	11		11	
South Carolina		9		9
Georgia	10		10	
Kentucky	12		12	
Tennessee	13		13	
Ohio		23		23
Louisiana	6		6	
Mississippi		6		6
Indiana		12		12
Illinois		9		9
Alabama		9		9
Missouri		7		7
Arkansas		3		3
Michigan		5		5
Florida	3		3	
Texas		4		4
Iowa		4		4
Wisconsin		4		4
Total	163	127	163	127

"Thereupon the vice-president of the United States declared that Zachary Taylor, of the state of Louisiana, is duly elected president of the United States for the term of four years, to commence on the fourth day of March, 1849; and that Millard Fillmore, of the state of New York, is duly elected vice-president of the United States for the term of four years, to commence on the fourth day of March, 1849."—XVII. 1853. The electoral votes, as counted Wednesday, Feb. 9, 1853, for the seventeenth presidential term, were as follows:

STATES	President		Vice-President.	
	Franklin Pierce, N H	Winfield Scott, N J	Wm R King, Ala.	Wm A Graham, N. C.
Maine	8		8	
New Hampshire	5		5	
Massachusetts		13		13
Rhode Island	4		4	
Connecticut	6		6	
Vermont		5		5
New York	35		35	
New Jersey	7		7	
Pennsylvania	27		27	
Delaware	3		3	
Maryland	8		8	
Virginia	15		15	
North Carolina	10		10	
South Carolina	8		8	
Georgia	10		10	
Kentucky		12		12
Tennessee		12		12

(CONTINUED)

STATES.	President.		Vice-President	
	Franklin Pierce, N. H.	Winfield Scott, N. J.	Wm. R. King, Ala.	Wm. A. Graham, N. C.
Ohio	23		23	
Louisiana	6		6	
Mississippi	7		7	
Indiana	13		13	
Illinois	11		11	
Alabama	9		9	
Missouri	9		9	
Arkansas	4		4	
Michigan	6		6	
Florida	3		3	
Texas	4		4	
Iowa	4		4	
Wisconsin	5		5	
California	4		4	
Total	254	42	254	42

Whereupon Franklin Pierce and William R. King were declared elected president and vice-president.—XVIII. 1857. The electoral votes, as counted Wednesday, Feb 11, 1857, for the eighteenth presidential term, were as follows:

STATES.	President			Vice-President		
	Jas Buchanan, Penn	Jno C Fremont, Cal	Millard Fillmore, N Y	J C Breckinridge, Ky	Wm L Dayton, N J	A J Donelson, Tenn.
Maine		8			8	
New Hampshire		5			5	
Massachusetts		13			13	
Rhode Island		4			4	
Connecticut		6			6	
Vermont		5			5	
New York		35			35	
New Jersey	7			7		
Pennsylvania	27			27		
Delaware	3			3		
Maryland			8			8
Virginia	15			15		
North Carolina	10			10		
South Carolina	8			8		
Georgia	10			10		
Kentucky	12			12		
Tennessee	12			12		
Ohio		23			23	
Louisiana	6			6		
Mississippi	7			7		
Indiana	13			13		
Illinois	11			11		
Alabama	9			9		
Missouri	9			9		
Arkansas	4			4		
Michigan		6			6	
Florida	3			3		
Texas	4			4		
Iowa		4			4	
Wisconsin		5			5	
California	4			4		
Total	174	114	8	174	114	8

Whereupon James Buchanan and John C. Breckinridge were declared elected president and vice-president. (See ELECTORS, VII.)—XIX. 1861. The electoral votes, as counted Wednesday, Feb. 13, 1861, for the nineteenth presidential term, were as follows:

STATES.	President.				Vice-President			
	Abraham Lincoln, Ill	J C Breckinridge, Ky	S A Douglas, Ill	John Bell, Tenn.	Hannibal Hamlin, Me.	Joseph Lane, Oregon	H V Johnson, Ga.	Edward Everett, Mass
Maine	8				8			
New Hampshire	5				5			
Massachusetts	13				13			
Rhode Island	4				4			
Connecticut	6				6			
Vermont	5				5			
New York	35				35			
New Jersey	4		3		4		3	
Pennsylvania	27				27			
Delaware		3				3		
Maryland		8				8		
Virginia				15				15
North Carolina		10				10		
South Carolina		8				8		
Georgia		10				10		
Kentucky				12				12
Tennessee				12				12
Ohio	23				23			
Louisiana		6				6		
Mississippi		7				7		
Indiana	13				13			
Illinois	11				11			
Alabama		9				9		
Missouri			9				9	
Arkansas		4				4		
Michigan	6				6			
Florida		3				3		
Texas		4				4		
Iowa	4				4			
Wisconsin	5				5			
California	4				4			
Minnesota	4				4			
Oregon	3				3			
Total	180	72	12	39	180	72	12	39

Whereupon Abraham Lincoln and Hannibal Hamlin were declared elected president and vice-president.—XX. 1865. The electoral votes, as counted Wednesday, Feb. 8, 1865, for the twentieth presidential term, were as follows:

STATES	President		Vice-President	
	Abraham Lincoln, Ill	G B McClellan, N J	Andrew Johnson, Tenn	G. H. Pendleton, O.
Maine	7		7	
New Hampshire	5		5	
Massachusetts	12		12	
Rhode Island	4		4	
Connecticut	6		6	
Vermont	5		5	
New York	33		33	
New Jersey		7		7
Pennsylvania	26		26	
Delaware		3		3
Maryland	7		7	
Kentucky		11		11
Ohio	21		21	
Indiana	13		13	
Illinois	16		16	
Missouri	11		11	
Michigan	8		8	
Wisconsin	8		8	
Iowa	8		8	
California	5		5	
Minnesota	4		4	
Oregon	3		3	
Kansas	3		3	
West Virginia	5		5	
Nevada	2		2	
Total	212	21	212	21

Whereupon Abraham Lincoln and Andrew Johnson were declared elected president and vice-president of the United States.—XXI. 1869. The electoral votes, as counted Wednesday, Feb. 10, 1869, for the twenty-first presidential term, were as follows:

STATES.	President		Vice-President.	
	U S Grant, Ill	Horatio Seymour, N Y.	Schuyler Colfax, Ind	F P Blair, Jr., Mo
Maine	7		7	
New Hampshire	5		5	
Vermont	5		5	
Massachusetts	12		12	
Rhode Island	4		4	
Connecticut	6		6	
New York		33		33
New Jersey		7		7
Pennsylvania	26		26	
Delaware		3		3
Maryland		7		7
North Carolina	9		9	
South Carolina	6		6	
Georgia		9		9
Alabama	8		8	
Louisiana		7		7
Ohio	21		21	
Kentucky		11		11
Tennessee	10		10	
Indiana	13		13	
Illinois	16		16	
Missouri	11		11	
Arkansas	5		5	
Michigan	8		8	
Florida	3		3	
Iowa	8		8	
Wisconsin	8		8	
California	5		5	
Minnesota	4		4	
Oregon		3		3
Kansas	3		3	
West Virginia	5		5	
Nevada	3		3	
Nebraska	3		3	
Total	214	80	214	80

Whereupon U. S. Grant and Schuyler Colfax were declared elected president and vice-president of the United States.—XXII. 1873. The electoral votes, as counted Wednesday, Feb. 12, 1873, for the twenty-second presidential term, were as follows:

STATES.	President.				Vice-President								
	U S Grant	B. Gratz Brown	T A Hendricks	C J Jenkins	David Davis	Henry Wilson	B. Gratz Brown	G W Julian	A H Colquitt	J M Palmer	T E Bramlette	W. S. Groesbeck	W B Machen	N P Banks
Maine	7					7								
New Hampshire	5					5								
Vermont	5					5								
Massachusetts	13					13								
Rhode Island	4					4								
Connecticut	6					6								
New York	35					35								
New Jersey	9					9								
Pennsylvania	29					29								
Delaware	3					3								
Maryland			8				8							
Virginia	11					11								
North Carolina	10					10								
South Carolina	7					7								
Georgia		6		2			5		5					1
Alabama	10					10								
Ohio	22					22								

(CONTINUED)

STATES.	President.					Vice-President.								
	U. S. Grant.	B. Gratz Brown.	T. A. Hendricks.	C. J. Jenkins.	David Davis.	Henry Wilson.	B. Gratz Brown.	W. Julian.	A. H. Colquitt	J. M. Palmer.	T. E. Bramlette.	W. S. Groesbeck.	W. B. Machen	N. P. Banks.
Kentucky	....	4	8	....	....	....	8	....	....	....	3	....	1	....
Tennessee	....	....	12	....	....	....	12	....	....	....	....	....	....	....
Indiana	15	....	....	....	....	15	....	....	....	....	....	....	....	....
Illinois	21	....	....	....	....	21	....	....	....	....	....	....	....	....
Missouri	....	8	6	....	1	....	6	5	....	3	....	1	....	....
Mississippi	8	....	....	....	....	8	....	....	....	....	....	....	....	....
Michigan	11	....	....	....	....	11	....	....	....	....	....	....	....	....
Florida	4	....	....	....	....	4	....	....	....	....	....	....	....	....
Texas	....	....	8	....	....	....	8	....	....	....	....	....	....	....
Iowa	11	....	....	....	....	11	....	....	....	....	....	....	....	....
Wisconsin	10	....	....	....	....	10	....	....	....	....	....	....	....	....
California	6	....	....	....	....	6	....	....	....	....	....	....	....	....
Minnesota	5	....	....	....	....	5	....	....	....	....	....	....	....	....
Oregon	3	....	....	....	....	3	....	....	....	....	....	....	....	....
Kansas	5	....	....	....	....	5	....	....	....	....	....	....	....	....
West Virginia	5	....	....	....	....	5	....	....	....	....	....	....	....	....
Nevada	3	....	....	....	....	3	....	....	....	....	....	....	....	....
Nebraska	3	....	....	....	....	3	....	....	....	....	....	....	....	....
Total	286	18	42	2	1	286	17	5	5	3	3	1	1	1

Whereupon U. S. Grant and Henry Wilson were declared elected president and vice-president of the United States.—XXIII. 1877. The electoral votes, as counted Wednesday, Feb. 14, 1877, for the twenty-third presidential term, were as follows:

STATES.	President		Vice-President.	
	R. B. Hayes, O.	S. J. Tilden, N. Y.	W. A. Wheeler, N. Y.	T. A. Hendricks, Ind.
Maine	7	....	7	....
New Hampshire	5	....	5	....
Vermont	5	....	5	....
Massachusetts	13	....	13	....
Rhode Island	4	....	4	....
Connecticut	....	6	....	6
New York	....	35	....	35
New Jersey	....	9	....	9
Pennsylvania	29	....	29	....
Delaware	....	3	....	3
Maryland	....	8	....	8
Virginia	....	11	....	11
North Carolina	....	10	....	10
South Carolina	7	....	7	....
Georgia	....	11	....	11
Alabama	....	10	....	10
Ohio	22	....	22	....
Louisiana	8	....	8	....
Kentucky	....	12	....	12
Tennessee	....	12	....	12
Indiana	....	15	....	15
Illinois	21	....	21	....
Missouri	....	15	....	15
Arkansas	....	6	....	6
Mississippi	....	8	....	8
Michigan	11	....	11	....
Florida	4	....	4	....
Texas	....	8	....	8
Iowa	11	....	11	....
Wisconsin	10	....	10	....
California	6	....	6	....
Minnesota	5	....	5	....
Oregon	3	....	3	....
Kansas	5	....	5	....
West Virginia	....	5	....	5
Nevada	3	....	3	....
Nebraska	3	....	3	....
Colorado	3	....	3	....
Total	185	184	185	184

Whereupon Rutherford B. Hayes and William A. Wheeler were declared elected president and vice-president of the United States. (See ELECTORAL COMMISSION; DISPUTED ELECTIONS, IV.)—XXIV. 1881. The electoral votes, as counted Wednesday, Feb. 9, 1881, for the twenty-fourth presidential term, were as follows:

STATES	Pre ident.		Vice President.	
	Jas. A. Garfield, O.	W. S. Hancock, Penn.	C. A. Arthur, N. Y.	Wm. H. English, Ind.
Maine	7	....	7	....
New Hampshire	5	....	5	....
Vermont	5	....	5	....
Massachusetts	13	....	13	....
Rhode Island	4	....	4	....
Connecticut	6	....	6	....
New York	35	....	35	....
New Jersey	....	9	....	9
Pennsylvania	29	....	29	....
Delaware	....	3	....	3
Maryland	....	8	....	8
Virginia	....	11	....	11
North Carolina	....	10	....	10
South Carolina	....	7	....	7
Georgia	....	11	....	11
Alabama	....	10	....	10
Ohio	22	....	22	....
Louisiana	....	8	....	8
Kentucky	....	12	....	12
Tennessee	....	12	....	12
Indiana	15	....	15	....
Illinois	21	....	21	....
Missouri	....	15	....	15
Arkansas	....	6	....	6
Mississippi	....	8	....	8
Michigan	11	....	11	....
Florida	....	4	....	4
Texas	....	8	....	8
Iowa	11	....	11	....
Wisconsin	10	....	10	....
California	1	5	1	5
Minnesota	5	....	5	....
Oregon	3	....	3	....
Kansas	5	....	5	....
West Virginia	....	5	....	5
Nevada	....	3	....	3
Nebraska	3	....	3	....
Colorado	3	....	3	....
Total	214	155	214	155

Whereupon James A. Garfield and Chester A. Arthur were declared elected president and vice-president of the United States.

ALEXANDER JOHNSTON.

ELECTORS AND THE ELECTORAL SYSTEM (IN U. S. HISTORY). I. ORIGIN OF THE SYSTEM. On no subject was there such diversity of individual opinion and of action in the convention of 1787 as on that of the mode of election of the president, for the office of vice-president was never thought of until nearly the close of the convention's labors. The two plans, the "Virginia plan" and the "Jersey plan," submitted by the nationalizing and particularist elements of the convention at the opening of its work, agreed in giving the choice of the president to congress; and Chas. Pinckney's plan, which takes the medium between them, made no provisions as to the

manner of the president's election. The debate had hardly opened when the diversity of opinion became apparent. Wilson, of Pennsylvania, wished to have a popular election by districts. Sherman, of Connecticut, wished to retain the choice by congress. Gerry, of Massachusetts, apparently at first wished to have electors chosen by the states in proportion to population, with the unit rule; but he afterward settled on a choice of the president by the governors of the states. Hamilton wished to have the president chosen by secondary electors, chosen by primary electors, chosen by the people. Gouverneur Morris wished to have the president chosen by general popular vote *en masse*. The Virginia plan, as amended and agreed to in committee of the whole, June 19, retained the election by congress. July 17, popular election and choice by electors were voted down, and the choice by congress was again approved, this time unanimously. Two days afterward, July 19, the choice by congress was reconsidered, and a choice by electors chosen by the state legislatures was adopted. Five days afterward, July 24, the choice by electors was reconsidered and lost, and the choice by congress revived. In this form it went to the committee of detail, was reported favorably by them Aug. 6, and again referred to them unchanged Aug. 31. In their report of Sept. 4, less than two weeks before the final adjournment of the convention, this committee reported the electoral system very nearly as it was finally adopted, Sept. 6. In this report of Sept. 4 the office of vice-president was first introduced; indeed, the creation of this office was an integral part of the electoral system. Several amendments offered on the last two days of the convention were rejected, as too late, and the electoral system was a part of the constitution as offered to the state conventions and ratified by them. It will appear from a reconsideration that a choice by congress was the steady determination of the convention for all but the last two weeks of its existence, excepting the five days during which it inclined toward a direct choice of electors by state legislatures; but that its final decision gave the choice of president and vice-president to electors, appointed "in such manner as the legislatures of the states might direct." — II. DESIGN OF THE SYSTEM. In the inquiry as to what the system was designed to be by its framers, no more is necessary than to take the plain sense of the words used in the constitution, as cited under the fourth head of this article, supplemented in practice by the language of the *Federalist*, its authoritative exponent at the time, and by the action of the first two congresses, in which the framers of the constitution were numerously represented, fifteen of the thirty-eight signers being members of the first congress, and fourteen of the second.—1. If any one thing is plain from the constitutional provisions on the subject, it is that the people, in adopting the constitution, voluntarily debarred themselves from the privilege of a popular election of president and vice-president, and all arguments from the aristocratic tendencies of the system are utterly irrelevant, so long as the people do not see fit to alter essentially the language of the constitution. The object was to avoid the very "heats and ferments" which their descendants to their sorrow experience every four years; and to this end the electors were even to meet and vote in their respective states, and not in any central location —2. It is also plain that absolute control of the "appointment" of the electors, with the exceptions hereafter noted, was given to the state legislatures. The people refused to exercise it themselves, either in their national or in their state capacity. The words "in such manner as the legislature thereof may direct," are as plenary as the English language could well make them. In whatever manner the legislature may direct the appointment to be made, by its own election, by a popular vote of the whole state, by a popular vote in districts, by a popular vote scrutinized by canvassing officers or returning boards, or even by appointment of a returning board or a governor without any popular vote whatever, common sense shows that there is no other power than an amendment of the constitution's express language which can lawfully take away the control of the legislature over the manner of appointment. Any interference with the appointment by congress, in particular, either directly or under the subterfuge of an "electoral commission," is evidently a sheer impertinence and usurpation, however it may be condoned by popular acquiescence in the inevitable. Even the state court of last resort can only interfere so far as to compel obedience by state officers to the will of the legislature.—3 One exception to the legislature's power, inserted to guard against executive influence, only makes the absoluteness of the rest of the grant more emphatic. The legislature is not to appoint any "senator or representative, or person holding an office of trust or profit under the United States," an elector. Where the legislature directs the "appointment" to be made by popular vote, it must be evident that votes cast for the appointment of a person whom the constitution expressly bars from appointment have no existence in law; and the person for whom they were cast can not "appoint" himself anew by resigning his office after the election and thus reviving invalid votes. How the vacancy, if any, is to be filled, must be regulated by the legislature, for the electors themselves have no such power by virtue either of their office or of the constitution.—4 In one respect congress could legitimately interfere for the purpose of preventing "intrigue and corruption," by naming the day on which the electors should meet and vote. Accordingly the 2d congress, by the act of March 1, 1792, fixed the day for their voting on the first Wednesday in December, and the day of their election "within thirty-four days" preceding it; and the act of Jan. 23, 1845, hereafter given, fixed the day for the appointment of electors. When

congress had done this, it was *functus officio*, and had no more right than a private person to violate the constitution and its own laws, by forcing the admission of votes cast by electors on an unlawful day.—5. Congress was further given, but for more caution indirectly (in Art. IV, § 1), the power to declare the manner in which the action of the state appointing power should be authenticated, and for further caution this was only to be done "by general law." The act of 1792 provided that the votes of the electors should be authenticated by the certificate of the governor of the state. Evidently the courts of the state are the final tribunal to decide who is the governor of the state, and it would have been competent to the power of congress to require from the state court, "by general law," an authentication of the governor's certificate. This has never been done. For congress to omit this portion of its duty, and leave special cases to its own special law and arbitrary, partisan decision, is evidently in flat violation of the supreme law.—6. The act of 1792 provides that the electors shall make three certificates of all their votes, two of which shall be sent to the president of the senate, one by mail and one by special messenger, and the third shall be deposited with the [federal] judge of the district in which they vote; that if neither of the first two shall reach its destination by the first Wednesday in January, the secretary of state shall send a special messenger for the third to the district judge; and that, if there be no president of the senate at the seat of government, the secretary of state shall receive and keep the certificates for the president of the senate. The transmission of the votes is thus very well provided for.—7. The president of the senate is to open all the certificates in the presence of the senate and house of representatives, and the act of 1792 specifies the second Wednesday of February succeeding the election as the day for the performance of this duty. In pursuance of its power to provide for the authentication of state acts and records, it would be perfectly competent for congress to so distinctly specify the necessary authentication of the electors' action and title that there could be no doubt in the mind of the president of the senate as to which papers were certificates, and which were not. In the absence of any such general law, the president of the senate is evidently left without any guide whatever, excepting that which must be the guide of every officer in like circumstances, his own best judgment. It was for this reason, because of the evident impossibility of the passage of a general law to meet the case in 1789, that the convention of 1787 passed the following resolution: "That the senators and representatives should convene at the time and place assigned [New York, March 4, 1789], and that the senators should appoint a president of the senate for the sole purpose of receiving, opening *and counting* the votes for president." This resolution was ratified with the constitution by the state conventions, and must be taken as expressing the contemporary intention to cover the real "*casus omissus*," viz, the neglect, refusal or inability of congress to pass a general law for the final authentication of certificates. The intention of the system was that the president of the senate should canvass the votes: in accordance with a general authenticating law, if congress would or could pass such a law; otherwise, according to his own best judgment. The members of the convention were not such bungling workmen as the modern idea of the "electoral count" would make them. They were not so foolish as to entrust the canvass to two independent agents, equal in rank, and without an arbiter in case of disagreement. They had a legislative power in congress and the president, capable of making "*general* laws" to govern the canvass; they had a single ministerial power, in the president of the senate, capable of carrying the general laws into effect; and they gave to each power its appropriate office. The system never contemplated the refusal of congress to pass a general law with the purpose of using its own laches to gain partisan control over special cases as they arose.—8. Had congress done its plain duty in the premises, and carried out the system in its letter and spirit, as the convention of 1787 did, it is evident that that honorable body would have been reduced to its proper constitutional position as the official witness and register of the votes which have been declared by the president of the senate in accordance with general law. The constitution says, and need say, nothing of who shall count—only "and the votes shall then be counted"; for, if the orderly succession of steps has taken place according to the design of the system, the "count," in its legitimate and plain meaning, can be done by tellers appointed by the house, by individual members, by the newspaper reporters, or by any one who is able to do simple addition, though the journal of the official witnesses is the authoritative and permanent record of it. It is possible to imagine an unfair and illegal decision by the president of the senate, though no such case occurred while that officer (until 1821) maintained his proper place; and it is easy to see how hard it would be to punish him for such an offense. But it is absolutely impossible to punish congress for a partisan use of its usurped jurisdiction; and yet that body, since it has seized control of the canvass of the votes, has hardly ever, even in appearance, made any other than a partisan use of the power, no matter what party was in the majority. The constitution, by concentrating responsibility, found the safest place for the canvass of the votes, and it left the "count" unassigned and unguarded because there was no need of any other guard than the laws of arithmetic. All the abstruse debate as to the meaning of the simple word "count" has its origin in the determination of congress to give it the meaning of "canvass" and then to seize control of it. For this purpose the extra-constitutional term "elec-

toral count" has been coined.—In the endeavor to ascertain the design of the system no attention has been paid to later congressional precedents or to the opinions of political leaders in and out of congress in the past. These may be found in great abundance in the volume called "Presidential Counts," cited below. They are misleading, for 1, congress has manufactured or been led into its own precedents for the purpose of overthrowing the position of the president of the senate, and 2, leaders of all parties have been interested in giving an illegitimate control of the system to congress, which they could influence, rather than to the proper official. But the safe guides, the plain words of the constitution itself, and the precedents of the convention of 1787 and the earlier congresses and presidents of the senate, are very easy of access, and no human ingenuity can extract from any of them a ground for any "objections," "withdrawal to consider objections," or final "voting upon disputed electoral votes" by the congress of the United States. The design of the system was to debar congress from all control over the electoral system, excepting its powers to provide for uniformity of voting, and, always by "general law," for the authentication of the state's appointment of electors for the guidance of the official canvasser; to place upon one man the responsibility which the convention well knew would be divided up and disregarded by congress; and for further safeguard, to allow congress to witness officially the execution of its own general law by the president of the senate. It was unfortunate that the constitution did not debar congress even from this last privilege, from which alone it has gained any foothold in the canvass, and have the count conducted in the presence of the supreme court; for the history of the system is only a long record of gradual usurpation of ungranted powers by congress, until at last the witness has climbed into the judge's seat, suspended the executive officer, and not only tries the law and the facts, but executes judgment as well. — III. PERVERSION OF THE SYSTEM. (1. 1789–1821.) In this first period there is no instance of a declaration of the electoral canvass by any other power than the president of the senate, and the only open attempt to pervert the system was the federalist "bill of 1800," referred to hereafter. As the certificates which the president of the senate, in the absence of an authenticating law, decided to be valid were opened, he passed them to the tellers appointed by the two houses, who "counted" them, in the proper meaning of the word. The certificates of election, which were made out by order of congress from 1797 until 1821, all contained the distinct affirmation that "the president of the senate did, in the presence of the said senate and house of representatives, open all the certificates and *count all the votes* of the electors" The idea had not yet been taken up that congress, in its capacity as a witness, had the right to "object" to the reception of particular certificates. Indeed congress was formally petitioned to do so in 1809 (in the case of Massachusetts), and refused. No case of double or contested returns occurred, but a number of informalities are noted in the record by the tellers, which the canvassing officer seems to have considered unimportant. Even when (in 1809) he saw fit to condone so important a defect as the absence of the governor's certificate, the witnesses had or took no power to interfere. In 1797 the legislature of Vermont had failed to pass any law prescribing the "manner of election" of the electors, and the rejection of Vermont's vote would have elected Jefferson and defeated Adams for the presidency. Nevertheless, Adams accepted Vermont's votes, as equity demanded, and thus committed the "enormity" of counting himself in, without any apparent thought of objection from any quarter. Had this case of Vermont happened under the modern system of congressional control, only an "electoral commission" could have decided it, for the senate was federalist, and the house republican (democratic) In 1801 Jefferson, though in a case not so vital as that of Vermont, imitated Adams' example An amendment to the constitution was introduced in congress in January and February, 1798, for the purpose, among others, of giving congress the very power of decision upon "contests" which it now exercises without such an amendment, but this was not adopted, nor was it inserted in the 12th amendment.—But although the forms of the exercise of canvassing power were kept up during this period, its spirit was growing weaker at every count. Its first, last and persistent foe has been the congress of the United States, which the convention strove so hard to shut out from any influence over the electors. The first principal inroad upon its essence came from the innocent and proper appointment of "tellers" by the two houses "to examine the votes." Though these tellers had only the arithmetical powers common to any or all examiners, their quadrennial appointment gradually brought into existence the idea that the "count" at least, whatever its nature might be, was an exclusive prerogative of congress; and the claim of power to "canvass" was only one step further. The second attack was the organization of congressmen of both parties into nominating bodies, whose decisions bound in advance the action of the electors, annulled their right of private judgment, and reduced them to ciphers. (See CAUCUS, CONGRESSIONAL.) When this had brought about, in 1801, its natural result of a tie between the two leading candidates (see DISPUTED ELECTIONS, I.), the 12th amendment was adopted requiring the electors to vote separately for president and vice-president, but not altering the system otherwise. This constitutional recognition of the existence of parties fixed the future nullity of the electors, and their nullity gradually obscured the position of the president of the senate. Before 1801 no one knew positively what the vote of any elector was until the certificate was opened; after that year the

votes of the electors were really known before they were cast, and several months before they were formally counted by the president of the senate. He, therefore, while he continued to follow precedents, did so in a careless and perfunctory way. In 1805 Burr merely broke the seals of the certificates, and handed them to the tellers to be read aloud by them. In 1809 the idea was first suggested openly, though not acted upon, that the houses were met "for a special purpose, to count out the votes," instead of "to witness the canvass of the votes." In 1817 the first "objection" to an electoral vote was offered. Indiana had been admitted as a state after the day fixed for the voting of the electors. John W. Taylor, of New York, objected to the counting of Indiana's votes, and the houses separated to discuss the objection, as they could not do while sitting in the same room. In both houses resolutions were offered, in the senate that Indiana "had a right to vote in December last," and in the house that Indiana's votes "ought to be counted"; but neither house adopted them, and the votes of Indiana were counted without any further interference by congress. But the precedent was remembered. The announcement of Indiana's vote, following the debate upon it by congress, was accepted as *propter hoc*, as well as *post hoc;* and from that time it was evident that the last vestige, even *pro forma*, of the constitutional function of the president of the senate was at the mercy of the first keen-witted or ignorant politician who should suggest that congress, having successfully established its exclusive power to "count" the votes, possessed thereby the power "to decide what were votes." The progressive changes of language in the messages from the two houses announcing their readiness to attend the count, are worthy of notice. They are as follows: (1793–1805) that they are ready to meet one another "to attend *at* the opening and counting of the votes"; (1809 and 1813) to attend *in* the opening and counting of the votes"; (1817) "to *proceed in* opening the certificates and counting the votes," or "to proceed to open and count the votes," the former being that of the senate, and the latter that of the house. These changes are landmarks.—(2. 1821–61.) In 1821 Missouri's votes were disputed (see MISSOURI), and for the first time in our history the power to canvass the votes was claimed for congress. Said Henry Clay in the house: "The two houses were called on to enumerate the votes, and of course they were called on to decide what are votes"; and again: "Would this house allow that officer [the president of the senate], singly and alone, to decide the question of the legality of the votes?" John Randolph, indeed, denounced the new idea of congressional control, and proclaimed the electors to be "as independent of this house as this house was of them"; but his voice was unheeded. Congress had found its opportunity, and seized it, to doubly violate the constitution, first, by usurping the control of the canvass, and second, by refusing to fulfill the charge that "the votes *shall* then be counted." The votes were not really counted. The houses ordered the president of the senate to declare that "if the vote of Missouri were to be counted, the result would be for A. B. —— votes; if not counted, for A. B. —— votes; but in either event A. B. was elected." This, with a fine irony, might be called "counting *in the alternative*"; and this was the name which was thenceforward given to the process.—Congress forgets no precedents in its own favor. It had now discovered that the president of the senate was entrusted with no higher or more responsible duty than that of "opening" the certificates; that its own duty was to count the votes; but that the canvass was under no one's constitutional care. At first congress contented itself with calling attention to the "*casus omissus*" which its own ingenuity had conjured up. But during all the rest of this period, while considering the various methods of providing for the *casus omissus* which are given hereafter, congress took care to practically cover the case by asserting and enforcing its control over the canvass.—In 1837 the vote of Michigan was announced "in the alternative." (See MICHIGAN.) Objections were also made to the votes of six deputy postmasters who had been chosen electors, but congress agreed to receive them. In 1857 the vote of Wisconsin was objected to, (see WISCONSIN), but was counted. It is often asserted that the president of the senate counted it of his own constitutional authority. This is a mistake; his own statement is that he "disclaimed having assumed on himself any authority to determine whether that vote or any other vote was a good or a bad vote." He simply cut off debate while the two houses were together, as he was bound to do; the members of both houses lost their heads; no one moved for a separation of the houses; and the vote of Wisconsin was counted irrevocably in the midst of great disorder.—At every election after 1821 the tellers assume more and more of the functions of the president of the senate. In 1829 he abandons to them the declaration of the result; in 1845 he transfers to them the breaking of the seals; and the climax, for this period, was reached in 1861, when the house actually appointed a committee to report a mode of "canvassing" the votes, inserting a new word instead of "examining," which had been used since 1793. —(3. 1861–81.) With the canvass of 1865 begins the period when congress, without pausing to debate, began the exercise of an absolute control over the votes of the electors. It did so by refusing to pass the general law which it was empowered to pass, leaving individual cases to be dealt with as party needs might demand. Feb. 6, 1865, the two houses, both under republican control, passed the twenty-second joint rule, which provided that any vote to which objection should be made should be rejected, unless accepted by concurrent vote of both houses. This did not require the president's signature, and seems to have been put into this

shape for that reason. No previous American congress has ever been guilty of a more open and unnecessary usurpation than this. The act of Feb. 8 more fairly covered the case by providing that the seceding states named were in such condition on Nov. 8, 1864, that no valid election was held therein, and that no votes from them should be received. Even here the vicious propensity of congress to special legislation was apparent. Senator Collamer's substitute, giving no names of states, but referring in proper and general terms to "any state declared to be in insurrection by virtue of the act of July 13, 1861," was rejected.—Under the continuing twenty-second joint rule the votes of Louisiana were counted in 1869, and by a further concurrent resolution the votes of Georgia were counted "in the alternative." In 1873, under the twenty-second rule, the vote of Louisiana was rejected by a concurrent vote, the vote of Arkansas and three votes of Georgia for Horace Greeley (dead) were rejected by a non-concurrence, and the votes of Texas and Mississippi were accepted. Jan. 20, 1876, the house having become democratic, the senate repealed the twenty second joint rule. The two houses were therefore left to meet the election of 1876 (see DISPUTED ELECTIONS, IV.) without any law on the subject.—A very brief consideration of the facts under which the dispute as to the election of 1876 arose, will show that no such dispute could have arisen if congress had fulfilled its plain duty under the constitution, 1, by passing a "general law," for the full authentication of the electoral votes from the state to the president of the senate, and 2, by keeping its own hands off the canvass. The "count," in its strict and proper meaning, might then have been left safely to the operations of the first rule of arithmetic. But this was not the time for a great constitutional reform; the fifty years' usurpation by congress of power to decide each case arbitrarily as it arose, had left the country with no law to rely upon; the passage of a general law by congress was then an impossibility; and it is matter for congratulation that the lottery which finally decided the presidential election was at least decently clothed in the forms of law. (See ELECTORAL COMMISSION.) Of the utter illegality of the electoral commission, of the lack of power in congress to take the appointment of the electors away from the states, there can be no doubt; but there can be no more doubt, on the other hand, that congress committed no greater illegality in passing the electoral commission act than in assuming to "canvass" the votes in 1865, 1869 and 1873, under the twenty-second joint rule. President Hayes was just as illegally "counted in" as presidents Lincoln and Grant, and no more so than they.—In 1880 congress again counted the vote of Georgia "in the alternative." It had not yet, nor has it yet in 1882, passed any general law to govern the president of the senate in his canvass of the votes, and apparently intends still to persist in its traditional policy of waiting for disputed electoral votes, then claiming that there is no general law to cover the case, and finally usurping the power to decide.—IV. LEGAL LIMITATIONS. The constitutional provisions in regard to the electors will be found (see CONSTITUTION) under article II., §1, article IV., §1, and amendment XII. In pursuance of its powers to secure uniformity of voting, and to provide for authentication of state records, congress has enacted various provisions to govern the action of the electors The act of March 1, 1792, provided, 1, that the electors should be appointed in each state in 1792, and every four years thereafter, within thirty-four days preceding the first Wednesday in December; 2, that they should meet and vote on the first Wednesday in December, and transmit their votes as heretofore described; 3, that the "executive authority" of each state should certify three lists of the electors, to be annexed by them to their certificates; 4, that the secretary of state should send for the third list, if the first two were not received before the first Wednesday in January; 5, that congress should be in session on the second Wednesday in February, "that the certificates shall then be opened, the votes counted, and the persons who shall fill the offices of president and vice-president ascertained and declared agreeably to the constitution;" 6, that the certificates shall be delivered to the secretary of state in case there is no president of the senate at the capital, 7, that the electoral messengers shall receive twenty-five cents per mile by the most usual road; 8, that a fine of $1,000 shall be inflicted for neglect to deliver the lists; the remaining sections (9–12) relate to the succession to the presidency. The act of Jan. 23, 1845, fixed the day for the appointment of the electors as the Tuesday after the first Monday of November, and empowered each state to provide for filling vacancies in its "college" of electors, and to appoint a subsequent day for a choice of electors when the first election has not resulted in a choice.—V. SPECIAL ENACTMENTS 1. The act of March 26, 1804, was passed because of the doubt whether the proposed 12th amendment would be ratified in time to control the approaching presidential election. It permitted electors who, at their time of meeting, had not been notified of the ratification of the amendment, to vote twice, once according to the original mode of the constitution, and once according to the amendment, with the proviso that only those certificates should be finally valid which should be in accordance with the constitution as it should be in force on the day of voting. This, though it seems to have been legitimate, as a "general law," was made obsolete by the ratification of the amendment before the election.—2 It has always been difficult for the upholders of congressional control over the canvass to give a name to their manner of action. They do not act as a legislative body, for the president's veto power is absent; nor as a joint meeting, for the separate existence and organization of the two houses is carefully preserved; and yet, if their independence is main-

tained, their control of the canvass is manifestly and absolutely dependent on the single chance of the political agreement of the two houses, for if they are controlled by different parties they can not agree in the canvass of disputed votes. No man can say, therefore, whether the two houses are to "agree" in accepting or in rejecting a disputed vote; and this one consideration is enough to stamp a congressional "canvass" as a hopeless absurdity. The strong probability (see RECONSTRUCTION, LOUISIANA, TENNESSEE) that two of the late seceding states would attempt to reorganize themselves without congressional control, caused the introduction and passage, Feb. 6, 1865, of a "joint rule," the twenty-second, which described the manner in which the two houses intended to canvass the votes. It provided, out side of the directions for organization, that "no vote objected to shall be counted except by the concurrent votes of the two houses," thus practically giving the power to reject a state's vote not even to "congress," but to either house—an absurdity which is only one of the least in the idea of a congressional canvass. Under this twenty-second joint rule the electoral votes were canvassed in 1869 and 1873, but it was abolished in 1876, as above stated, when the two houses had fallen to opposite parties.—3. The act of Feb. 8, 1865, enacted that no electoral votes should be received or counted from the states of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas and Tennessee. The reason assigned in the preamble was, that these states had rebelled against the government and were in such condition on Nov. 8, 1864, that no valid election was held therein. President Lincoln signed it "in deference to the views of congress," disclaiming "any opinion on the recitals of the preamble."—4. The count of 1877 brought the touchstone which, when applied, will always expose the inherent fallacy of a canvass by two independent bodies. The senate was republican and the house was democratic. The difficulty was evaded in this case by the passage of the electoral commission act. It passed the senate, Jan. 25, 1877, by a vote of 47 (26 dem , 21 rep.) to 17 (1 dem , 16 rep.); the house, Jan. 26, by a vote of 191 (159 dem., 32 rep.) to 86 (18 dem., 68 rep.); and was approved Jan. 29. The germ of its idea will be found in the "bill of 1800," hereafter referred to. Both laws are open to the same fatal objection. They are not the "general laws" which congress is empowered to pass touching the authentication of state records, including electoral appointments; they do not come, directly or indirectly, under any power which congress is authorized to exercise; and they are simply refusals by congress to give up permanently its usurpation of the power to canvass, even under circumstances which show that the exercise of the power may at any moment become impossible. The fiction that congress was a more trustworthy canvassing agent than the president of the senate was long ago exploded; the experience of 1877 shows that extra-congressional agents are no better than congress; and the lesson of experience would seem to be that the canvass should be restored to the only agent from whom a decision, and a prompt decision, is always certain—the president of the senate. Nevertheless, all the remedies now (1882) under consideration retain the vice of permitting "objections" to electoral votes and decision, in one form or other, by congress. (For the important features of the act see ELECTORAL COMMISSION; for the action of congress under it, see DISPUTED ELECTIONS, IV.)—VI. PROPOSED LEGISLATION. 1. *The Bill of* 1800. Jan. 23, 1800, while the federalists controlled both houses of congress, senator James Ross, of Pennsylvania, introduced a bill to regulate the electoral count. It provided, in brief, for the formation of a "grand committee" of six senators, six representatives, and the chief justice, with power to examine and decide *finally*, in secret session, all disputes and objections as to electoral votes. Of the four members of the convention which framed the constitution who were then senators, the bill was voted for by only one, Jonathan Dayton, who had taken no real part in the deliberations of the convention itself. The other three, Charles Pinckney, Langdon and Baldwin, denounced and opposed the bill to the end. Pinckney, in his very able speech of March 28, 1800, distinctly declared the design of the constitution to have been that "congress shall not themselves, even when in convention, have the smallest power to decide on a single vote." The bill passed the senate the same day, by a vote of 16 to 12. In the house, John Marshall, Bayard and other federalists united with the democrats in emasculating the bill by giving the "grand committee" power only to take testimony and report it to the two houses without expressing any opinion on it, the return was still to be accepted, unless both houses concurred in rejecting it; and no provision was made for double returns. May 8, the senate amended by providing that a return objected to should be rejected unless both houses concurred in admitting it. Both houses refused to recede, and the bill was lost.—2. *The Benton Amendment.* Dec. 11, 1823, senator Thomas H. Benton introduced an amendment to the constitution providing that each legislature should divide its state into electoral districts; that the voters of each district should vote "in their own proper persons" for president and vice-president; that a majority in an electoral district should give a candidate the electoral vote of the district; that the returning officers should decide in case of a tie vote in any district; and that, if no candidate should have a majority of all the electoral votes, the house should choose the president, and the senate the vice-president, as at present. The amendment at this session was not acted upon.—Benton subsequently changed it by providing for a second popular election in case of a tie, and in case of a further tie, for the choice of the person

having the greatest number of votes in the greatest number of states. It was introduced in this form, June 15, 1844, but was not acted upon.—3 *The Van Buren and Dickerson Amendments.* These were introduced in the senate, the latter Dec 16, by Mahlon Dickerson, of New Jersey, and the former Dec 24, 1823, by Martin Van Buren, of New York. Both aimed to change the 12th amendment mainly by requiring the electors to be chosen by districts, instead of by general ticket. In the case of a tie vote the Dickerson amendment left the choice of president to the two houses in *joint* meeting, and of vice-president to the senate; the Van Buren amendment required the electors to be immediately convened by proclamation of the president, and to choose between the candidates having an equal number of votes, the final choice, in case of another tie, being left as at present. Neither amendment provided for disputed or double returns; and neither was acted upon.—4 *The McDuffie Amendment.* This was introduced in the house, Dec. 22, 1823, by George McDuffie, of South Carolina, as chairman of a select committee on the subject. It provided that electors should be chosen by districts assigned by the legislatures, or by congress in default of action by any legislature; that the votes should be opened and counted as at present; that in case of a tie the president of the senate by proclamation should reconvene the electors, that the electors should then choose between the tie candidates; that, in the event of another tie, the two houses of congress, voting individually and not by states, should choose the president; that, if no choice was made on the first ballot, the lowest candidate on the electoral list should be dropped at each ballot until but two remained; that, in case of a final tie, the candidate who had the highest vote at the first, or, if not at the first, at the second meeting of the electors, should be chosen; that, if neither of these provisions applied, the two houses should continue balloting until a president was chosen; and that the vice-president should be chosen by the senate, in case of a tie vote for that office. This amendment was debated during the session, but was not acted upon. April 1, 1826, in the house, McDuffie obtained a vote on his resolutions. The first, that the constitution ought to be so amended as to keep the election of president and vice-president from congress, was carried by a vote of 138 to 52; the second, in favor of the "district system" was lost by a vote of 90 to 102; and the subject was dropped.—5. *The Van Buren Bill.* April 19, 1824, the senate passed Van Buren's bill, providing that, if objection were made to a return, the return should be counted unless the houses, voting separately, concurred in rejecting it. The bill was not acted on by the house.—6. *The Gilmer Amendment.* In each of his messages Pres. Jackson recommended to congress the passage of an amendment giving the choice of president and vice-president to the people. Jan. 31, 1835, in the house, George R. Gilmer, of Georgia, chairman of a select committee on the subject, reported an amendment. It combined the direct choice by the people, and the second popular election in case of a tie, of the Benton amendment, with a provision that, in case of the death of the successful candidate at the second popular election, the vice-president "then in office" should be president. In case of a tie at the second popular election the president was to be chosen by the house and the vice-president by the senate as at present. This amendment was not acted upon.—7 *The Morton Amendment* May 28, 1874, senator Oliver P. Morton, of Indiana, chairman of the committee on elections, reported an amendment in seven sections. It provided that the states should be divided into electoral districts, and that a majority of the popular vote of a district should give a candidate one "presidential vote"; that the highest number of presidential votes in a state should give a candidate two votes at large; that the highest number of presidential votes in the country should elect a candidate; that an equal division of the popular vote in a district should nullify the presidential vote of the district, an equal division of the presidential votes in a state should divide the two votes at large, or should nullify them, if there was an equal division between three candidates; that the vice-president should be chosen in the same manner; that congress should provide rules for the election, and tribunals for the decision of contests; and that districting should be done by state legislatures, but that congress might "make or alter the same." In debate it was understood that congress could either adopt the existing courts as tribunals, or create new ones for the purpose of deciding contests. The amendment was debated through the winter of 1875, but was not finally acted upon.—8. *The Morton Bill.* Feb. 25, 1875, senator Morton introduced a bill to govern the electoral count. It followed the twenty-second joint rule, except that it provided that, if objection were made to any return, that return should be *counted*, unless rejected by a concurrent vote of both houses, and that, in case of a double return, that return should be counted which the two houses, acting separately, should decide to be the true one. This was the first provision in our history for double returns. In debate it was agreed that the vote of the state would be lost in case of a disagreement of the houses on a double return. The bill was passed by the senate, and not acted upon by the house. At the next session it was brought up again, Dec. 8, 1875, debated, until March 24, 1876, and then passed by a party vote of 32 to 26 democrats in the negative. The same day a motion to reconsider was entered by a democratic senator, and carried April 19. It was then debated until Aug. 5, and dropped. Had it become a law it would have seated the democratic candidates at the following election.—9. *The Buckalew Amendment.* This, drawn up by ex-senator Charles R. Buckalew, of Pennsylvania, was introduced in the house Feb. 7, 1877, by

Levi Maish, of the same state. It provides for direct popular vote by electoral districts, and assigns to each candidate a proportion of the state's electoral vote corresponding to his proportion of the state's popular vote. It has never been acted upon.—10. *The McMillan System.* This system contemplates the nomination of presidential candidates by state legislatures, each nomination to specify whether it shall be classed in "the first presidential canvass," or in "the second presidential canvass"; an election by a majority of the general popular vote; and, in default of a popular majority, a second general election, to be confined to the highest candidate in each "presidential canvass." This last term is another phrase for political party, and its introduction is intended to prevent the possible second election from being confined to two candidates of the same party. The system has only been unofficially proposed in Mr. McMillan's work cited below.—11. *The Edmunds Bill.* This bill to regulate the electoral count, introduced in 1878 by senator George F. Edmunds, of Vermont, provided that the electors should be appointed on the first Tuesday of October and should meet and vote on the second Monday of the following January; that each state "may provide" by law for the trial of contests, and the decision shall be conclusive of the lawful title of the electors, that, if there is any dispute as to the lawfulness of the state tribunal, only that return shall be counted which the two houses, acting separately, shall concur in deciding to be supported by the lawful tribunal; that, if there are double returns from a state which has not decided the title of the electors, only that return shall be counted which the two houses, acting separately, shall decide to be legal; and that, if any objections are made to any single return, it shall not be rejected except by the affirmative vote of both houses. The bill was not passed. It was introduced again, Dec. 19, 1881, by senator George F. Hoar, of Massachusetts, but has not yet (1882) been passed. The bill would be perfectly in accord with the design of the electoral system if its code of rules had been still more carefully drawn and made obligatory upon the president of the senate alone; but, by reserving to the two houses, even concurrently, the power at their own partisan pleasure to adjudicate special cases, and even over-ride their own previous enactments, it retains the vicious principle which has been the source of all our difficulties. The difficulty lies, not in the electoral system, but in the determination of congressmen of both houses, and of all parties, to meddle with a duty which the constitution distinctly intended to free from their control.—VII. INCIDENTAL FEATURES. In 1789 no electoral votes were cast by New York, Rhode Island or North Carolina. The two latter states had not yet ratified the constitution. In New York the anti-federalists of the assembly wished to choose electors by joint ballot; the federalists of the senate insisted upon having half the electors, and no electoral law was passed. Electors were generally chosen by the legislatures in all the states until about 1820–24. In Maryland, North Carolina and Virginia they were chosen by popular vote in electoral districts. In Massachusetts the people of each congressional district nominated three electors, of whom the legislature chose one, and the two electors at large. Occasionally the district system was adopted for a time by other states, but was altered as party interest demanded, as in 1812, when the democratic legislatures of Vermont and North Carolina and the federalist legislature of New Jersey repealed the law for the choice of electors by popular vote just before the day fixed for the election, and assumed the choice themselves. The following legislature of North Carolina re established the district system, and recommended the adoption of the amendment subsequently known as the "Benton Amendment."—In 1800 the democratic assembly of Pennsylvania wished to choose electors by joint ballot, in order to secure the whole number, while the federalist senate insisted on having seven of the fifteen electors. A bill to that effect was passed, Dec. 1, 1800, just in time to enable the electors to vote, Dec. 3. The "bill of 1800," heretofore mentioned, was aimed at Pennsylvania's vote. In South Carolina, in 1800, the legislature which was to choose the electors was extremely doubtful, even after its meeting. The democrats offered to compromise on Jefferson and Pinckney, which would, as it proved, have made Pinckney vice-president; but the federalists stood to their whole ticket and lost it, 83 to 68. At the count of the votes in February, 1801, Jefferson, the president of the senate, counted the votes of Georgia for himself and Burr, as equity demanded, although the tellers called his attention to the absence of any certificate that the electors *had* voted for them. The votes of Georgia, however, were not essential to the result. (For the tie vote and its results see DISPUTED ELECTIONS, I.)—In 1816 three electors in Maryland and one in Delaware, belonging to the almost extinct federal party, neglected to vote, and in 1820 Pennsylvania, Tennessee and Mississippi each lost an elector by death. (See ELECTORAL COLLEGE.) One elector in New Hampshire voted for John Quincy Adams for president, so that Monroe did not have a unanimous vote. Missouri, whose final admission only dated from Aug. 10, 1821 (see MISSOURI), chose presidential electors in November, 1820, and their votes were "counted in the alternative," as before mentioned.—In 1824 the electors made no choice. (See DISPUTED ELECTIONS, II.) The electors were now chosen by popular vote in all the states excepting Delaware, Georgia, Louisiana, New York, South Carolina and Vermont, where they were still chosen by the legislatures. In 1828 and subsequent years electors were chosen by popular vote in all the states excepting

South Carolina, where the legislature chose them until 1868.—Michigan, which was not admitted until Jan. 26, 1837, chose presidential electors in November, 1836, and their votes were "counted in the alternative." No choice of a vice-president was made by the electors. (See DISPUTED ELECTIONS, III.) In 1856 the Wisconsin electors were prevented by a violent snow storm from meeting and voting on the day fixed by law (Dec. 3), and met and voted Dec. 4. In counting the votes, Feb. 11, 1857, objection was made to Wisconsin's vote. The president of the senate, senator Mason, of Virginia, decided debate to be out of order; no motion to separate was made; and the vote of Wisconsin was counted. In 1865 the president of the senate, "in obedience to the law of the land" (the act of 1865), refused, when requested, to open the certificates sent by Louisiana and Tennessee.—In 1869 the votes of Mississippi, Texas and Virginia, which had not been reconstructed, were not received, and the votes of Louisiana were counted. The votes of Nevada were objected to, but the president of the senate refused to entertain the objection, on the ground that it was made too late. Georgia, which had been reconstructed, had proceeded to deny the eligibility of negroes to the legislature. Her electors had voted on the *second* Wednesday in December, as required by state law passed under the confederacy, instead of the *first* Wednesday, as required by law, and on this ground it was known that objections would be made to their votes. It was therefore arranged by joint resolution to "count them in the alternative." Nevertheless, objection was made to Georgia's vote. It was sustained by the house, and overruled by the senate, and the president of the senate decided that they must be counted in the alternative, decided debate out of order, and refused to allow an appeal from his decision. The vote was finally made up in the midst of disgraceful disorder.—In 1873 double returns appeared for the first time, from Louisiana and Arkansas. The two houses concurred in counting the votes of Texas (objected to for want of the governor's certificate), and of Mississippi (objected to for want of a certificate that the electors had voted by ballot), and in rejecting the vote of Arkansas, for want of the governor's certificate. By disagreement of the two houses three votes of Georgia for Greeley (dead), and the entire vote of Louisiana were rejected.—In 1877 the result of the electoral vote was disputed. The facts and mode of settlement are elsewhere given. (See ELECTORAL COMMISSION; DISPUTED ELECTIONS, IV.) In 1881 the electoral votes of Georgia, which were still cast on the wrong day, were "counted in the alternative."—See (I.) 1 Elliot's *Debates*, 182, 208, 211, 222, 228, 283, 290, 302; 5 Elliot's *Debates*, 128, 131, 141, 192, 322, 334, 363, 507, 520, 586. (II.) McKnight's *Electoral System; The Federalist*, lxviii.; Story's *Commentaries*, § 1449; 2 Bancroft's *History of the Constitution*, 169; Rawle's *Commentaries*, 58, 2 Wilson's *Law Lectures*, 187; 1 Kent's *Commentaries*, 262; *Phocion's Letters* (in 1824, copied in 24 Niles' *Register*, 373, 411); 5 Elliot's *Debates*, 541; the arguments and precedents in favor of the power of congress to canvass the votes will be found in Appleton's *Presidential Counts*, pp. xliv.–liv. (III.) See *Annals of Congress* for the year required; these are collected in a more easily accessible form in Appleton's *Presidential Counts*, and the volume entitled *Counting the Electoral Votes*, (H. of R. Misc. Doc., 1877, No. 13). (IV.) 1 *Stat at Large*, 239 (act of March 1, 1792); 5 *Stat. at Large*, 721 (act of Jan. 23, 1845); *U. S. Rev. Stat.* §§ 131–142. (V.) 2 *Stat. at Large*, 295 (act of March 26, 1804; *Counting the Electoral Votes*, 224, 786 (the twenty-second joint rule); 13 *Stat. at Large*, 490 (act of Feb. 8, 1865); 19 *Stat. at Large*, 227 (electoral commission act). (VI.) *Counting the Electoral Votes*, 16 (bill of 1800); *Annals of Congress* (6th Cong.), 126 (Pinckney's speech), Appleton's *Presidential Counts*, 419 (ibid.); 7 Benton's *Debates of Congress*, 472, 473, 480 (the Benton, Dickerson and Van Buren amendments respectively), *Counting the Electoral Votes*, 711 (the McDuffie amendment); 7 Benton's *Debates*, 603, (purports to give the amendment, but omits the amendment proper, as to the election of president, and gives only the provisions relating to the election of vice-president); 12 Benton's *Debates of Congress*, 659 (the Gilmer amendment); *Counting the Electoral Votes*, 422 (the Morton amendment); *Congressional Record*, Feb. 25, 1875 (the Morton bill); *North American Review*, January, 1877 (the Buckalew amendment); McMillan's *Elective Franchise; Congressional Record*, Dec. 19, 1881 (the Edmunds-Hoar bill). (VII.) *Counting the Electoral Votes*, and Appleton's *Presidential Counts;* for Jefferson and the Georgia votes in 1801 see, on the one side, 2 Davis' *Life of Burr*, 71, and on the other, 1 *Democratic Review*, 236.

ALEXANDER JOHNSTON.

EMANCIPATION, Political and Religious. To emancipate a class of persons is to deliver them from the inferior condition in which they were held and give them the equal rights of citizens. Equality is a natural right. Civil society was established for the purpose of acquiring and preserving it, by putting an end to the abuses of force, the cause of inequality. It is, therefore, a violation of the principle on which society is based to establish or recognize in a state different orders of persons, some of whom enjoy the full rights of citizenship, while others are reduced to a state of subjection. So long as they bear the same burdens, and perform the same duties, all should enjoy the same rights and political advantages.—This truth is not a new one in the world. Christianity laid down the principle that every man, by the fact alone of his being a man, had the same dignity and the same right to justice and liberty. But how many ages were needed for the ideas introduced into the world by Christianity to germinate and bear fruit! For

fully nineteen centuries, differences of religion, of class, color and nationality, continued to serve as pretexts to oppress and deprive of legal protection a more or less considerable part of the population of every country. Freedom of the individual, of conscience and civil equality, are of very recent date.—It is not a hundred years since Rousseau could justly reproach Frenchmen with assuming the title of *citizens* without even knowing the meaning of the term, and remind them that the name of *subjects* was far better suited to most of them. In England the Catholics have enjoyed civil equality only since 1829. The Jews won the right to sit in parliament only in 1859. In France the traces of hate and prejudice of which they were victims have disappeared only since 1830, and the emancipation of Protestants in that country dates only from the revolution. There were serfs in France in 1789, and it required a second or rather a third revolution (1848) to solve the question of slavery. In another order much time was required to put the principles of liberty and social equality into practice with regard to French colonies, for France admitted them to the enjoyment of political rights only in 1870, and she still imposes restrictions on their commerce (though less than formerly), the results of which are injurious to them as they are of doubtful utility to the mother country.—The causes of civil inequality lie in the ignorance or misunderstanding of the natural rights of man. It was when it might be said that the human race had found its true title deeds that these causes lost their influence. The honor of this belongs to the philosophy of the eighteenth century. By preparing the triumph of philosophic reason over religious fanaticism and the final destruction of the feudal system, it became the most active agent of emancipation.—But, as has been frequently remarked, the ideals of the eighteenth century have been surpassed in our time. As always happens, beyond the progress made, there were still other kinds of progress whose possibility was not at first suspected. Thus Voltaire did not even dream of putting Protestants in France, and still less the Jews, on the same footing with Catholics. He admitted that public offices and employments might be refused them. He found in this monstrous inequality merely a necessary fact, a condition inherent in the social state. In France, in his time, non-Catholics themselves did not dare to lay claim to a share in political life. When the constituent assembly declared, Aug. 21, 1789, that all citizens, being equal in its eyes, were equally eligible to all public places, employments and dignities, non-Catholics were implicitly excluded from the equality thus proclaimed, so that it was necessary, a few months later, to issue a special decree providing that non-Catholics were eligible for all civil and military employments, as well as other citizens. The preamble announced, in addition, that the assembly did not decide anything relative to the Jews, the consideration of whose case it reserved. (Decree of Dec. 24, 1789.) So that in laying down the principle of absolute equality, it limited its action to freeing the non-Catholics from persecution.—This inconsistency is explained easily enough. The chief object of the philosophical controversies of the eighteenth century had been freedom of conscience; but the question had not yet been considered from the purely political point of view. There still existed a state religion in France, and the majority of the constituent assembly wished to maintain it But the existence of a dominant religion naturally excludes dissidents from offices and public employments.—The French revolution, which, more than anything else, had the unity of the country in view, was not slow in comprehending that this unity, the source of national power, could not be effectually acquired unless civil equality were granted to all; and by according full and complete equality to dissidents it performed not merely an act of justice, but took a wise political measure.—Historians have told us what the revocation of the edict of Nantes cost France; but no one, so far as we know, has calculated the material and moral gain to regenerated France, from its proclaiming the equality of religions before the law.—English statesmen were not mistaken here. The duke of Wellington and the tories associated with him in power in 1829, were not inclined to yield exclusively to the influence of philosophical ideas. When, notwithstanding their antecedents and their personal dislikes, they decided to propose Catholic emancipation, it was because they felt that this was the price of the moral unity of Great Britain, that the sentiment of common liberty and civil equality was the only one in which Ireland could sympathize with England, and that agitation and continual strife would cease only through one of two means: the extermination or emancipation of Catholics Subsequent events have shown that they were right. England, freed from one cause of internal dissension, regained a liberty of action which contributed to insure her preponderance in Europe, during the years which followed 1830.—From this experiment and many others we may deduce the principle, that a nation grows in power, in activity, in fruitfulness, in proportion as the same law is in force for all in the broadest and most liberal manner. In France national power has increased in direct ratio to the progress of civil equality; the history of its growth is identical with that of the emancipation of the third estate and the abolition of serfdom. Here, again, humanity and policy were at one. Humanity demonstrated that serfdom—that is to say, to have men attached to the soil, identified with it, looked upon as feudal property, unable to dispose of their goods, unable to leave to their own children the fruit of their labor—was unworthy of a generous nation; and policy showed "that such arrangements are only fitted to enfeeble industry and deprive society of the effects of that energy in labor which the feeling of property is

alone capable of inspiring."—These motives, by which Turgot, in 1779, justified the abolition of serfdom in the domains of the king, are the same which were destined to lead to the emancipation of slaves. England had preceded France in this work of emancipation. After Aug. 1, 1838, there were no slaves in the English Antilles, when the provisional government in France decreed immediate and complete emancipation. Every one, beyond a doubt, was agreed on the principle; but on the eve of the revolution of February, the idea of gradual abolition still prevailed, and unconditional abolitionists, who placed humanity and justice before all things, were in a minority. —EMANCIPATION OF CATHOLICS. *In Great Britain.* The term *Catholic emancipation* was given to the act by which the Catholics of the United Kingdom were freed from the political disabilities which excluded them from parliament and all high offices of state; but this act itself was only the completion and consequence of a series of measures intended to restore to the Catholics of England and Ireland the rights of property and individual liberty of which they had been deprived in consequence of the reformation in Great Britain, or rather of the struggles which followed it. Henry VIII., when he separated from the Catholic church, retained its dogmas and discipline. It was only under his successor, Edward VI., that the Anglican church decided in favor of the reformation, which finally triumphed during the reign of Elizabeth after a bloody reaction under Queen Mary. From this period the persecution of Catholics became regular, and assumed a legal form; the basis of all the penal laws which followed, are found in the *acts of uniformity and supremacy.* The act of uniformity prohibited the use of any liturgy but that of the official church, under pain of confiscation for the first offense, imprisonment for a year for the second, and imprisonment for life for the third. A fine of one shilling was imposed for absence from the state church on Sundays and holidays. By the act of supremacy every beneficed clergyman and every layman in the employment of the crown was obliged to abjure the spiritual sovereignty of the pope and recognize that of the queen, under penalty of high treason for a third offense.—These penal laws soon became more severe. In 1593 the penalty of imprisonment was pronounced against all persons above the age of sixteen who should fail for one month to appear at church, unless they made an open act of submission and a declaration of uniformity. Catholics filled the prisons. They were ruined by fines or left the country. There were hunters of Catholics who tracked the fugitives. — Under James I. new statutes deprived the Catholics of the control and education of their children; but while parliament imposed these penalties, the king, personally favorable to Catholics, procured them some tranquillity. This condition of relative quiet continued under Charles I. and Cromwell, and the penal laws were not enforced till the restoration of Charles II. Under his reign, and notwithstanding his sympathies for the Catholics, the *test* act was passed. It declared all persons incapacitated to fill any public office who refused to renounce the doctrine of transubstantiation (1673). — In 1679 the Catholics, already excluded from the house of commons, were also excluded from the house of lords. Finally, after the revolution of 1688, though William of Orange was disposed to toleration, Anglican fanaticism ruled without control. Priests were forbidden, under pain of imprisonment for life, to celebrate mass or exercise their functions in England, unless in the house of an ambassador. A priest residing in countries subject to the crown of England was considered guilty of high treason unless he had taken the oaths of supremacy and uniformity. All persons furnishing him an asylum were guilty of felony, without benefit of clergy.—Laymen professing the Catholic religion and refusing to assist at the services of the established church, incurred, besides the pains and penalties mentioned above, the loss of their right of exercising any employment, of possessing landed property after the age of eighteen years, and of having arms in their houses. They were forbidden to come within eighteen miles of London, or to go farther than five miles from home without permission. Women might be detained in prison if their husbands did not ransom them; they lost a portion of their dowry. A Catholic could not bring a case at law; and a wife could neither be the heir nor the testamentary executor of her husband. Marriages, burials, baptisms, could be officiated at only by a clergyman of the official church —The situation of the Catholics in Ireland was still more frightful. There also the acts of uniformity and supremacy had been forced on the people by the prison and the scaffold. But four-fifths of the population were and wished to remain Catholic. The struggle was prolonged into a war of extermination. Defeated at the battle of the Boyne (1690), the Catholics signed the treaty of Limerick. It was agreed that Roman Catholics should retain the exercise of their religion as under the reign of Charles II., and the king agreed to obtain the most ample guarantees for them. These were refused by parliament. The Anglican bishop of Meath justified this breach of faith by proving, in a sermon preached before the *lords justices*, that Protestants were not bound to observe the peace concluded with the papists.—A new parliament, convened in 1695, undertook as its first work to ascertain the condition of the penal laws. A committee appointed for this purpose reported that the principal ones were: 1st, an act requiring the oath of supremacy for admission to all employments; 2d, an act imposing fines for absence from the services of the established church; 3d, an act authorizing the chancellor to appoint a guardian to the child of every Catholic; 4th, an act prohibiting instruction to Catholics. This legislation served as a point of departure for other acts

which expelled Catholic priests and prelates, deprived parents of the right to instruct their own children except through Protestant masters, ordered the general disarmament of Catholics, excluded them from public employments, and repealed the laws which confirmed them in the enjoyment of their property. All this was done at a time when England received the Protestants driven from France, and conferred on them the rights of citizenship. At this period there were three or four millions of Irish Catholics, but, as far as the law was concerned, they existed no longer. It did not recognize that there were, in Ireland, any citizens but Protestants. Things thus continued during the first two thirds of the eighteenth century, so that the earliest events which were the incentive to emancipation were purely political. These events were a consequence of the ideas of independence and national interests common to all the inhabitants of Ireland, propagated by the Protestant, Swift, and before him by Molyneux.—In 1773 the Catholics esteemed as a great favor an act which, without changing the penal laws in any way, permitted them to take a new oath as a pledge of their loyalty. This act implicitly recognized their existence. About the same time a Catholic committee was formed.—The spirit of the time had changed. George III., in his zeal for Anglicanism, upheld the penal laws, but parliament practiced toleration in spite of the king, as at a former time it had been intolerant in spite of William III. In 1778 it was provided, on motion of Sir George Saville, 1st, that Catholic priests discovered performing their functions should no longer be subject to the penalties of high treason; 2d, that a son, by accepting the Protestant religion, should no longer be able to despoil his father; 3d, that the power of acquiring property by purchase, inheritance or gift should be restored to Catholics. Nevertheless, at the end of the eighteenth century these just measures excited among English Protestants the most formidable insurrection. On May 30, 1780, 60,000 men, under the leadership of Lord George Gordon, a half-crazy fanatic, besieged the houses of parliament; repulsed by the military they wrecked the houses of the principal members of parliament, attacked and burnt the prisons, assassinated Catholics, and were the cause of a frightful conflagration in the city. When order was re-established, parliament limited itself to furnishing some explanations intended to satisfy public opinion on the interests of the Protestant religion. Things remained as they were before the insurrection.—The example given in England was followed in Ireland. In 1778 a bill was passed which permitted Catholics to teach and exercise guardianship over their own children. The privilege of living in Limerick or Galway was restored to them. The prohibition of owning a horse worth more than five pounds sterling was done away with. From 1790 to 1793 several bills in succession permitted Catholics to engage in the profession of the law, to receive apprentices, to occupy positions in the army as high as colonel inclusive, to have arms on condition of possessing property of a certain value, to be members of a grand jury and justices of the peace, to hold subordinate civil positions, and, which was of great value, to vote at elections. These acts did away with the obligation of attending Protestant service, even authorized Catholic priests, under certain restrictions, to celebrate mass, and removed the remnant of the restraints on acquiring and holding property. The benefit of these laws was acquired by taking an oath, renouncing allegiance to the pretender, and disavowing the doctrine that contracts with heretics may be broken, and that princes excommunicated by the see of Rome may be deposed and put to death.—When the pact of parliamentary union was established in 1798 between Ireland and England, the latter promised, as a compensation, to abolish all remaining political disabilities. George III. refused to keep the promise of his minister, and William Pitt resigned his office. Thus deceived, Ireland had the courage to employ only legal means to assert her rights. Under the direction of John Keogh, and soon after of O'Connell, the Catholic association was able to arouse and support one of those great movements of public opinion which, in enlightened and free countries, prepare and necessitate the regular change of institutions. A continually growing minority in parliament were in favor of emancipation. It might have been believed, in 1813, that the cause was about to triumph. The bigotry of George III. had become a characteristic folly, and his successor showed more generous tendencies.—The condition of the Catholics of England was improved in the same degree as that of their co-religionists in Ireland. Instead of following, in all its details, the gradual abolition of the restrictions and penalties imposed on them, we shall describe the condition of both on the eve of Catholic emancipation. A Catholic could sit neither in the house of lords nor in the house of commons, he was excluded from every judicial office; the higher grades of service in the army and navy were opened to him by law only since 1816; he had no voice in the vestries, though these assemblies had the right of imposing heavy taxes; he could be neither governor nor director of a bank, nor occupy a number of other honorary or lucrative offices. If a Catholic in Ireland did not possess a freehold of a hundred pounds a year, or personal property to the amount of a thousand pounds, he had not the right to keep arms, he was subject to domiciliary visits, and in certain cases to imprisonment, to the pillory or to flogging; he was excluded from certain occupations, such as that of gamekeeper and gunsmith. If a Catholic died without having appointed a guardian to his children, the chancellor had the right of setting aside the nearest relatives and appointing a Protestant stranger. If a Catholic corresponded with the pope, he became guilty of high treason. Catholic endowments, either charitable or benev-

olent, were expressly forbidden. A Catholic priest who, even by mistake, should marry a Catholic and Protestant, incurred capital punishment. A Catholic priest was liable to imprisonment if he refused to make known the secrets of the confessional before a court of justice. Finally, to retain their property, to practice their religion, in one word, to profit by all the favorable acts passed since 1778, Catholics were obliged to take the oath of fidelity and renounce the temporal authority of the pope. This résumé does not include certain regulations more vexatious than important, such as the prohibition of pilgrimages, the duty imposed on magistrates of destroying Catholic crosses, paintings and inscriptions. —Such was the legal position of four or five millions of citizens. We have stated, in the introduction to this article, how the duke of Wellington's government was led to put an end to this state of affairs. On March 5, 1829, Robert Peel laid before the house of commons the emancipation bill, entitled, *An act for the relief of his majesty's Roman Catholic subjects*. Neither the rage of the Protestant party of 1780, nor the enthusiasm of the French revolution, were witnessed at the time, the measure was proposed and voted as a political expedient. The danger of internal dissension, the necessity of decreasing the influence of the priests, as well as of dissolving the Catholic association by granting what it asked for, and the impossibility of continuing the struggle longer, were the motives that the ministry brought to bear. The bill passed the house of lords, by 212 votes against 112, in spite of the opposition of certain bishops, and was finally adopted April 13, 1829. The act or bill of emancipation (Act 10, George IV., chap. vii.) formally abolished all preceding laws, not, however, without certain reservations. Thus, every Catholic could be a member of the house of lords or commons, on condition of his taking an oath of fidelity to the king and the *Protestant* dynasty, instead of the oath of supremacy and abjuration; of his declaring that he did not consider it an article of faith that princes excommunicated by the pope might be deposed and put to death by their subjects; of his recognizing that the pope had neither civil power nor jurisdiction in the kingdom, and promising to maintain the established church in its privileges and property. By taking the same oath Catholics were allowed to vote at elections for the house of commons, and were eligible to civil and military employments, with the exception of the office of lord chancellor of England or of Ireland, lord lieutenant of Ireland or high commissary to the general assembly of the church of Scotland. Roman Catholics might become members of lay corporations, on condition of taking the above oath and such other oaths as should be required of the members of these corporations, but without being able, while sitting in the same corporations, to cast a vote on questions of presenting an ecclesiastical benefice. No particular oath was required to enable Roman Catholics to possess personal property or real estate, nor for their admission to the army or the navy. The bill at the same time contained a clause directed against O'Connell, elected from the county of Clare, who generously sacrificed his interest to the success of the common cause. The property qualification for voters was raised, in Ireland, from forty shillings to ten pounds, which did not, however, prevent the great agitator from entering parliament.—The emancipation act was justly considered a great boon. The London *Times* remarked that hitherto the union of the three nations was merely nominal; there could be no harmony between the serf and his master, between the suspicious oppressor and his victim. Catholic emancipation was a victory whose consequences would be so many benefits for the remotest generation, for it brought peace and happiness to Ireland and was an element of strength and dignity for Great Britain. Experience has confirmed all this.—*In Other Countries*. We could not well think of reproaching the pope, when still in possession of the temporal power, with depriving non-Catholics of all political and even civil rights. Civil equality was not compatible with the nature of his government. But we are astonished that in liberal Holland Catholics were so long excluded systematically from the employ of the government in spite of the law of 1798 which emancipated them; that in Sweden, a country where Protestantism is dominant, that is to say, where the right of each one to account only to himself for his faith is recognized, dissidents are still excluded from public offices, and citizens professing the state religion are forbidden under penalty of perpetual banishment to embrace another religion.—It is remarkable that the pretext for the first invasion of Poland in 1768 was the emancipation of the *Ruthenians* of the Greek rite whom the Catholics held in an inferior political condition. At present, Russia is endeavoring to impose on Polish Catholics the orthodox religion in order to attach them to the throne of the czar and make them forget their own nationality, but we know that every step taken in such a direction leads from the desired end. After similar acts of violence committed in France against the Protestants the only result was to obtain apparent conversions and make the two nations almost irreconcilable.—In Russia proper, atrocious persecutions were carried on from 1832 to 1855, to favor the progress of the dominant religion. According to Dupretz (*Revue des Deux Mondes*, 1850, vol. i.) more than five millions of United Greeks, or Greek Catholics, were obliged to join the Russian church. In giving an account of the means employed to effect this end we do not find measures tending to abolish civil equality between the dissidents and the orthodox, and this is easily understood in a country in which the whole nation was subject to the machinery and the external forms of a military government. Recourse was had, therefore, to other means; for instance, a ukase of

Jan. 2, 1839, granted complete amnesty to persons condemned for robbery or murder, to the knout, to mines, or to the galleys, as a reward for conversion. Another ukase of March 21, 1840, decreed that every person who should leave the orthodox religion would lose the administration of his own estates, that he could not hold orthodox serfs in his service, etc. The measures decreed under Nicholas I. had nothing of the generous ideas of emancipation which the Russian government applied under Alexander II. to forty millions of his subjects in the question of serfdom. Neither did it in any way resemble the toleration professed by Catherine II., which Voltaire, with a complaisance for which he has been blamed, praised too highly. The illustrious philosopher was scarcely more in the right when, to satirize the morals of Europe, he delighted in lauding the followers of Confucius. Better informed in our time he would, no doubt, have applauded article thirteen of the treaty of peace and alliance concluded at Pekin in 1860, which abolished all penalties and disqualifications affecting Christians in China. But perhaps he would have been less pleased with the clause binding the Chinese government to accord missionaries effectual protection, a protection which appears to be of another kind than that guaranteed to travelers and merchants. He would at least have observed that the conditions of just reciprocity would impose on the French government the obligation of extending a special and effectual protection to bonzes who should try to convert us to the most ancient religion of Asia. It is well to emancipate the members of Christian communities, but for them, as for all others, equality should be the rule.

CASIMIR FOURNIER.

—EMANCIPATION OF PROTESTANTS. In the general reaction in France which followed the death of Louis XIV., the regent thought of *recalling the Huguenots*. This inaccurate expression, which was frequently employed in the eighteenth century, was employed to mean the recalling of Protestant refugees to France, and the giving of a civil status to those who had remained in France. Saint-Simon boasted of having made the duke of Orleans abandon this project: he admitted, however, that the legislation of Louis XIV., so harsh toward Protestants, was confused and contradictory, and caused the government frequent embarrassments, especially in questions of marriage and wills. The traditions of the administration had more weight with the regent than the opinion of Saint-Simon. These traditions were represented and upheld especially by a family formerly Protestant, that of Phelyppeux, which during almost two whole centuries furnished secretaries of state, under the names of Pontchartrain, Saint-Florentin, Maurepas, La Vrillière. The count of Saint-Florentin, in particular, during a ministry of fifty-two years devoted himself with a rare degree of bureaucratic stubbornness to keeping the Protestants under the yoke.—The honor of having given the first impulse to emancipation in France belongs to Voltaire. Immediately after a renewal of persecution in the city of Toulouse, noted for the tortures of the pastor Rochette, of the three brothers Grenier, accused of wishing to liberate him, and of Jean Calas, Voltaire called attention to the condition of the Protestants of France, by the success of his efforts, continued during three years, to reverse the decision in the case of Calas, and during nine years in that of Sirven. With the aid of the Duke de Choiseul he endeavored to found at Versoix a manufacturing town whose clock making should rival that of Geneva, and where Protestant workmen should not only enjoy civil rights but even freedom of worship. Voltaire encouraged with all his power writers of his own school and certain tolerant magistrates to publish *mémoires* on the civil condition of the Protestants, and particularly on the necessity of recognizing their marriages. Rippert de Monclar, Turgot, Target, Condorcet, Gibert de Voisins, Robert de Saint-Vincent, and especially Malesherbes, pleaded the cause of tolerance. Several lawsuits added to the effects of the *mémoires*. By the law every marriage celebrated according to the reformed rite was null and void. The children born of such a marriage were illegitimate and incapable of inheriting, so that any collateral relation, no matter how distant, might lay claim to the estate of a Protestant provided the claimant was a Catholic or became one At the end of a century this odious system had introduced inextricable confusion into the situation of 300,000 families, who were without any civil status. The government thus found itself more and more embarrassed from such a state of things. The advent to the ministry of certain tolerant men like Choiseul, and, later, Castries, Breteuil, and especially Turgot and Malesherbes, was calculated to improve the condition of things. Louis XVI. desired to put an end to the disorder by a spirit of kindness and justice. Turgot states that at the moment of his consecration the new king, instead of pronouncing the words obliging him to exterminate the heretics, muttered some confused words, which accords very well with the mixture of generous intentions and weakness which characterized this unfortunate prince.—The end of persecution was brought about by a more resolute man whose name marks the advent of modern society in France. Lafayette, who had become intimately acquainted in America with Protestantism and the practice of religious liberty, wrote to Washington on May 11, 1785, that he was resolved to take up the cause of his Protestant countrymen, and his illustrious friend encouraged him in this design worthy of them both. Lafayette undertook to examine in person the principal centres of the Protestant population. For this purpose he went to Nimes and attended the Protestant worship in the open air, conducted by Rabaut-Saint-Etienne. After the service Lafayette embraced the pastor and engaged him to come to Paris to labor in obtaining civil

liberty for his co-religionists. This was the beginning of the political career of Rabaut-Saint-Etienne. His expenses were paid by a subscription, made by the Protestant churches of Nimes, Montpellier, Marseilles and Bordeaux. He came to Paris under the pretext of publishing his *Lettres à Bailly sur l'histoire primitive de la Grèce.* Introduced by Lafayette into Parisian society and to the ministers, the future president of the national assembly was received with curiosity and interest. It was something to get a close view of a man whose profession, which he openly acknowledged, condemned him to death, and who according to the expression of the time was a candidate for martyrdom. With Malesherbes Rabaut prepared the way for emancipation. This minister succeeded in gaining over public opinion through a work which he had written by an academician, Rulhières, more celebrated then than he is now, two volumes of *Eclaircissements historiques sur les causes de la révocation de l'edit de Nantes, tirés des archives du gouvernement.*—The councilors Bretignière and Robert de Saint-Vincent had already laid before the parliament of Paris propositions favoring the Protestants. May 23, 1787, an assembly of notables, of which Lafayette was a member, presided over by Count d'Artois (afterward Charles X.), expressed a unanimous wish to restore their civil status to the Protestants. A petition was presented to Louis XVI., by his brother. At length the edict of reinstatement appeared (Nov. 1787). It was far from restoring to the Protestants the rights accorded them by the edict of Nantes, and to France the glory which she had had of being the first to proclaim liberty of conscience. The reformed religion continued to be prohibited; and, according to the terms of the preamble, the law accorded to the Protestants only "that which natural law forbids us to refuse them, the power to prove their births, their marriages and their deaths." The innovation consisted in this, that the officers of justice and their clerks were charged with registering the marriages, births and deaths in the absence of Catholic priests. This concession was an immense benefit; and the edict, incomplete as it was, does honor to the memory of Lafayette, Malesherbes and Louis XVI. The Protestants of France were no longer outside the pale of society. They appeared in crowds to legalize their condition, and in many places three generations of the same family were seen registering their marriages at the same time. The national assembly completed the work of Louis XVI., Aug 23, 1789, by the following decree: "No one shall be disturbed on account of opinions even on religion, provided their manifestation does not disturb the public order established by law." This liberty was at once confirmed, regulated and restrained by the organic law of the first consul (germinal, year X.), which was itself modified and amended by a decree of the president of the republic, dated March 26, 1852.

ATH. COQUEREL, JR.

—Emancipation is not yet complete the world over. It may be considered complete in England and in all the countries inhabited by the Anglo-Saxon race or which are connected with Great Britain, as well as in nearly all Protestant countries. Holland, Prussia, Denmark, Sweden and Norway are almost the only exceptions In these countries, the Lutheran being the state church, those who are separated from it, whether Catholic or Protestant dissenters, are subject to exceptional laws, do not enjoy all the rights of other citizens, and are not admitted to public offices. It is proper to acknowledge that the efforts of government tend to put an end to such an abhorrent state of things, and that the laws voted in 1860 by Sweden show a notable progress. — In Russia the Protestant population, grouped in compact masses in the Baltic provinces, appears to enjoy as many rights as the orthodox subjects of the czar; still a pressure is exercised to induce, if not to constrain, them to accept the orthodox church.—In Switzerland, a mixed but a free country, the political emancipation of Protestants is complete even in the Catholic cantons. The cases of mixed marriages, however, still present difficulties of more than one kind, and have caused conflicts between the cantons —Four millions of Austrian Protestants have long been in a difficult and precarious condition, which at one time seemed on the point of becoming more serious on account of the concordat concluded in 1855 between the holy see and the Vienna government. This act assured a complete preponderance to the Catholic church, with immunities and extensive privileges, created a clerical censorship over publications of every kind, and established ecclesiastical tribunals, which in the case of mixed marriages were able to interfere in a way the most contrary to the rights of Protestants. Happily this concordat was scarcely concluded when it fell into abeyance; if it has never been positively abolished, neither has it ever been completely executed; at present it is almost a dead letter. On the other hand, the imperial patent of Sept. 1, 1859, relating to the Reformed and Lutheran churches in Hungary and its dependent lands, and that of April 10, 1861, concerning Protestants of the rest of the empire, have completed both the civil and religious emancipation of the Austrian Protestants.—In Italy the civil emancipation of Protestants is also of recent date. Before 1848 only one of the states of the peninsula contained a Protestant population. About 20,000 Waldenses inhabited a few wild valleys of the Alps of Piedmont above Pignerol. Long persecuted, they were at once put in possession of all their civil rights by the French administration, when Napoleon I. united Piedmont to his empire. Since 1814 they have endured an exceptional régime, which closed every liberal career to them and access to public offices. They were finally emancipated in 1848, and given the rights previously refused. At this epoch liberty of conscience existed nowhere else in Italy.

The state recognized Protestants only far enough to bring them before tribunals, and there could be no question of civil rights for them. But since the revolutions which have conferred on Italy unity under the government of Victor Emmanuel, in several cities, Milan, Florence, Pisa, Naples, and even in Rome, Protestant communities have been organized, whose members enjoy all the civil and political rights of citizens.—The situation in Spain is the same. There is a small number of native Protestants in that country, in addition to the congregations composed of foreigners The law has long condemned their religious meetings and sentenced their members to the severest penalties, but the last revolution put an end to these shameful practices. The constitution of June 1, 1869, which did away with the state religion, declared simply (article 21) that the nation undertakes to maintain the church and the ministers of the Catholic religion, and this constitution establishes, though in indirect terms, the liberty and equality of churches. It guaranteed to strangers (same article) the public or private exercise of their religion, without any limitation but the universal rules of morality and legality, and adds that if a Spaniard professes another religion than the Catholic the preceding rules shall apply to him —Turkey is in advance of Spain. It is known that in that country each religious community, each *nation*, Greeks, Armenians, Catholics, govern themselves and administer their own affairs. A considerable number of Armenians (3,000) having embraced Protestantism, found themselves in the most difficult position since 1830. Their former co-religionists rejected them, they were no longer connected with any religion recognized by the state, and were thus without a legal existence, without any rights, without that even of carrying on their occupations. In 1850 an imperial firman put an end to this state of things, and conferred on the Protestant church a legal existence. Since that time the members enjoy all the rights belonging to the other Christian communities of the empire. (See ABOLITION, EMANCIPATION PROCLAMATION.)

ETIENNE COQUEREL.

EMANCIPATION PROCLAMATION, The (IN U. S. HISTORY) The war against the rebellion of 1861 was for nearly eighteen months confined carefully to operations against the armed forces in the field, not against slavery. (See ABOLITION, III.; REBELLION.) During most of this time Pres. Lincoln listened apparently unmoved to importunate demands from extreme abolitionists in all parts of the north for a declaration against slavery. He declared that his paramount object was the maintenance of the Union; that if he could save the Union without freeing any slave, he would do it; that if he could save it by freeing all the slaves, he would do it; and that if he could save it by freeing some and leaving others alone, he would do that. It was not until the summer of 1862 that he finally decided that the time had come for striking at slavery. Sept. 22, 1862, without any previous general intimation of his purpose, he issued a preliminary proclamation, warning the inhabitants of the revolted states that, unless they should return to their allegiance before the first day of January following, he would declare their slaves free men and maintain their freedom by means of the armed forces of the United States. This proclamation had no effect, and indeed was hardly expected to have any effect, in bringing back individuals or states to the control of the federal government. A retaliatory proclamation was issued by Pres. Davis, Dec. 23, 1862, ordering the hanging of General Benjamin F. Butler, if captured, and the transfer of negro federal soldiers and their white officers to the authorities of the states for punishment.—The emancipation proclamation proper was issued Jan. 1, 1863. It recited the substance of the preliminary proclamation, in which he had promised to "designate the states and parts of states, if any, in which the people thereof should be in rebellion against the United States," and in which alone emancipation was to take effect; they included all the states which had seceded (see SECESSION), with the exception of the forty-eight counties of Virginia now known as West Virginia, seven other counties of Virginia (including the cities of Norfolk and Portsmouth), and thirteen parishes of Louisiana (including the city of New Orleans). The excepted parts were, "for the present, left precisely as if this proclamation were not issued"; as to the district still in rebellion, the proclamation ordered and declared "that all persons held as slaves within said designated states and parts of states are and henceforward shall be free; and that the executive government of the United States, including the military and naval authorities thereof, will recognize and maintain the freedom of said persons." It enjoined upon the freedmen the duty of abstaining from all violence, except in self-defense, and declared that those of their number who were of suitable condition would be received into the military and naval service of the United States. It concluded as follows: "and upon this act, sincerely believed to be an act of justice, warranted by the constitution upon military necessity, I invoke the considerate judgment of mankind, and the gracious favor of Almighty God."—The validity of such a proclamation is hardly to be seriously questioned, and never would have been questioned but for the natural revulsion from so searching an application of the laws of war in a country which had hitherto enjoyed an almost entire exemption from actual warfare. Its authority is well expressed in its preamble; it was issued by Abraham Lincoln, president of the United States; not by virtue of any powers directly entrusted by the constitution to the presidential office, but "by virtue of the power in him vested as commander-in-chief of the army and navy of the United States in time of actual armed rebellion against the authority and

government of the United States, and as a fit and necessary war measure for suppressing said rebellion." It must be remembered that the powers of the president as commander-in-chief, subject to the laws of war as recognized by all civilized nations, are distinctly recognized by the constitution; that these powers are brought to life and action by the existence of defensive war or by the exercise of congress of its power to declare war, and are controlled by congress through its action in furnishing or refusing troops and supplies to the commander-in-chief; and that the emancipation proclamation and other war measures are therefore as much the work of the representatives of the people in congress assembled as of their executive officer, the commander in-chief. (See WAR POWERS.) Among the powers of a commander-in-chief, when governing conquered soil under military occupation, is that of freeing the slaves of the inhabitants. It may even be exercised, subject to the approval of the commander-in-chief, by subordinate commanders. (See ABOLITION, III.) So long, then, as the constitution vests the president in time of war with the powers of a "commander-in-chief," and permits congress to call those powers into life and activity by declaring war, it is hardly necessary to defend the validity of the emancipation proclamation.—The effect of the proclamation, however, in the absolute abolition of slavery, is a different and more doubtful question; it has been warmly asserted that it had no effect whatever, and theoretically the case against it is very strong. The singular feature of the proclamation is that it purports to free the slaves, not of the soil which was then under military occupation, but of that which was not under occupation, and which, therefore, did not come under the jurisdiction of the president as commander-in-chief. Those portions of Virginia and Louisiana which had been conquered by the forces of the United States, and were under military occupation at the time, were expressly excepted from the operation of the proclamation; and in the states designated for the operation of the proclamation Mr. Lincoln had no constitutional power as president, and no physical power as commander-in-chief, to free a single slave. It seems to be apparent, then, that the proclamation had, *eo instante*, no effect whatever, if we follow its own terms, and that the slaves in the designated states and parts of states were no more free Jan. 2, 1863, than Dec 31, 1862.—The objection, however, may be obviated if we consider the proclamation as one whose accomplishment was to be effected progressively, not instantaneously, taking effect in future as rapidly as the federal lines advanced. It would then be, as its author doubtless designed it to be, a general rule of conduct for the guidance of subordinate officers in the armed forces of the United States, a conciliation of a large portion of the inhabitants of the hostile territory by interesting them in the success of the federal arms, and an announcement to the world that, without further formal notice, each fresh conquest by the federal armies would at once become free soil. The question whether slavery was abolished by the proclamation or by the 13th amendment has never been directly before the supreme court for decision, but instructive reference to it will be found in the cases in Wallace's Reports cited below. The only cases which hold that slavery was abolished by the proclamation, and instantly, are those in Louisiana and Alabama cited below. (See ABOLITION, III; SLAVERY.)—The political results of the proclamation are almost beyond calculation, and can only be summed up briefly. 1. Foreign mediation by armed force, which had been an important possible factor while the struggle was merely one between a federal union and its rebellious members, passed out of sight forever as soon as ultimate national success was authoritatively defined as necessarily involving the destruction of slavery: from that time any effort by the governments of France and Great Britain to force the government of the United States to recognize the confederate states as a separate slaveholding nation, would have excited the horror and active opposition of a very large and influential portion of their own subjects. 2. In the north it alienated all the weak or doubtful members of the republican party, and made it a compact, homogeneous organization, with well-defined objects, and with sinews toughened to meet the novel and important questions which followed final success. (See RECONSTRUCTION.) The defeats of the administration in the state elections of 1862-3 were the training school in which the party attained the extraordinary cohesiveness which carried it unbroken through the struggle between congress and Pres. Johnson. 3. In the south the fact that such a proclamation was possible, without exciting any greater opposition in the north, seems to have revealed to many thinking men the enormous extent of the political blunder of secession. But three years before, John Brown had been hanged by the state of Virginia, and the north had looked on with general indifference or approbation; now, the promulgation of this proclamation met either with the vehement approval of the dominant party in the north, or with such feeble symptoms of opposition as the resignations of a few subordinate army officers, or the falling off of a small percentage in the republican vote. From this time there was a steady increase in the number of those in the south who fought with the energy of despair, instead of the high self-confidence with which they had entered the conflict, and who felt that the leaders, by prolonging the struggle, were only fanning to a hotter flame that most powerful, though sluggish, political force, the wrath of a republic.—See 2 Greeley's *American Conflict*, 249; Appleton's *Annual Cyclopædia*, 1863, 834; 2 A. H. Stephens' *War between the States*, 550; Harris' *Political Conflict in America*, 333; Pollard's *Life of Davis*, 477; Schucker's *Life of S. P. Chase*, 441, 453; McPherson's *History of the Rebellion*, 220, *North American Review*,

February and August, 1880; authorities under ABOLITION, WAR POWERS, and REBELLION. The text of the two proclamations is in 12 *Stat. at Large*, 1267, 1268. See also 13 Wallace's *Reports*, 654; 16 Wallace's *Reports*, 68; 18 Wallace's *Reports*, 546; 92 *U. S. Reports*, 542; 20 *La. Ann. Reports*, 199; 43 *Ala. Reports*, 592.

ALEXANDER JOHNSTON.

EMBARGO, ANGARIA, ARRÊT DE PRINCE. These three terms designate three different measures which the government of a country may take toward merchant vessels, whether they belong to its own subjects or to the subjects of foreign nations. These measures have this in common, that they are impediments in the way of freedom of commerce. They present certain differences, which the best authorities, such as Vinnius ad Peckium, *De Nav. non excus.;* Stypmannus, *Ad Jus maritimum*, part v , chap. i., 4. 32 ; Loccenius, *De Jure marit.;* Targa, *De Ponderazione maritimme;* Galiani, *De Doveri de Principi neutrali*, have not sufficiently set forth — Embargo is the act of the sovereign power in a country of detaining in its ports in time of war, or even in peace in the anticipation of war, or as a reprisal measure, the ships of subjects, of friends or enemies, of natives or foreigners, together with their cargoes, and of preventing their departure for a longer or shorter time, but without exacting any active service from them.— The usual object of an embargo is to throw an obstacle in the way of the divulgation of facts which it is to the interest of the power laying the embargo to keep secret, such as preparations for an expedition, a revolt, or the death of a prince or sovereign. Justice and the rights of nations, in accordance with which each is completely independent of all others, can not approve such measures. Hence, a great number of treaties contain stipulations guaranteeing the ships of the nations signing them from embargo. History shows that these stipulations have not always been respected. In the wars of the Crimea, of Italy, of 1866, and of 1870–71, European governments did not have recourse to the measure of embargo. Far from laying an embargo upon the ships of the enemy, they allowed them all necessary time to return to their own country. An embargo is sometimes laid before the declaration of war ; it is a forerunner of the rupture between two nations. If matters are amicably arranged between the parties, the embargo is raised.—Embargo does not occasion neutral parties as much damage as does angaria ; it causes detention, but does not force the ships on which it is laid into active service and the dangers which accompany it ; hence it is not the custom to indemnify their owners.—The two most recent examples of embargo are that laid by England, on Jan. 14, 1801, upon the Danish, Swedish and Russian ships which were in the ports of Great Britain, and which was only ended by the maritime convention of 1801 ; and that by France upon Dutch vessels, Nov. 7, 1832, which was raised after the capture of the citadel of Antwerp.—It is customary to stipulate in modern treaties for certain conditions to assure the subjects of the contracting powers established in the country of the other power sufficient time to enable them to leave and to remove the goods which belong to them. — Angaria (*ἀγγαρεία*, service or labor exacted against one's will,) is the making of a requisition, by a belligerent, of the foreign vessels in its ports or roads, and imposing on them, paying them a remuneration, which detracts in no wise from the arbitrary character of the measure, certain services of war, such as transportation of troops, arms and ammunition, in spite of their rights of neutrality. Angaria imposes an active service upon the vessels on which it is laid; embargo, on the contrary, imposes no active service. Angaria affects all ships which happen to be in a port or road; embargo ordinarily only those of a single nation; it is often in the nature of a reprisal. Very like angaria is the act by which the Prussian government, in the war of 1870–71, scuttled six English merchantmen, which were stationed in the lower Seine. The Prussian government, however, soon took pains to acknowledge that an indemnity was due from it to the proprietors of these vessels.—Some modern authors, in the first rank of which may be cited Hautefeuille, *Des Droits et des Devoirs des Nations neutres*, 2d ed., vol. iii., p. 415, etc., justly inveigh against the doctrines of the publicists of the last century and the early part of the nineteenth, who wished to legitimatize embargo and angaria, by considering them as a law, or as a consequence of the law of legitimate defense, etc. Custom, it is true, has for a long time authorized the practice; but the illegality of such measures is too evident and too contrary to the ideas of justice and morality to survive. It is one of the incontestable rights of sovereignty either to permit or refuse entry to a port, and the power of carrying on commerce there; but the vessel once admitted to sojourn and trade there, it is an arbitrary act to impose any service upon it, such as is authorized by angaria. There does not exist a treaty, a single international act, by which belligerents are authorized to violate the neutrality of ships stationed in their ports. So far from that, in the case of angaria, as in that of embargo, many international conventions stipulate that the ships belonging to the contracting powers shall not be seized. Angaria "is less the exercise of a right than the abuse of power."—Is the neutral ship impressed by angaria exempt from confiscation if it happens to be taken by the enemy? Hübner, *De la Saisie des Bâtiments neutres*, vol. i., chap. vii., § 2, decides this question in the affirmative ; but his opinion can not be justified. The captor could not be expected to seek out the causes which have changed a neutral vessel into an enemy's vessel; and the ship taken under these conditions is evidently a fair prize.—"*Arrêt de prince*" must not be confounded with either embargo or angaria. It con-

sists, although peace may be in no danger, in seizing, on the plea of public necessity, a ship, whether it is still at anchor in port or has set out to sea, and in the latter case interrupting a voyage already begun. It is a species of angaria in time of peace. An *arrêt de prince* may proceed from the government of the seized ships, or from a foreign government. In the case of *arrêt de prince*, the seized vessel is yielded up to its owners, or its value and that of its cargo is paid; whereas embargo terminates almost always in the confiscation of the enemy's property.

CH. VERGÉ.

EMBARGO (IN U. S. HISTORY), a prohibition of commerce by national authority, which was laid in various forms and at various times from 1794 until 1815. In case of a general embargo American vessels were forbidden to leave port, foreign vessels were required to sail in ballast, or with only such cargo as they had on board at the passage of the act, and coasting vessels were required to give bonds to land their cargoes in American ports only. An embargo aimed at a particular nation was a modification known as a non-intercourse law.—The possibility of such a suspension of commerce was certainly considered by the convention of 1787 in framing the constitution. Madison, in discussing the power to tax exports, Aug. 21, 1787, spoke as follows: "An embargo may be of absolute necessity, and can only be effectuated by the general authority." — 1. ORDERS IN COUNCIL. The opening of the French revolution, the abolition of all feudal taxes, honors and immunities, the emigration of those nobles not in sympathy with the new régime, and the practical dethronement of the king, were followed, in April, 1792, by a declaration of war by the French republic against Austria and Prussia, whose troops were drawing menacingly near the French boundaries, and whose soil was permitted to be a basis of operations for hostile *emigrés*. Nov. 15, 1792, the French national convention declared its hostility to any people which should maintain a prince or a privileged order, and four days afterward the same authority offered assistance to every people desirous of recovering liberty. Feb. 3, 1793, the French republic declared war against Great Britain and Holland, and before the end of the year France "had but one enemy, and that was Europe." By land the French arms were steadily successful; by sea, in spite of every public and private exertion in France, Great Britain maintained her accustomed superiority. The rule that "he who is not with us is against us" became the only international law thoroughly respected in Europe, and the steady determination of both the great belligerents to enforce the rule upon the western continent also is the key to most of the difficulties of the United States during the next twenty years.—A French agent (see GENET, CITIZEN,) was at once sent to the United States to rouse popular enthusiasm there, and thus compel the government to engage in the war as an active or passive ally of France. May 9, 1793, in direct violation of the treaty of 1778 between France and the United States, the national convention authorized French ships of war and privateers to stop and bring into French ports *all* neutral vessels loaded with "eatables" or with enemy's goods, which latter were declared good prize. The representations of Morris, the American minister, only obtained a temporary and delusive suspension of the order. June 8, 1793, Great Britain, by orders in council to her navy, directed neutral vessels bound for France with breadstuffs to be seized and brought into British ports, where the cargoes were to be paid for by the government or bonded to be landed in countries at peace with Great Britain —Another grievance, closely connected with the general embargo system, was the vexatious right of search and impressment claimed and exercised by British national vessels. American vessels were liable at any moment to be stopped, searched, and deprived of the services of any seamen whom a British lieutenant, backed by a file of marines, might decide to be Englishmen. Great Britain had always persistently denied the right of expatriation and change of allegiance by naturalization, and, now that she was engaged in a life or death struggle with France, she claimed the services on shipboard of all her maritime citizens, at home or abroad, no matter what ceremonies of naturalization, unrecognized by English laws, they might have undergone in any foreign country. Of course, under color of natural resemblance to Englishmen, many native-born Americans were thus forced into the British navy. The right of expatriation was at that time acknowledged by hardly any nation except the United States; but, even in the case of naturalized citizens, the right of search and impressment, vexatious enough in itself, was aggravated by the rigorous and merciless manner of its exercise by British officers of all grades, unrestrained by any probability of the disapprobation of their own government.—Many of the American politicians who had taken part in the war of the revolution retained a firm faith in the efficacy of restrictions upon British commerce as a means of compelling justice from Great Britain (see REVOLUTION), and Madison introduced into congress, Jan. 4, 1794, a series of resolutions for the imposition of prohibitory duties upon importations from Great Britain. These resolutions, though not finally adopted, laid the foundations of the "restrictive system," which was steadily followed out by the republican party until it culminated in the war of 1812. The republican leaders in 1794, Madison, Nicholas and Giles, admitted that "our trade with Great Britain was one-half our whole commerce, while Great Britain's trade with us was but one-sixth of hers," but they insisted that the exports from the United States were essentials, while the imports were luxuries, and that an embargo, or tempo-

rary stoppage of trade, would bear but lightly upon the United States, while it would promptly bring Great Britain to hear reason. While the debates were in progress news was received of a supplementary order in council, which was dated Nov. 6, 1793, but had been kept so secret at first that the American minister was unable to obtain a copy until Dec. 25. By this order neutral ships trading with French colonies were to be seized and brought in for adjudication. The news of this order, which annihilated a profitable commerce at a blow, produced great excitement in the United States, and an embargo, the first of its kind, was laid, March 26, 1794, for thirty days, and soon afterward increased to sixty days. This had hardly been done when news was received of a modifying order in council, dated Jan. 8, 1794, restricting seizures to vessels bound directly for France from her colonies, or carrying goods belonging to Frenchmen. This modification could have had no possible connection with the embargo, and yet the receipt of the news so soon after the laying of the embargo seems to have unreasonably strengthened the popular faith in the efficacy of this substitute for war with Great Britain. The embargo act was allowed to expire at the end of its limitation of sixty days, but, by the act of June 4, the president was empowered generally to lay an embargo at any time during the recess of congress until November.—In the meantime (see JAY'S TREATY) the president had sent Chief Justice Jay as minister to Great Britain to obtain redress of all the grievances alleged against that country, and, pending the results of his mission, debate on neutral rights was dropped during the next session of congress, 1794–5. Jay's treaty of Nov. 19, 1794, however objectionable in other points, as in its yielding the rights of search and impressment, at least secured some safeguards for neutral trade Claims for damages for illegal seizures by British cruisers were to be passed upon by commissioners of arbitration; the seizure of an enemy's goods in a neutral vessel was not to forfeit the whole cargo; and provisions, when taken under peculiar necessity, were to be paid for at their full value. These points in the treaty gave comparative security to American commerce while it remained in force, and for the next ten years the restrictive system was dropped. During the troubles with France (see X. Y. Z. MISSION), the act of June 12, 1798, prohibited commercial intercourse with France or her colonies. This, however, was not an embargo, in the Jeffersonian sense of the term, but a preparation for war. —The articles in Jay's treaty, which related to neutral commerce, expired by limitation at the end of twelve years. The state of affairs at their expiration was even more unfortunate for the United States than in 1794. In 1805 almost the whole civilized world had been drawn into the whirlpool of the successive wars between Napoleon and Great Britain. Sweden, Denmark, the Hanse towns and the United States were the only neutral maritime powers, and were growing rich so rapidly by their almost complete absorption of the carrying trade that their prosperity was a constant eye-sore to British merchants and a temptation to belligerent cruisers. Commerce between France, Spain, Holland and their respective colonies, was carried on in great volume by American vessels, a landing having been formally made in the United States, in order to separate the voyages from the colony and to the mother country. The king's advocate general, in March, 1801, had acknowledged to Rufus King, the American minister to Great Britain, that "landing the goods and paying the duties in the neutral country breaks the continuity of the voyage and legalizes the trade between the mother country and the colony." This was a relaxation of the "rule of 1756," so called from its official promulgation in that year, though it had been practically enforced for twelve years previous. In its full vigor the rule of 1756 prohibited all trade by neutrals with the colonies of an enemy, and allowed British cruisers to capture all neutral vessels engaged in any such trade; the reasons for it were, in brief, that no mother country allowed such trade with its colonies in peace, and that in time of war such a trade was really an interposition in the war by the neutral, and the giving of aid to one of the belligerents — In May, 1805, the British court of appeals, in the case of the American vessel *Essex*, suddenly reversed the former line of decisions, and held that transhipment in a neutral country, if evidently fraudulent, did not break the continuity of the voyage, but left the neutral vessel liable to capture and condemnation. This decision was a signal for a general attack on neutral commerce by British armed vessels, public and private, and in the United States it at once brought the restrictive system to the surface again. April 18, 1806, after a debate of two months, a "non-importation act" was passed, which prohibited, after the following November, the importation of certain specified articles, the productions of Great Britain and her colonies. This measure seems to have been designed to strengthen the hands of William Pinkney and James Monroe, who were appointed in April joint ministers to Great Britain to negotiate a new treaty to succeed those parts of Jay's treaty which were to expire with this year. Dec. 19, 1806, the non-importation act was suspended until July 1, 1807.—Monroe and Pinkney concluded a treaty Dec. 31, 1806, which confirmed the unexpired articles of Jay's treaty, secured the indirect neutral trade between a belligerent and its colonies by a landing in the neutral country, and exempted provisions from the list of contraband. It again yielded the rights of search and impressment, upon a verbal assurance that they would be exercised only under extraordinary circumstances; and for this reason President Jefferson declined to submit the treaty to the senate for confirmation, and ordered a con-

tinuance of the negotiation. This decision, not so much in itself as in the refusal to back it by the instant and industrious preparation of a strong naval force, laid the foundation for most of the difficulties of the following eight years. It confirmed the bent of the dominant party in the United States against the formation of a navy (see DEMOCRATIC PARTY, II., III.; GUNBOAT SYSTEM), and it furnished fresh reasons and excuses for the growing anti-neutral disposition of the British government, which was not in the habit of paying any great attention to the remonstrances or arguments of a defenseless nation.—May 16, 1806, the British government, by proclamation, declared a blockade of the coast of Germany, Holland and France, from Brest to the Elbe, a distance of about 800 miles. Against warfare of this kind Napoleon was powerless; the British islands were entirely beyond his reach, and there was no way to prevent the isolation of his European empire by the British fleets unless he could furnish those fleets with active occupation in some other quarter of the world. From this time, therefore, his consistent design seems to have been to irritate the British government into fresh exhibitions of anti-neutral temper by extraordinary reprisals of his own, in order thus to force the United States at last to assume the burden of a naval warfare against Great Britain, while he should monopolize the glory and profit of the campaigns on land. The game was entertaining to the *toreador*, and probably to the bull also, but the United States certainly paid the expenses of the entertainment.—Nov. 21, 1806, after the battle of Jena, Napoleon issued his *Berlin decree*, in which he, who hardly possessed a vessel of war in blue water, assumed to blockade the British islands. The decree also ordered the seizure of all English property, persons and letters found on the continent. The whole decree, which began the so-called "continental system" of Napoleon, was alleged to be in retaliation for the English abuse of the right of blockade. During the ensuing year, according to Mr. Baring and the American minister to France, General Armstrong, no condemnations took place under the Berlin decree It served its purpose better by drawing out the British orders in council of Nov. 11, 1807. This extraordinary document totally prohibited any direct trade from the United States to any port or country of Europe from which the British flag was excluded; it allowed direct trade, in American produce only, between the United States and Sweden; it ordered all articles of domestic or colonial production, exported by the United States to Europe, to be landed in England, whence their re-exportation, on paying duties, would be permitted and regulated; and it declared any vessel and cargo good prize if it carried a French consular certificate of the origin of the cargo. Napoleon retorted by the *Milan decree*, Dec. 7, 1807, in which he declared to be "denationalized" and good prize, whether found in continental ports or on the high seas, any vessel which should submit to search by a British vessel, or should touch at or set sail for or from Great Britain or her colonies.—With this, for a time, both parties paused, for neither could well do or say more. To quote Jefferson's subsequent expression, "England seemed to have become a den of pirates, and France a den of thieves." Both had helped to make neutrality ridiculous. By sea, a British fleet had lately, without declaring war, swooped on the Danish navy and carried it off to England, by land, a French army had lately converted Portugal from neutrality by driving the royal family to Brazil. The United States and Sweden were the only civilized nations which were now permitted to enjoy a nominal neutrality; the latter was under the open protection of the fleets of Great Britain, and if the latest orders in council were to be submitted to, it was difficult to see, in the matter of foreign commerce, any great difference between the situation of the United States and that of any other British colony Evidently, if the United States were to maintain rank as an independent nation, some measures of protection to their foreign commerce were imperatively demanded. The dominant party, however, was still opposed to a naval war, and Jefferson, who alone could have controlled his party, was silent; the result was a four years' effort to coerce Great Britain by the restrictive system, ending in the war of 1812.—II. THE EMBARGO When congress met in October, 1807, (see CONGRESS, SESSIONS OF), the exercise of the right of impressment by British officers had become almost intolerable. The number of Americans impressed was afterward officially reported by the state department as 4,579 for the period March 11, 1803 - Sept 30, 1810, omitting the time from Sept. 1, 1804, until March 31, 1806, for which the records did not account. Of this number 1,361 were released. No estimate can be made of the number of impressments never reported to a state department where no redress could be hoped for; but the muster-books of H. B. M. ships *Moselle* and *Sappho*, captured in the packet *Swallow* by Commodore Rodgers in 1813, showed that one-eighth of their crews were Americans; and in another ship, the *Ceres*, the proportion was one-third, if we may trust the affidavits of released sailors. June 22, 1807, the British frigate *Leopard* had taken four men out of the United States frigate *Chesapeake*, after a shamefully feeble resistance. Oct. 19, 1807, the British government by proclamation had called upon all its maritime subjects serving in foreign ships to return to the service of their own country, and had directed its cruisers to enforce their return.—The proclamation, and the retaliatory orders and decrees of the great belligerents, as far as they had been received, were communicated to congress by President Jefferson in a special message of Dec. 16, as indicating the great and increasing dangers to American commerce, with the suggestion that an "inhibition of foreign commerce" would be of

advantage. The act known as "The Embargo" was at once introduced. It was passed after midnight of Dec. 21, after a consideration of four hours in the senate and three days in the house, and became law Dec. 22. A supplementary act of Jan. 9, 1808, provided that coasting vessels should not be allowed to go out without bonds to reland the cargo in some other port of the United States, and that foreign vessels should take out no specie or other cargo, except necessary sea stores. Another act, March 12, 1808, gave the executive authority to grant permission to send vessels to foreign ports to bring home American property, but this was repealed Jan. 9, 1809. —For a time the traditional belief in the efficacy of an embargo induced a sullen submission to it even by those upon whom it bore hardest, and it was formally approved by most of the state legislatures of the republican states. Within six months a great change had taken place. The suspension which the infant commerce of the United States had found tolerable for sixty days in 1794 was intolerable in 1808 to a commerce which had for fifteen years been fattening upon a dangerous but profitable neutrality. The exports, domestic and foreign, from the United States, which had risen from $20,753,098 in 1792 to $110,084,207 in 1807, fell in 1808 to $22,430,960. The change was too sudden; it injured not commerce alone, but every interest except domestic manufactures, and in May and June, 1808, Jefferson was constrained to admit that, unless Great Britain should speedily yield the principle of her orders in council, the embargo must be exchanged for open war. It was found that the embargo was quite satisfactory to both France and Great Britain. Napoleon praised it warmly, and even presumed to enforce it by the *Bayonne decree*, April 17, 1808, which ordered the seizure and sale of American vessels which should arrive in his ports in violation of it. Its surrender of the carrying trade to British merchants, and the consequent transfer of American capital to Canada and Nova Scotia, were equally pleasing to Great Britain.—In the New England states, in which the remnants of the federal party were now concentrated, the embargo was believed to be unconstitutional, and was so decided by some of the state courts. The ground assigned was, that the unlimited suspension of the embargo was an annihilation of commerce; and was therefore a usurpation of power by congress, which was only authorized by the constitution to regulate commerce; the real reason was evidently the belief that the fundamental basis of the constitution had been violated by a factious and sectional combination of agricultural representatives for the passage of the embargo, which, though it ruined federalist New England, would save the rest of the Union the expense of war. It was therefore increasingly difficult to enforce the embargo in New England. The state legislatures, taking the ground of the Kentucky and Virginia resolutions, "intervened" for the protection of their citizens by resolutions expressive of their emphatic condemnation of the embargo. Thus countenanced and emboldened, state judges took an attitude consistently hostile to the embargo, and the federal courts in New England seldom succeeded in finding juries which would convict even for the most flagrant violations of its provisions. Smugglers crossed and recrossed the Canada border almost in organized armies, and defied federal marshals; and, to encourage sea smuggling, an order in council of April 11, 1808, forbade interference by British cruisers with American vessels bound to British colonies, though without clearances. A supplementary embargo act of April 25, 1808, therefore, placed lake, river and bay commerce in the same category as sea-going vessels, and allowed the seizure of any merchandise which should in any way excite the suspicions of the collectors.—The second session of the 10th congress, which met Nov. 7, 1808, was at first obstinate in its support of the restrictive system Resolutions to repeal the embargo were voted down by heavier majorities than at the first session, and on Jan. 9, 1809, an enforcing act was passed. By its terms any act done with intent to evade the embargo in any way worked a forfeiture of ship, boat or vehicle and cargo or contents, besides a fine of four times the value of both; collectors were to seize all goods "apparently on their way" to a foreign country; bonds were increased to six times the value of vessel and cargo; and absolute authority to prohibit departure, even when full bonds should be filed, was given to the collectors or the president. The act was published in mourning columns by the federalist newspapers in New England, with the motto "Liberty is dead!" Many collectors resigned, and seizures by others were met by the owners of the goods with suits for damages in state courts. Even in the United States senate a federalist declaration was made that the people were not bound to submit to the embargo act and would not submit to it, and that blood would flow in the attempt to enforce it. In February, 1809, John Quincy Adams, who had resigned his seat in the senate because his support of the embargo was disapproved by his state legislature, gave Jefferson and the other republican leaders an alarming account of the feeling in New England. He stated that the federalist leaders had now finally decided to break the embargo, that if the federal government should attempt to use force the New England states would temporarily or permanently withdraw from the Union, and that unofficial negotiations had already been opened for British assistance. A sudden panic, attributable either to the statements of Adams, to those of Joseph Story, then a republican congressman from Massachusetts, or to both, seized the majority in congress, and a house resolution was passed, Feb. 3, fixing March 4 for the termination of the embargo. (See KENTUCKY RESOLUTIONS; SECESSION; STATE SOVEREIGNTY; ESSEX JUNTO, HENRY DOCUMENTS; CONVENTION, HARTFORD.) — III.

NON-INTERCOURSE SYSTEM. During the month of February the majority recovered in some measure from its panic, and passed, March 1, 1809, the so-called non-intercourse law, to take the place of both the non-importation act and the embargo. It was to continue until the end of the next session, but was revived and continued by the acts of June 28, 1809, May 1, 1810, and March 2, 1811. It forbade the entrance to American ports of public or private British or French vessels, all commercial intercourse with France or Great Britain, and the importation, after May 20, of goods grown or manufactured in France, Great Britain, or their colonies. Its eleventh section was as follows: "That the president of the United States be, and he hereby is authorized, in case either France or Great Britain shall so revoke or modify her edicts as that they shall cease to violate the neutral commerce of the United States, to declare the same by proclamation; after which the trade of the United States, suspended by this act, and by the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, may be renewed with the nation so doing." The coasting trade was thus set free, and the trade to other countries than France and Great Britain was allowed, but any naval protection to it was still denied.—From the end of November, 1808, D. M. Erskine, the British minister at Washington, had satisfied himself, by repeated interviews with Jefferson's cabinet, and particularly with Madison, that they were disposed to deal fairly with Great Britain. On his report, the British foreign office instructed him, Jan. 23, 1809, to withdraw the objectionable orders in council, on three conditions: 1, that all non-intercourse and non importation acts should be revoked as to Great Britain, and left in force as to France until France should revoke her edicts; 2, that the United States should abandon the trade with French colonies, which was not lawful even in peace, according to the rule of 1756; and, 3, that American vessels violating the last condition should be liable to seizure by British vessels. To the first point the American negotiators agreed; the second, they said, rested with congress, but would be completely covered by the non-intercourse law, as applied to France; and the third was unnecessary, as no American shipowner could complain of such a seizure without a confession that he had violated the non-intercourse law. Accepting these explanations, Erskine exchanged three pairs of formal notes, April 17, 18 and 19, withdrawing the orders in council; and President Madison, who had been inaugurated March 4, issued a proclamation, April 19, permitting the full renewal of trade with Great Britain after June 10. As this result placed the United States in just the same position as before the embargo, without any recall of the rights of search and imprisonment, and with the "rule of 1756" as to colonial trade still in force, the general satisfaction over the "Erskine arrangement" was a decided evidence of the lack of success of the restrictive system. But the satisfaction soon disappeared on the receipt of news that the British government had recalled Erskine in disgrace and repudiated his agreement as made in contravention of his express instructions. By proclamation of Aug. 9, 1809, the president therefore re-established the non-intercourse law as against Great Britain. The whole difficulty was ascribed by the federalists to the president's trickiness in taking advantage of the youth and inexperience of Erskine, and the same assertion was repeated in substance by Erskine's successor, Jackson, until the secretary of state refused to hold further communication with him.—During the whole period from 1800 until 1812 there is an unusual dearth of private correspondence or other similar materials for forming a judgment of the motives of the democratic leaders. They have been charged with subservience to French policy, but their course with Erskine seems to go far to acquit them of a design to subserve any other interests than those of the United States. It is certain that the Erskine arrangement would not have received from accomplices of France the eager welcome which was given to it by Madison and his cabinet. Napoleon was so far from considering the non-intercourse law, even in its first form of application to both belligerents, as offensive to Great Britain or beneficial to France, that he made it the ground of his *Rambouillet decree*, March 23, 1810, by which 132 American vessels, valued at $8,000,000, which had entered the ports of France or her allies, that is, nearly all the continent, since May 20, 1809, were condemned and sold. The democratic leaders seem to have been the victims, principally, of their own ignorance, and Napoleon's perception, of the naval powers of the United States.—IV FAILURE OF THE RESTRICTIVE SYSTEM. In January, 1810, Napoleon informed the American minister that the repeal of his various decrees was dependent on the withdrawal by Great Britain of her "paper blockade" of the continent. Toward the end of this session of congress, May 1, 1810, congress passed a new bill to take the place of the non-intercourse act, which was to expire with the session. This bill, while excluding both French and British ships of war from American harbors, left commerce entirely unrestricted, but with the proviso that, if at any time before March 3, 1811, either belligerent should withdraw its objectionable measures, and the other should fail to do so within three months, the president by proclamation should restore the non-intercourse act as to the delinquent power. This act was the first step to the war of 1812. In passing it congress had set a trap for itself, which Napoleon hastened to bait. Aug. 5, he informed the American minister that his decrees were revoked, and would cease to be in effect after Nov. 1, following, "it being understood that the English shall revoke their orders in council, or that the United States shall cause their rights to be respected by the English." The president, Nov. 2, issued a proclamation which accepted this as an absolute

revocation, and Great Britain was summoned to imitate it. But, as the French emperor retained all the property confiscated under the Rambouillet decree, as the French prize courts refused to consider the decrees revoked, or to release vessels seized by virtue of them, and as Napoleon's continental system was enforced as rigidly as ever against both England and the United States, the British government refused to admit that any *bona fide* revocation had taken place. March 2, 1811, the non-intercourse act was revived, by statute, against Great Britain —Notwithstanding the long continuance of the restrictive system, the merchant marine under American colors was still large. Licenses to enter continental ports were freely sold by French consuls at high prices. In Great Britain 53,277 licenses to trade with the enemy were granted from 1802 until 1811, according to a statement in the house of commons, and the fraudulent assumption of American papers and colors was so common as to furnish one of the excuses for Napoleon's general seizures of American ships. In parliament Brougham read a circular from a Liverpool manufactory of forged American papers, the price of which was almost entitled to mention in the market reports. "Simulated papers and seals" were a matter of common newspaper advertisement, and in the courts of admiralty it was admitted that, "under present circumstances, it was necessary to wink at them."—V. WAR. While the United States government had been endeavoring by diplomacy, by embargoes, by non-importation laws, and by non-intercourse laws, to obtain liberty for its commerce to exist; while its mendicant ambassadors had been besieging the French and British courts with expostulations and entreaties; while its merchantmen, unarmed and unprotected, had been seized with impunity to the number of over 1,500 (917 by England, 558 by France, 70 by Denmark, 47 by Naples, and an unreported number by Holland and Spain), the indignation of the people at large had been slowly gathering force until it was now past control. When the new congress met, Nov. 4, 1811, it was found that the federalists had but six senators and thirty-six representatives; that among the democrats most of the "submission men," who were anxious for peace at any price, had been defeated; and that the congress was emphatically a war congress. Its temper seems to have been equally a surprise to the democratic administration, which had grown gray in efforts to shift off war, and to the federalist leaders, who had declared that the government "could not be kicked into a war," and "had no more idea of declaring war than my grandmother." The first report of the house committee on foreign relations sounded a note unusual in recent proceedings. It rehearsed the misdeeds of Great Britain in enslaving American seamen, and capturing every American vessel bound to or from any port at which her commerce was not favored; and declared that the time had come for choosing between tame submission, and resistance by all the means which God had placed within our reach. Preparations for war were at once begun. Between Dec. 24, 1811, and July 6, 1812, nineteen acts were passed, most of them for the increase of the army by the enlistment of 20,000 additional regulars and of 50,000 volunteers, and by drafting 100,000 militia into the United States service. All this was for the invasion of Canada, which was the prime object of the war. The fact that the war was to be carried on by land rather than by sea was marked by the appropriations, which amounted to $12,000,000 for the army, and $3,000,000 for the navy. April 4, 1812, an embargo was laid for ninety days, an act announced by its supporters to be an act preparatory to war. The president was brought to coincide with the majority (see CAUCUS, CONGRESSIONAL), and June 18, 1812, war was declared against Great Britain. (See CONVENTION, HARTFORD.) June 23, the British orders in council were revoked, but the revocation was as delusive as the revocation of the French decrees had been, for it concluded with the proviso: "That nothing in this present order contained shall be understood to preclude H. R. H., the prince regent, if circumstances shall so require, from restoring, after reasonable notice, the orders of the seventh of January, 1807, and the twenty-sixth of April, 1809, or any part thereof, to their full effect, or from taking such other measures of retaliation against the enemy, as may appear to his royal highness to be just and necessary." On receipt of this news the British admiral, Warren, proposed a suspension of hostilities, but, as he refused to suspend the right of impressment, and as the revocation did not appear to be complete, the United States rejected the offer, and the war was prosecuted to an end (see WARS, III.), though the final peace did not secure any formal abandonment by Great Britain of the rights of search and impressment, of the "rule of 1756," or of the principle of the orders in council. At first American commerce suffered little more from actual war than it had done from the decrees and the orders in council. But the commerce from the New England states, which was encouraged by the British fleets as a means of obtaining fresh provisions, was irritating to the democratic leaders, who regarded it as an unpatriotic contribution to the support of the enemy. When it was found that the British blockade, as formally declared, May 27 and Nov. 4, 1813, extended only from Montauk point to the Mississippi, leaving the New England coast free, the dominant party at once introduced a new embargo, Dec. 17, 1813, to continue until Jan. 1, 1815. It not only abolished foreign commerce, but imposed restrictions upon the coasting trade, which had, by collusive captures and ransoms, been made a means of commerce. April 14, 1814, this embargo was repealed, because of the downfall of Napoleon's "continental system" together with his empire —The restrictive system disappeared with the

repeal of this last embargo. As a measure of offense the utility of an embargo was extremely doubtful at all times. Most historians have denied to it any utility whatever; but Brougham's speeches in parliament in 1812, and the affidavits and memorials of English merchants, ascribe to it, perhaps from motives of self-interest, a remarkable efficacy. Merchants and manufacturers of Manchester, Birmingham, Sheffield, Rochdale, and Leeds, in their testimony before the house of commons committee in 1812, painted a lively picture of the decrease of trade, the losses of owners, and the suffering of workmen, and charged the whole upon the American embargo. Their complaints extorted from an unwilling ministry the revocation of the orders in council before mentioned. The patent object of these orders was to force the trade of the civilized world into British ports, that the duties paid upon them there might sustain the government in its long struggle with Napoleon, and only a real and general English distress could have forced a change in this policy —But, whatever may have been the success of the embargo in inflicting injury upon Great Britain, the American government, in enforcing it, was evidently holding the blade of the sword and striking the enemy with the hilt. It had its origin in the unwillingness of the democratic members of congress, and their agricultural constituents of the south, west and western middle states, to endure the expense of a navy for the protection of foreign commerce. Its final abandonment was due to the discovery that foreign commerce was as necessary to agriculture as agriculture was to foreign commerce. One strong fleet would have been worth a dozen embargoes, but only experience could convince the non-commercial sections of the United States of the truth of this. As the market for breadstuffs, rice and cotton disappeared, the value of an embargo was less perceptible. But, even when it was repealed in 1809, the belief that Great Britain would "Copenhagenize" any American navy which might be formed was sufficient to deter the democratic leaders from anything bolder than non-intercourse laws, until the idea of invading Canada took root and blossomed into a declaration of war. The navy then approved its value at its first opportunity, and its victories put an end to the possibility of any future embargoes. (See UNITED STATES.)—See, in general, 5 Elliot's *Debates*, 455; 5, 6 Hildreth's *United States* (and index); Dwight's *Hartford Convention; American Register*, 1806–10; 3–5 Benton's *Debates of Congress;* 1, 4–6 Wait's *American State Papers;* 1 *Statesman's Manual;* 1, 2 *Stat. at Large.* (I.) See 1 Fyffe's *History of Modern Europe*, 53; Hamilton's *Letters of Pacificus*, and other authorities under GENET, CITIZEN; 2 Sparks' *Life of Gouverneur Morris*, 319; 2 Pitkin's *United States*, 398; Baring's *Orders in Council;* W. B. Lawrence's *Visitation and Search*, 4; Trescott's *Diplomatic History of the Administration of Washington and Adams*, 91; 1 Benton's *Debates of Congress*, 458, 498; authorities under JAY'S TREATY; 1 Lyman's *Diplomacy of the United States*, 224; Stephens' *War in Disguise*, 57; 2 Tucker's *Life of Jefferson*, 223; Dwight's *Hartford Convention*, 83; 4 Jefferson's *Works* (edit. 1829), 169. The act of March 26, 1794, is in 1 *Stat. at Large*, 400; the act of April 18, 1806, is in 2 *Stat. at Large*, 379. (II.) See authorities cited above, in general; 3 Benton's *Debates of Congress*, 640; 1 von Holst's *United States*, 200; 6 Hildreth's *United States*, 35; Carey's *Olive Branch*, 215; 1 Tucker's *United States*, 532, and 2 : 307; *Massachusetts Memorial and Remonstrance to Congress* (1809); *Memorial of W. E. Channing;* 2 Rives' *Life of Madison*, 383, 410; 3 Randall's *Life of Jefferson*, 282; Quincy's *Life of Quincy*, 162; Clay's *Private Correspondence*, 46; 3 Webster's *Works*, 327; Story's *Life of J. Story*, 185; 4 Benton's *Debates of Congress*, 9. The acts of Dec. 22, 1807, Jan. 9, March 12, and April 25, 1808, are in 2 *Stat. at Large*, 451, 453, 473, 499 respectively. (III.) See (as to "Erskine arrangement") 6 Hildreth's *United States*, 168; Dwight's *Hartford Convention*, 101; Wait's *American State Papers*, (1808–9), 461. The acts of March 1 and June 28, 1809, May 1, 1810, and March 2, 1811, are in 2 *Stat. at Large*, 528, 550, 605, 651. (IV., V.) See, of the works cited, under II. and III., Hildreth, von Holst, Benton, Rives, Quincy and Carey; 1 Ingersoll's *Second War with Great Britain;* 2 Calhoun's *Works*, 2; authorities under FEDERAL PARTY, II.; CONVENTION, HARTFORD; and CLINTON, DE WITT. The declaration of war is in 2 *Stat. at Large*, 755; the last embargo act, Dec. 17, 1813, is in 3 *Stat. at Large*, 88. ALEXANDER JOHNSTON.

EMIGRATION AND IMMIGRATION, converse expressions, denoting the act of removal from one country or state to another for the purpose of residence. The removal is called *emigration* with reference to the country left, and *immigration* with reference to the country entered. *Migration*, a more general term than either, implies simply a change of residence without regard to whence or whither. In this article, however, the term *emigration* will be used in its broadest sense as synonymous with either of the last, unless the context shows clearly that it is to be distinguished from them —HISTORY. Emigration has been the means by which the world has been populated and civilization extended. "It is the practical response which mankind have given in all ages to the command to 'multiply and replenish the earth and subdue it'; or, in other words, it is a necessary result of the increase of population within a limited though cherished space, and of the manifest destiny of our race to people and develop the world." The earliest and in many respects the most interesting emigrations were prehistoric. That in a period long antecedent to all written records, from some land in central Asia, horde after horde of emigrants issued forth in all directions, north, south, east and west, is amply proven by ethnological, archæological

and linguistic evidence. And whether we regard Asia as the original home of all the members of the human family or not, it is certain that the most important of those members, the Aryan stock, had its origin there. Issuing thence it had extended from the Ganges to Iceland long before we have any historic records. Its early history was that of all progressive nomadic peoples. Population soon outgrew the means of subsistence. Their immense herds demanded immense pastures, and forth they went, by hundreds and thousands and probably millions, to seek their fortunes elsewhere. The Celts swept over Europe, penetrating into every part of it, followed by the Germans, and these by the Slaves, while other families went in other directions.—Of the Semitic nations the Jews particularly have wandered long and far. Their history begins with the command to Abram, "Get thee out of thy country, and from thy kindred, and from thy father's house, unto a land that I will show thee." Abram took his nephew Lot with him, but even these two households were too large to dwell together in unity, and they soon separated. "This separation will always remain a strikingly natural and suggestive picture of the outward movement of society in its primitive elements. There was no want apparently of material resources. 'Is not the whole land before thee?' were the words of Abram; and Lot, lifting up his eyes, saw the plain of Jordan unoccupied and well watered. But there was strife among the servants, quarrels as to pasturings and waterings, with Canaanites and Perizzites dwelling in the land as an additional element of disorder. The kinsmen could not agree or adjust their rule; and separation would be judicious if not necessary. The narrative exhibits the influence of individualism on human affairs—on the affair of emigration as on others. In early times it was found difficult or impossible to make any important progress on the basis of social unity." From this time forward we have a connected and trustworthy account of the wanderings of the Jews. First to Egypt, then through the wilderness to Canaan, subsequently in the various captivities to Babylon and finally over the whole world, and through all time. For even now they are forced to emigrate from Russia or perish at the hands of raging mobs.—The Greeks ascribed their civilization to immigrants from Phœnicia and Egypt, and it is tolerably certain that several distinct migrations into Greece had occurred before the nationalities took the form they had at the opening of the historic period. The Greeks in their migratory instincts resembled the modern Germanic races. Long before the historic era they had colonized the western coast of Asia Minor, and the islands of the Grecian archipelago. Trapezas on the farthest shores of the Black sea, Cyrene in Africa, and Massilia in Gaul, serve to show the vast extent of country throughout which they planted colonies. Greek emigration differed in many respects from modern emigration. It did not occur in straggling bands of adventurers who settled at different places along the coast, only uniting after a long time into a city or state. Nor was it toward highly civilized countries in whose population the Greeks disappeared, as the Germans in America. On the contrary, the Greek colonists formed from the beginning an organized political body. Their first care upon settling in their adopted country was to found a city and to erect in it those public buildings which were essential to the social and religious life of a Greek. Their colonies were established for the most part either in countries with a scanty population or whose inhabitants were in a decidedly lower state of civilization. The spot for the city was generally seized by force and the original inhabitants either driven out, made slaves, or reduced to the condition of subjects, sometimes, indeed, admitted to a share in the political rights of the new state. Civil dissensions and a redundant population were the two chief causes of the origin of most Greek colonies. They were usually undertaken with the approbation of the cities from which they issued and under the direction of leaders appointed by them. Many of them became rich and powerful states within a short time, some of them far exceeding the mother states in wealth and power. The success of such colonies offered a constant inducement to the ambitious and energetic at home to follow the example of their predecessors, and thus Grecian institutions and civilization were carried to every part of the Mediterranean. The Phœnicians also were a colony-planting people. They even dared to venture beyond the pillars of Hercules into the wide and open Atlantic, penetrating to Britain and the Baltic on the north and, it is supposed by some, around the cape of Good Hope on the south. Rome also planted colonies, but they were not colonies in the Grecian sense of the term. The Grecian colonist when he emigrated left home for good. He transferred his allegiance to the new state and made it the centre of his labor and hopes and aspirations. The colonists usually cherished a feeling of reverential respect for the mother country, which they evidenced by sending deputations to the principal festivals of the latter, and assigning to her ambassadors the places of honor on public occasions. They worshiped the same gods and kept the sacred fire burning which they had brought with them from the public hearth at home. But the colony was politically independent of the mother city and emancipated from its control, and although a war between them was looked upon as a violation of sacred ties, yet difficulties occasionally arose which resulted in bitter feuds and bloody contests. Very different was it with Roman colonies. These were rather military outposts, intended to strengthen Roman power and influence in conquered communities, than colonies in the ordinary sense. The colonists retained generally their Roman citizenship, although they were obliged to go to Rome to

exercise their right to vote. Rome adopted the plan of colonization at various times for the purpose of alleviating distress at home by removing large numbers of the proletary at once from the bounds of the city. The policy did not result in as permanent an improvement as was anticipated. The proletary increased in numbers more rapidly than the surplus could be absorbed by the foundation of new colonies.—The last great wave of emigration which swept over western Europe was the one which buried forever the old Roman empire and its civilization. From the time of the invasion of the Cimbri and Teutons into Italy, Rome was constantly employed in keeping back the Germans who had begun to press in from the north along the whole boundary of the empire. Cæsar gives us a graphic description of the character and migratory habits of the Germans, which Tacitus repeats and enlarges in his "Germania." These barbarians poured in upon the Roman state from the north, sweeping all before them, and penetrated even into Africa, where they founded settlements. After the conquest of the ancient empire a new set of states grew up on its ruins, which were finally united into the Holy Roman empire of the German nation, out of which sprang up the modern nations of continental Europe. The later inroads of the Slavonic nations, of the Arabs, of the Hungarians, and of the Turks, respectively, were finally repulsed or checked and the last scene in that gigantic drama known as the "migration of nations" closed, if not forever at least for ages to come.—The migration of modern nations assumed an entirely different character, though none the less interesting and important. The inroads of the Slavonic nations had lasted down to a late period. They had penetrated to the German ocean on the north and to central Germany on the south. The contest between the Slaves and the Germans lasted for generations, and resulted in favor of the Germans. They either subdued or forced back the Slavonic tribes up to the confines of Poland. Large numbers of Germans emigrated to these conquered districts and settled there as permanent colonists. The northern provinces of the present kingdom of Prussia were at one time almost entirely in the hands of the Slaves, and they became subsequently for generations the colonial lands of the German nation. The other emigrating movements on the continent were rather sporadic and insignificant as compared with the later ones toward the new world. Russia, Hungary and Prussia offered special inducements to immigrants, and consequently excited at times a considerable influx of foreigners. The religious persecutions, like that of the Huguenots in France, forced at times a large emigration from one country or another.—But modern emigration on an important scale dates from the time of the discovery of America, though it was not till more than three centuries after that event that it became very large. The discovery of gold and silver in Mexico and Peru excited the cupidity of avaricious Spanish adventurers, and prompted other nations to send out expeditions to explore the unknown regions with the hope of finding similar treasure. This emigration was at first confined to bold and ambitious spirits, animated with a thirst for riches. They had no idea of making permanent settlements, but hoped to acquire wealth in a short time and then return to enjoy it at home. During the seventeenth century, however, a new spirit became manifest. England, France, Holland and Spain vied with each other in their eagerness for colonization. From Canada to Florida a series of colonies was planted, all the above mentioned nations taking part in them Spain and Portugal planted colonies also in Mexico and South America. We have no means of knowing how many people emigrated to America previous to the year 1820. But the number was by no means small. As early as 1700 large numbers of Germans emigrated from the Rhine districts to America, particularly to Pennsylvania. One of the officials of the last mentioned colony writes, in 1729, "It is clear that the crowds of Germans will soon found a German state." In 1755 another writes: "The Germans come pouring in in such numbers (over 5,000 during the last year) that I do not see why they will not soon be in a condition to make our laws for us and determine our language." The outbreak of the revolution interposed a serious hindrance to all immigration, of course, for years. The European wars breaking out immediately after the close of the former and lasting almost continuously until 1815, absorbed nearly all the surplus population for nearly forty years. Various estimates have been made as to the number coming to the United States prior to 1820. Mr. Blodget thought that the arrivals from 1789–94 did not exceed 4,000 a year. Dr. Seybert estimated the number at 6,000 a year from 1790 to 1810. Prof Tucker estimated that 234,000 came in from 1790 to 1820 Dr. Loring, of the United States statistical bureau, figured out about 250,000 immigrants from 1775 to 1820. The following table of estimates has been compiled from a similar one in the "Encyclopædia Britannica," and indicates by decades the numbers emigrating from Europe to America and Australia:

EMIGRATION BY DECADES.

DECADES	From all European countries except Russia & Spain	To Canada.	To United States	To Australia
1820-29...	221,868	126,616	90,017	5,175
1830-39...	717,557	321,766	343,517	53,274
1840-49...	1,716,777	428,376	1,161,564	126,837
1850-59...	3,231,856	258,460	2,474,859	498,537
1860-69...	2,432,628	169,741	1,875,452	287,435
Total	8,220,686	1,303,959	5,945,469	971,258

The figures in the above table are thought to be far below the truth, but they give some idea of the enormous proportions which emigration

has assumed in recent times. The emigration during the last decade, 1870–79, far exceeds that of any previous decade, and the indications are that the number of emigrants will rather increase than diminish during the decade now passing. Later data as to the United States is given at the end of this article.—MOTIVES OF EMIGRATION. It will be seen from the preceding sketch that a great variety of motives have been of influence in exciting and sustaining emigration. Perhaps the most powerful motive of all is the love of movement and adventure which seems innate in the great migrating races. The pressure of population upon the means of subsistence is undoubtedly a prime occasion, and yet it has but little effect on many nations. The population of India would seem to press very closely upon the means of subsistence, for with every failure in the harvests thousands and hundreds of thousands of deaths occur from starvation, and yet no emigration has set in. It is true that an immense tide of emigration flowed out of Ireland immediately after the famine of 1847, but an almost equal number of Germans emigrated to the United States about the same time. Nor can the immense emigration from 1865 to 1873 be attributed to famine. Neither religious persecution nor civil despotism can explain the phenomenon. It is true, the failure of the revolutions of 1848 was followed by an immense efflux of German emigrants from Europe to America; but a similar efflux took place in the period 1865–73 immediately upon the triumph of nationalism and liberalism in Germany, when the elective franchise had been made as free as in America, and much easier to acquire. Nor will it do to attribute it to the grinding despotism of the military system, for from the very country in which it has been most oppressive there has been absolutely and relatively the least emigration. Prussia sent forth only 100,000 emigrants to America from 1820 to 1870, although it was one of the first of European states to acknowledge the right of unrestricted emigration. We have seen that the discovery of gold in California and Australia provoked a great emigration to those localities. The spirit of speculation drives not only capital but labor also, to all places where the prospect of profit is good. Special inducements held out to immigrants by various governments have been a great exciting cause; such as the exemption from taxation and the gifts of land and money by Peter the Great of Russia, and Frederick the Great of Prussia. The offers of free transportation and gifts of land by the Canadian, Australian and other governments have undoubtedly attracted some. The glowing pictures of emigration agents and of successful friends have been a spur to many. The rude pressure of physical want, then, as exhibited in famines, the love of conquest, religious persecution, civil wars, political despotism, discovery of gold and silver mines, the envy of brighter skies and a more fertile soil, have all acted as occasions of emigration, but nearly all of them have depended for their efficacy upon the migratory instinct, which, existing in a more or less developed state in all human kind, is peculiarly strong in the Aryan races, and especially marked in the Germanic family.—THE EFFECTS OF EMIGRATION may be considered with reference to three parties, the country left, the country entered, and the migrating persons. As a rule, able-bodied men possessing some capital emigrate. The lowest classes of the people do not have either the inclination to go abroad, or the money to pay their expenses. Only those can be of use in colonies who would be useful at home. The country left, then, becomes poorer in productive classes and in capital, the relation between the rich and the poor more unfavorable, and the contrast between the classes sharper. (Roscher.) A person who emigrates just as he becomes of a productive age represents the investment of so much fixed capital which is transferred from one country to the other. Besides, he generally takes with him capital enough to get a fair start, which is also subtracted from the circulating capital of the country. He leaves behind him a gap which can not immediately be filled by as able a laborer. It is said, for instance, that in Mecklenburg agricultural labor has much deteriorated because the strong men emigrate and the old and children remain at home. As more men than women emigrate a surplus of the latter is left behind, which may have a bad influence on the morals of the community. According to Rümelin the large emigration from Würtemberg during the years immediately following 1850 left such a preponderance of women that one-sixth of all the young women who had reached a marriageable age in 1865, would remain unmarried, even if all the marriageable young men were to engage in matrimony.—The above remarks have reference to individual emigration. The dangers pointed out do not apply to what may be called colonizing emigration, *i. e.*, the transporting of families to some distant part of the world to form colonies which are to remain economically connected with the mother country. In such cases emigration not only provides room at home by removing the surplus population, but there arises at the same time an increased demand for manufactured articles, an increased supply of raw material by means of which an absolute growth of population is made possible. By making provision for the transportation of men, women and children the equilibrium of the sexes at home and of the productive to the unproductive population need not be disturbed. The capital needed will be better employed than if invested at home, for it will bring in greater returns. As a very rare exception an emigration suddenly undertaken, well directed and on a very large scale, may be made to constitute the efficient means preparatory to the abolition of pauperism. Where, for instance, by reason of the subdivision of land into extremely small parcels, farming on a diminutive scale has come to preponderate;

where the popular house-industries have been reduced to a miserable condition by the immoderate competition of great foreign manufactures and machinery, the hopelessness of the situation consists principally in this, that every improvement made must be preceded by a concentration of the forces of labor and their combination with the powers of capital, which for the moment renders a great number of those who have been laborers hitherto entirely superfluous. The superfluous laborers must starve in order to allow this improvement. If a large enough quantity could be removed at once, the revolution in industry would at once take place. The proletary would disappear for a short time at least, and allow an opportunity to take measures for its permanent abolition.—The country entered, if already settled, is affected in all directions by any large influx of foreigners. Economically, industry may be quickened, and the material resources of the country rapidly developed by the new supply of cheap labor. Our own country affords an excellent instance of this. The immense immigration from 1847 to 1860 made possible the railroad and manufacturing extension of those years. From 1865 to 1873 the incoming tide of foreigners swept toward our machine shops and factories. The Chinese laborers made the Union Pacific railroad feasible. In a word, a large mass of foreigners whose standard of life is permanently lower than that of the natives may have the same effect on industry that improved machines do, *i. e.*, may quicken and stimulate production. But this very advantage, if permanent, brings with it a very serious danger, viz., a forcing down of the standard of life of the whole laboring class and a consequent deterioration in their character and efficiency. This point has not been sufficiently regarded by economists. The question is not merely one of production, but also of distribution, and of the interests of the masses of the laboring classes. The introduction of radically different elements may destroy the whole race by mixture with the natives; may injure the national life and commerce by the introduction of new economical customs, and debase the civilization of the whole people along with its economical system. The immigration of a different race not likely to amalgamate readily is peculiarly dangerous. It, if at all inferior, will be restricted to certain fields of labor which will be likely to be regarded with contempt as belonging exclusively to the inferior race. Labor acquires a stigma, and a great social injury is done. The agitation against Chinese immigration into the United States is based upon a blind feeling rather than upon economical and sociological considerations. But that it would bring grave evils with it if it should ever assume serious proportions can hardly be denied. (See CHINESE IMMIGRATION.) Even the emigration of Irish laborers to England and Scotland has been greatly deprecated by thoughtful men of all classes. The Irish laborers, bare-footed and ragged, restricting themselves to potatoes and whisky, have carried their disgusting habits of living in cellars, and of congregating several families together into one room even with pigs as companions, over to England. (Th. Carlyle, "On Chartism.") Even John Stuart Mill would have no hesitation in prohibiting such an emigration to prevent the economic contagion spreading to English workmen. The Scottish census report of 1871 contains the most vigorous expressions as to the blasting effects of Irish immigration to Scotland on the condition, character and habits of the native laborers. "With the year 1820," says the report, "the invasion or immigration of the Irish race began, which gradually increased until it reached enormous dimensions in 1840, when railroad building began to assume extensive pro portions. This Irish invasion can easily have more ruinous effects upon the Scotch population than even the inroads of the Saxons, Danes and Normans. Already the Irish-born immigrants form from 5 to 15 per cent. of the population of many of our cities, and, if we count their children born in Scotland, from 10 to 30 per cent. The immigration of such a multitude of laborers of the lowest class, with scarcely any education whatever, can have only the most injurious influence. Up to the present time the most of these Irish laborers have not improved in any respect, while it is certain that the Scotch connected with them have been degraded. It is painful to think what the ultimate consequences of this Irish immigration will be for the character and habits of our people and for the future prospects of the country." In another place it continues: "The large proportion of Irishmen in Scotland has undoubtedly had very unfavorable results, and wherever they have settled they have debauched the lower classes, and increased the necessity for forcible police and sanitary supervision." While the fears of the commissioners of the census may have been exaggerated, no thoughtful economist can deny that they had a substantial basis. The same thing has been found to be true in Russia, for instance, where the immigration of certain classes into certain districts has been forbidden on economical grounds. Australia has considered it necessary to protect herself against Chinese immigration, and the United States is preparing to follow her example. These are instances in which the conviction that unsuitable immigration may be dangerous to the public welfare has led to the practical measures of making it difficult or even prohibiting it. The settlement of the Mormons in the United States, and the trouble they have made, show clearly what may happen where the settlers are at variance with the state entered on cardinal points of doctrine and policy, although they may belong to the same race and speak the same language. And when immigrants introduce heathen customs and observances which, though called religious and claiming toleration, can only be regarded as contrary to civil order, morality and decency, the problem is still further complicated. In all such cases it is easier to prevent the immi-

gration than solve the difficulties it would create. —Politically, the influence is also likely to make itself felt. A free government rests largely upon tradition. The unwritten constitution is quite as powerful as the written. Such a government is safe only so long as the population is homogeneous and has been born and brought up in the same political atmosphere. Let large foreign elements be introduced, the homogeneousness disappears, a class grows up to which the old watchwords have no significance, with whom the ancient precedents have no weight. A new constitution becomes necessary, if free institutions are to be preserved. But the character of the government has changed with the character of the people. Institutions which were successful with the well-trained and thoughtful New England community can not work with a mixed and ignorant population. A government may lay it down as a maxim that it will not interfere with the exercise of any religious faith. The rule may be observed as long as there is no religious sect which outrages public decency. Let Mormonism appear and the rule must be sacrificed and the religion stamped out, or at least its outward observance. But the principle of religious toleration, at least in its broadest statement, has suffered thereby a rude shock.—The effect on the emigrant himself is generally good. There is little danger that one who knows how to work and pray will go to the bad in a young agricultural colony. In a wilderness which has not yet been cleared, the greater number of proletarian vices spontaneously disappear. There is here no opportunity for jealousy or theft; little for intemperance, the gaming table, licentiousness or quarrelsomeness. Here labor is a necessity, and the rewards of industry and saving soon take a palpable shape. As the emigrant in such a situation can scarcely help marrying, children far from being a burden soon become companions to their parents in their solitude, and later helpmates in business. The colonist belonging to the lower middle class is most certain of improving his condition. It may, indeed, require many toilsome years before he can feel comfortable himself; but his children, who would probably have led a proletarian life in the mother country, may calculate with certainty on future well-being. The father's small capital, which the outlay for education alone would have exhausted at home, here becomes the seed of a number of prosperous households. (Roscher, "On Population," § 249.) If the emigrant goes to a country already tolerably well populated, where a different language from his own is spoken, he may meet with many discouragements, which may have, in isolated cases, a ruinous effect upon him. Having cut loose from all restraints at home, he has nothing except his own sturdy character to keep him in the right path, and it too often proves to be too weak. It is a significant fact that of the suicides in our large cities by far the largest proportion relatively occur among the foreigners. But this is true of individual cases only; the vast majority are able by industry and economy greatly to better their condition socially and economically. Another point is worth consideration. Life in a new and growing country is an education of itself. "It has been frequently observed that colonies are favorable to the development of a democracy. Ancient customs and usages can not be preserved in a colony as at home. Men are of necessity placed on a greater equality since they have to share the same hardships, to overcome the same difficulties and to face the same dangers." What is true of colonies is equally true of a great republic like the United States while it is in the nascent state with abundance of unoccupied land. The competition is keen in all departments, but so many opportunities present themselves at every turn that it can never become oppressive. A share in the government keeps alive political interest, or excites it where before lacking, while the independence of life and action affords the best training for citizenship. Hence we see a capacity for self-government developed even within one generation in emigrants whose ancestors to the farthest remove never possessed such a quality. Such an education must result in making the emigrant worth more to himself and to the world.—EMIGRATION LAWS. "Every state which regards its members not as serfs but as freemen, who, under its protection, follow out their own purposes, acknowledges of course the right of emigration. Only by such acknowledgment can the rights of its subjects become true rights of freedom, while the prohibition or arbitrary limitation of removal prevents them possibly from the only ground on which they can flourish and bring forth fruit. If in spite of this, however, this or that particular state declares the relation of subject to be indissoluble, it will hardly be able to offer any satisfactory justification for it." The preceding quotation fairly represents the opinion of the authoritative writers on international and political science of the last three generations. And yet the practice has not been at all consistent with this theory. The question as to whether a citizen can expatriate himself, although not the same as to whether he may emigrate, is yet closely connected with it. Even in the United States (of all countries in the world the one where we should least expect it) there was formerly a great difference of opinion on this point. And it was not until 1868 that congress finally decided the question by an act declaring that expatriation was an inherent right of all men. In the same year the United States secured a treaty from the North German confederation acknowledging the right of its citizens to be naturalized in America. (See NATURALIZATION.)—Prohibition of emigration has always been a common device of governments. The idea at the bottom of such prohibitions is different under different conditions. Cæsar forbade all persons of senatorial rank to emigrate out of Italy. In modern times nearly every European state has at

one time or another prohibited emigration. Frederick William I. forbade the emigration of Prussian peasants under penalty of death. In Spiers, in 1765, persons of good conduct, good workmen, and of sufficient means, were forbidden to emigrate. The public opinion of modern times is very generally opposed to this compulsion, which would make the state a prison. It might, indeed, be urged with much force that a man who had been educated and protected until he had become of productive age ought not to be allowed to leave the country as soon as he became valuable. Russia and Turkey still keep a prohibition of emigration without permission from the czar and sultan. Most continental states do not permit emigration until the person wishing to go has performed all his obligations to the state and to his fellow citizens. To the former belongs his military service; to the latter the settlement of all his debts. These last provisions seem just and proper. But the statesman who undertakes to prevent persons leaving who are discontented with the political, religious or economical condition of things "should take care lest he act like the physician who prevents the discharge of diseased matter from the sick body and causes it to take its seat in some vital organ." Hence even where emigration is considered detrimental to the country, no governmental condition should be attached to it, except that the person desiring to emigrate should give timely notice of his intention, and receive his passport only after it has been shown that he has fulfilled all his obligations. The immense German emigration, of the last thirty years, though perhaps injurious in some respects to Germany, has in all probability prevented violent revolutions in that country.—Emigration has, on the other hand, at various times and for various purposes, been favored or compelled by the state. The old Grecian cities used to favor or compel emigration whenever the population became too crowded. In modern times the Russian czars have often transported colonies from one portion to another of their empire, so as to settle up some desolate portion. Theorists and practical statesmen both have favored state aid to emigrants. After such great calamities as the famine of 1846 in Ireland, the cheapest form of assistance is often aid to those who are willing to depart for more favored localities. As a rule, however, positive provisions in favor of individual emigration have but little in their favor. Why should those who remain at home be compelled to pay tribute to those who turn their backs on the fatherland? Those who would have to pay the cost of such aid, viz., the wealthy, are just the ones who under the form of increased wages of the laborers must bear the loss incident upon emigration. Colonizing emigration may very properly be favored by the state. It is not likely to be directly remunerative, otherwise it might be left to private corporations. But a colony well established and maintaining a connection with the mother country is a continual source of advantage to the latter, as we have already pointed out. The principal modern governments have so far favored emigration as to provide for the proper accommodation of emigrants, taking care that they shall not be cheated or abused by the transporting companies. English and German legislation are instances in point. The legislation of Bremen is a model in this respect, and has contributed largely to make that port the chief outlet of German emigration. The minimum space to be allotted each passenger is fixed by law, as also the amount of provisions to be taken along on each passage. The transporting companies are also liable for damages arising from accidents. To prevent any undue exciting of the lower classes, emigration agents are not allowed to carry on their operations in the inland.—Immigration also has been prohibited by various governments. The most important instances in modern times are those already mentioned, Australia, etc. The general dislike of foreigners characteristic of many nations in history has of course acted as a powerful check on emigration, while the positive laws of such countries as China and Japan kept them for centuries closed to all outside influences. The difficulty of securing protection and acknowledgment of political rights has been another powerful deterrent of immigration, which has disappeared even among civilized nations only within very recent times. The right of a state to refuse admission to foreigners was vigorously maintained by oriental nations until they were compelled by force to admit them, and recently the same doctrine has been advocated and practiced by the powerful nations already referred to, Australia and the United States. The right of a state to refuse to accept the criminals, paupers, etc., of another state, must be granted by all right-thinking statesmen, and the right to prohibit all immigration, deemed dangerous or undesirable, can be based on the same principle, viz., self-protection.—Immigration has, however, been quite as often encouraged by artificial means as it has been prohibited. According to the legendary account of the founding of Rome, Romulus offered special inducements to immigrants, and in consequence thereof the population increased very rapidly. Cæsar tells us that the Gauls incited the first immigration of the Germans under Ariovistus by offering them one-third of their lands in return for aid against their enemies. We have numberless instances of immigration induced by direct offers during the period of the decadence of the Roman empire. In the strife of factions and parties, first one side and then the other appealed to the Germans for aid, offering them land for settlement, if they would respond. The result of the response was the overthrow of the empire. The Britons summoned the Saxons to their aid against the Picts and Scots, promising them land for settlement, and the Saxons ultimately became the rulers of the country. In the twelfth century large numbers of the natives

of the Netherlands were induced to emigrate to Germany and become farmers, and in the fourteenth and sixteenth centuries to England, and settled there as artisans. During the thirteenth century a multitude of German colonists established themselves in Poland on the domains of the crown and of the church. As a rule they obtained the land in consideration of moderate services and rents which, however, did not begin to run until after eight years nor until after thirty on uncleared lands. Large numbers also emigrated to Hungary and Transylvania, while the French Huguenots, driven from home, were invited to all the independent Protestant countries. Nearly all the remarkable Russian princes from Ivan III. have endeavored to induce Germans to settle in Russia. Peter the Great refused to give up his Swedish prisoners of war because he wanted them as colonists. Catherine planted colonies of foreigners on the Volga and in southern Russia. About 1830 the number of colonists was estimated at 130,000, mostly Germans. The great Prussian rulers have cultivated the policy of immigration on a most extensive scale, and thus maintained the original character of their parent provinces as the colonial land of the German people. It is estimated that Frederick William I. spent 5,000,000 thalers in establishing colonists. Up to 1728, 20,000 new families were received into Prussia alone. Frederick the Great endeavored to retain in the country the strangers who came there periodically. He is said to have settled 42,600 families in 539 villages and hamlets. The population of Prussia between 1823 and 1840 increased by 751,749 immigrants, without any positive favors shown them, and the greater part of these were not very poor. In Russia, in 1803, the Emperor Alexander promised the colonists a full release from taxation for ten years, a reduction of taxation for ten more, and freedom from civil and military service for all time; besides sixty *dessatines* of land per family gratis, an advance of 300 roubles for house building, etc., and money to enable them to maintain themselves until the first harvest. Hungary, as long ago as 1723, accorded settlers freedom from taxation for six years and artisans for fifteen years. Nearly all modern states which possess large amounts of unoccupied lands have offered special inducements to immigrants. Australia, Canada and the United States have been particularly distinguished by their liberal offers of land or money, or both. The last named has given land only on condition that the persons taking it should actually occupy it. The great railroad corporations have also made liberal offers and provided exceptional advantages and rates to settlers, and taken special pains to attract immigrants by advertising throughout the world, so far as possible, the advantages of the new countries. Special precautions have also been taken to prevent the abuse of the immigrants on their arrival in this country, which removes of course one of the deterrents of immigration.—IMMIGRATION INTO THE UNITED STATES. Of all modern nations the United States has received by far the largest number of immigrants. The statistics of immigration have of late years been kept with tolerable accuracy, and they afford a great number of interesting facts for comparison and discussion. We have selected the following for special mention, as they serve to illustrate the points previously presented under the "effects of emigration." The vast majority of the immigrants are at the most productive age. About 25 per cent. are under fifteen years of age, and less than 15 per cent. over forty, leaving more than 60 per cent in the prime of life. The number of males is largely in excess of that of females, the ratio varying with the nationality. Among the Chinese only about 7 per cent. are females, while their ratio among the Irish is over 45 per cent., and in the total number of the immigrants about 38 per cent. About 46 per cent. of the whole number, after deducting women and children, were trained to various pursuits, nearly half being skilled laborers and workmen. Nearly 10 per cent. consist of merchants and traders. The extent of the immigration during given years or periods depends upon the business prosperity, political quiet and crops on both sides of the ocean. The growth of immigration from 1820 to 1837 was continuous and rapid. It declined for two years following the crisis of 1837, and leaped up again in 1840 to the highest point it had ever reached. The year 1854 marked the culmination of a series of bad crops and political troubles in Europe which had given a powerful impetus to emigration, and the immigration fell off from 427,833 in 1854 to 200,877 in 1855. The crisis of 1857 led to another great falling off, and the early years of the war were marked by a still further decline. Beginning with the year 1863, however, the immigration began to increase again and reached in 1872 the highest point it had ever attained. The crisis of 1873 was followed by a steady decline in immigration until 1879, when it began to increase again, and in 1881 reached the enormous figures of 743,777, with good prospects for a large increase in 1882. The distribution of the immigrants among the states and territories is also interesting. The northern and western states and territories have received by far the largest proportion of these immigrants. The southern states have also begun to encourage immigration, but without any very marked results so far.—The contribution made to the wealth and population of the United States by immigration has been the subject of interesting and valuable discussions. Mr. Schade estimated that, of the 33,589,377 whites in the United States in 1870, more than 24,000,000 were of foreign extraction. Dr. Jarvis has conclusively shown the error in Mr. Schade's computations and advanced good grounds for assuming that the foreign population in 1870 (including immigrants and their children to the third generation) did not exceed 10,813,430, while those of American descent amounted to 22,775,947. Their addition to the wealth of the

country has also been variously estimated. The estimate as to the amount of money each immigrant brings with him varies from $80 to $150. Assuming the lowest estimate as the correct one, the money brought into the United States by the immigrants up to Jan. 1, 1882, amounted to over $900,000,000. But the economic value of the immigrant arising from the addition to the industrial and intellectual resources of the country is still greater. The estimates here vary also between wide extremes, viz., from $800 to $1,125. Taking the lowest estimate again, the contribution made to our wealth by immigration is increased by about $9,000,000,000. No allowance has been made in this estimate for paupers, criminals, etc., who are a positive loss to the community. Our gain in this immigration is considered by some to have been the loss of foreign countries, by others as so much added to the wealth of the world, owing to the transfer of labor and capital from unproductive to productive fields. — The subjoined table indicates the total number of alien passengers arriving in the United States in each year since 1820, and the chief countries from

YEARS	England	Ireland.	Scotland.	Total British Isles	Germany	Prussia	Holland	Sweden and Norway	France	Switzerland	Italy.	Total
1820	1,782	3,614	268	6,024	948	20	49	3	371	31	25	8,385
1821	3,073	1,518	293	4,728	365	18	56	12	370	93	62	9,127
1822	856	2,267	198	3,488	139	9	51	10	351	110	32	6,911
1823	851	1,908	180	3,008	179	4	19	1	460	47	32	6,354
1824	713	2,345	257	3,609	224	6	40	9	377	253	41	7,912
1825	1,002	4,888	113	6,983	448	2	37	4	515	166	58	10,199
1826	1,459	5,408	230	7,727	495	16	176	16	545	245	50	10,837
1827	2,521	9,766	460	13,952	425	7	245	13	1,280	297	35	18,875
1828	2,735	12,488	1,041	17,840	1,806	45	263	10	2,843	1,592	30	27,382
1829	2,149	7,415	111	10,594	582	15	169	13	582	314	16	22,520
1830	733	2,721	29	3,874	1,972	4	22	3	1,174	109	8	23,322
1831	251	5,772	226	8,247	2,395	18	175	13	2,038	63	28	22,633
1832*	944	12,436	158	17,767	10,168	26	205	313	5,361	129	2	60,482
1833	2,966	8,648	1,921	13,564	6,823	65	89	16	4,682	634	1,693	58,640
1834	1,129	24,474	110	34,964	17,654	32	87	42	2,989	1,389	103	65,365
1835	468	20,927	68	29,897	8,245	66	124	31	2,696	548	56	45,374
1836	420	30,578	106	43,684	20,139	568	301	57	4,448	445	107	76,242
1837	896	28,508	14	40,726	23,036	704	312	290	5,074	383	36	79,340
1838	157	12,645	48	18,065	11,369	314	27	60	3,675	123	82	38,914
1839	62	23,963	.....	34,234	19,794	1,234	85	324	7,198	607	76	68,069
1840	318	29,430	21	42,043	28,581	1,123	57	55	7,419	500	28	84,066
1841	147	37,772	35	53,960	13,727	1,564	214	195	5,006	751	166	80,289
1842	1,743	51,842	24	73,347	18,287	2,083	330	553	4,504	483	93	104,565
1843†	3,517	19,670	41	28,100	11,432	3,009	330	1,748	3,346	553	108	52,496
1844	1,357	33,490	23	47,843	19,226	1,505	184	1,311	3,155	839	79	78,615
1845	1,710	44,821	368	64,031	33,128	1,217	791	928	7,683	471	63	114,371
1846	2,854	51,752	305	73,932	57,010	551	979	1,961	10,583	698	88	154,416
1847	3,476	105,536	337	128,838	73,444	887	2,631	1,907	20,040	192	160	234,968
1848	4,455	112,934	659	148,093	58,014	451	918	903	7,743	319	219	226,527
1849	6,036	159,398	1,060	214,530	60,062	173	1,190	3,473	5,841	13	208	297,024
1850	5,276	133,806	627	175,485	63,168	14	576	1,363	8,009	146	360	310,004
1850‡	1,521	30,198	233	39,604	14,969	745	108	206	1,372	179	46	59,976
1851	5,806	221,213	966	272,740	71,322	1,160	352	2,424	20,126	427	423	379,466
1852	30,007	159,548	8,148	200,247	143,575	2,343	1,719	4,103	6,763	2,788	297	371,603
1853	28,867	162,649	6,006	200,225	140,653	1,293	600	3,364	10,770	2,748	267	368,645
1854	48,901	105,931	4,605	160,253	206,054	8,955	1,534	3,531	13,317	7,953	984	427,833
1855	38,871	56,382	5,275	97,199	66,219	5,699	2,588	821	6,044	4,483	1,024	200,877
1856	25,904	59,006	3,297	99,007	63,807	7,221	1,395	1,157	7,246	1,780	982	200,436
1857	27,804	70,211	4,182	112,840	83,798	7,983	1,775	1,712	2,397	2,080	632	251,306
1858	14,638	34,410	1,946	55,829	42,291	3,019	185	2,430	3,155	1,056	889	123,126
1859	13,826	43,709	2,293	61,379	39,315	2,469	290	1,091	2,579	833	764	121,282
1860	13,001	60,692	1,613	78,374	50,746	3,745	351	298	3,961	913	770	153,640
1861	8,970	33,274	767	43,472	30,189	1,472	283	616	2,326	1,007	764	91,920
1862	10,947	35,859	657	47,990	24,985	2,544	432	892	3,142	643	541	91,987
1863	24,065	96,088	1,940	122,799	31,989	1,173	416	1,627	1,828	690	537	176,282
1864	26,096	89,442	3,476	116,957	54,379	2,897	708	2,249	3,128	1,396	597	193,416
1865	15,038	77,370	3,037	112,237	80,797	2,627	779	6,109	3,583	2,889	923	249,061
1866	2,770	83,894	672	131,620	110,440	5,452	1,716	12,633	6,855	3,823	1,298	318,494
1867	.....	108,857	.....	125,520	121,240	12,186	2,223	7,055	5,237	4,168	1,612	298,358
1868	11,107	59,957	1,949	107,582	111,503	11,567	652	20,420	3 936	3,201	1,402	297,215
1869	55,046	79,080	12,415	147,716	124,766	22	1,360	41,833	4,118	3,488	2 182	395,922
1870	59,488	75,544	11.920	151,089	91,168	611	970	24,395	3 586	2,474	2,940	378,796
1871	61,174	61.468	12,135	143,937	107.201	.....	1.122	22,966	5,780	2,824	2,927	346,938
1872	72,810	69,761	14,565	157,905	155,595	.....	2,006	24,993	13,782	4,031	7,239	437,750
1873	69,600	75.848	13 008	159.355	133.141	.....	4,640	29,458	10,813	3,223	7,473	422,545
1874	48 396	47,688	8 765	100 422	56,927	.....	1,533	10,917	8 741	2,436	5,787	260,814
1875	30,040	29,969	5.739	66,179	36,565	.....	1,073	10,496	8,607	1,641	3,315	191,231
1876	21.051	16 506	4,383	42.243	31,323	.....	709	11.235	6,723	1,572	2,862	157 440
1877	18.124	13,791	3,408	35,556	27,419	.....	572	9.107	5,127	1,612	3,610	130,526
1878	19.581	17.113	3.700	40,706	31,958	.....	652	11,392	4,668	2,051	5.163	153,207
1879	40,997	27,651	8,728	78,424	43,531	.....	1.199	26 147	4.121	3 834	9,027	250,565
1880	64.190	84,799	14,495	164.488	134.040	.....	3,730	69,777	4,939	8,498	12,756	593,703
1881	76,547	70,909	16,451	165,230	249,572	.....	.....	82,859	5,653	11,628	20,101	720,045
Total	1,033,702	3,212,991	190,000	5,012,240	3,274,562	.....	48,354	463,274	320,766	104,921	104,257	11,338,631

* Includes all of 1832 and last quarter of 1831. † Includes only first nine months of 1843. ‡ Includes last quarter of 1850.

which they emigrated. The "total" includes also the immigrants from all other countries besides those mentioned. To obtain the net immigration from the table, about 1½ per cent. of the total aliens should be deducted for those not intending to remain in the United States, except that from 1871 to 1881 the net immigration, instead of alien passengers, is indicated in the table.—The preceding table is based on the special report on immigration made by Dr. Loring, in 1871, with subsequent additions from later reports. The discrepancies which may appear between this table and others may be partly explained by the fact that in some tables the names of those who died on the passage are included in the enumeration, while in others they are not.—LITERATURE. The literature of the subject is not very extensive. The reports of the bureau of statistics for the United States and of the corresponding departments in Australia, Canada, and the various continental powers, supply the facts of emigration so far as they are known. The reports of the New York commissioners of emigration contain important discussions of theoretical points connected with the subject. "Immigration," by Frederic Kapp, is replete with information, and full of interest. In an article in vol. xxix. of the Atlantic Monthly, Dr. Jarvis criticises some of the positions taken by Mr. Kapp. A summary of the discussion is to be found under the title "Emigration" in the New American Cyclopædia. The other standard Cyclopædias contain interesting and valuable articles under the appropriate heads. The principal works on Political Economy all contain valuable discussions of various phases of the subject. Worthy of special mention in this connection are Mill, Roscher and Rau-Wagner, all of which have been freely used in preparing this article. E. J. JAMES.

EMINENT DOMAIN, an original ownership retained by the sovereign, or remaining in the state, whereby land or other private property can be taken for the public benefit. This is the most definite principle of fundamental power of the government with regard to property, and the most striking example of the sovereignty of the people as a corporate body to resume original possession of the soil, where its use is essential to their mutual advantage and the welfare of society.—Whenever it becomes necessary for the public benefit to open a street, construct a canal, charter a railroad, lay out a park, or perform any other similar act in the interest of the public, and the owners of the property refuse to sell, or ask an exorbitant price for their lands, by the power of eminent domain the state has the right to condemn such property to that public use, and any court having due authority, by issuing its process, may compel the surrender of the property.—In countries where by the theory of the law all property is held by tenure from the sovereign, the act is regarded merely as the resumption of an original grant, this inherent right of the sovereign having been embraced and carried with the grant as originally made. Under republican forms of government the right of eminent domain is founded on the welfare and prosperity of the people, and the common benefit to be derived by the act. In our government this right is conferred by the constitution, and the security of the people confirmed by the fifth amendment to that instrument, to which further allusion will be made hereafter. The constitutions of many of the states likewise provide the right of exercise of this principle, and compensation in an adequate degree for all private property taken for the public benefit and use. This condition is also implied in law, and the custom is universal to pay for property taken from the individual, for the benefit of the public, although the constitution may not expressly provide for the same. The principle of a just compensation is recognized by all nations possessing a constitutional government, and by many arbitrary governments in their acts of restitution, relief, etc. The civil code of France, as well as the constitution of the United States, and the constitutions of many, if not all, of the states of the federal Union, recognize the justice of this principle. In the absence of such constitutional provisions the courts have determined the principle to be so fundamental and imperative, that laws not recognizing, or those denying this right to the individual, are deemed void.—There are, however, distinctions to be drawn between the principle of eminent domain and the exercise of other proscriptive powers by the government. The seizure by a sovereign of private property during a war on account of military necessity; damages to private property in time of war, either from occupation by the enemy or from wanton depredations by its own troops, (though in this last case compensation is sometimes made by special legislation); imposition upon the people of contributions for carrying on the war successfully, in the form of taxation, unless the quota of a single individual be greater than his share; taxation of private property for public use; sale of private property for taxes; destruction of crops or supplies in time of war, to prevent the enemy from obtaining such resources; destruction of property to build dams against great floods; destruction of houses to prevent the spreading of conflagrations; the condemnation of a cemetery or burial ground on the plea of an abatement of a nuisance; the demolishing of property to extirpate disease; the confiscation and consumption by fire of infected clothing or other personal property to aid in the extinction of infectious disease; the taking of land for the purpose of straightening a river, and consequent injury to the owner by cutting the banks and removing the trees; the seizure and destruction of property forfeited by violation of law; the forfeiture to the state of the property of a corporation on account of the abuse of its charter powers; the destruction of tools and appliances for criminal purposes; and all such acts done and performed for the public good, safety

of the government and security of the people as a community, do not partake of the principle of eminent domain, and do not carry with them the right of compensation —With regard to the question as to what constitutes a public use or the number of people that must be benefited to constitute a use as public, it may be stated that it is not necessary or essential that the whole community or any considerable portion of it should directly participate in the benefit to be derived from an improvement, to make the use public. The use to be public, however, must relate to the community, but not to every individual, or to each one equally. It has been laid down as a rule, that should the improvement enlarge the resources, extend the industrial energy or promote the productive power of a moderately large number of the community, the use is a public one. The legislature granting the franchise usually determines, by its act, the number of people to be benefited that constitutes the use public. Waterworks for a particular town, private ways essential to the public use, a public park established in a county where it could prove beneficial only to an adjacent city, are all public uses in strict accordance with the principle of eminent domain.—It is not essential that the property thus taken should pass into the possession of the public. The government, in nearly all matters pertaining to the improvement of the country and the development of the nation's resources, must perform its administrative and executive work through its agents. Therefore, in strict accordance with this rule of law, the property thus taken may become the property of a private individual, but most generally falls into the possession of a corporation, such as railroad and canal companies Under no circumstances can the private property of one individual be taken and granted to another; but it is sufficient for the purposes of eminent domain if the use is public, and the public have the privilege of using the same, whether the property taken be in the possession of one or many individuals.—The most notable example of public use, and where the exercise of the power of eminent domain is most frequently displayed, is in the establishment of means of public conveyance and quick communication between remote points of the state and country. The rapid transportation of passengers and merchandise to different parts of the country forms one of the most essential public uses that could be devised. This is most effectually performed by the construction of railroads, which are compelled by law to transport as common carriers, at all reasonable times, passengers and freight upon all lines of road within the extent of their operation. This labor, therefore, forms a great public use, highly essential to the comfort, convenience and prosperity of each community within its reach; and while its corporation is of a private character, its work is as much for the public use and benefit as if it had been constructed by the authorities of a state, out of the funds of the public treasury. The courts have determined railroads to be public highways, and on this ground have bonds been issued and taxation imposed to aid in their construction, while the receipts collected are for their own use and are handled exclusively by themselves. In the same category are placed other means of transportation for men and goods, such as canals, turnpikes, highways, public roads, bridges and ferries, in aid of which the power of the state has been invoked through the right of eminent domain.—Before the employment of steam, and when water power was exclusively used in operating mills, it was the practice to encourage the building of the same by delegating to individuals the power of eminent domain by condemning favorable sites for their construction, when the owners of such available locations refused obstinately to sell for that purpose. But this doctrine has undergone a great change, and many of the courts that formerly held the public character of mills and the justness of taking private property, through the exercise of eminent domain, for that purpose, now doubt the constitutionality of statutes providing for such action, and with great reluctance enforce the provisions of statutes that appear to be the very extreme of legislative power. As a mill may now be run by steam instead of water, the question is no longer one of necessity but of the comparative cost between the two systems, and consequently is not in the nature of a strict public use. The supreme court of the United States, in a case in error from the state of Massachusetts (Holyoke Co *vs* Lyman, 15 Wall, 500), recognized to a limited extent the public use of mills, and the exercise of the right of eminent domain, where, by the nature of the country, mill sites sufficient in number for the public use could not otherwise be obtained.—Among other uses considered public in connection with eminent domain is that of draining marshes and low lands, by means of which the public health is promoted, as well as valuable land reclaimed. Also the removal of a dam, which so obstructs a watercourse as to produce an overflow of adjacent valuable land, may be accomplished by the same process. Lands for public drains in aid of agricultural enterprises; lands for the construction of drainage sewers in towns, cities and villages; lands for the erection of school houses and for school yards, for necessary buildings, etc.; lands for the establishment of public parks for the promotion of the public health; lands for the building of public roads, for pleasure and recreation as well as for business purposes; lands for the construction of public reservoirs, and for the conducting of pure water to the homes of people residing in towns and cities; lands for widening and improving public streets; lands for the establishment of public burying grounds and for the suitable enlargement of the same, may all be condemned and taken for such purposes through the exercise

of the powers of eminent domain.—In thus condemning private property for public uses under the principle of eminent domain, the legislature can not so determine the question as to make it absolutely conclusive upon the courts Still the presumption is always in favor of the use declared by the legislature to be public, and if the use is surely a public one, the legislative authority can not be restrained by the courts. This can only be done when there is a well-defined attempt on the part of the legislature to evade the law and procure the condemnation of property to private uses. The rule stands that the legislature is the proper body to determine the necessity of the act, and likewise the extent to which the act can be carried; and the only restraint upon its power is that requiring compensation for the property taken by its mandatory.—There are, however, restrictions in many of the states in granting special charters and privileges to corporations, and the condemnation of private property to a public use is governed almost exclusively by *general* law. Under this system land having been granted to another public use can not be taken by general law, should the act tend to destroy a franchise. Abandoned property, though formerly owned and worked by a corporation, can be taken, but the taking of the land will not extinguish the former franchise. A portion of a horse railroad, constituting its most valuable possession, can not be taken under *general* law. A right of way taken and occupied by one road can not be taken by another, when essential to the vitality of a franchise used for the public benefit.—When property is taken from a private individual for a public use by the exercise of the power of eminent domain, the assessment of damages for all such property so taken must be made by a fair appraisement of its value by an impartial tribune. An arbitrary scale of prices can not be made the rule of appraisement. The corporation condemning, or for whom the property is condemned to be converted to a public use, can not establish the terms of compensation The amount of compensation can not be fixed by the sworn statement of the agent of the company and two disinterested freeholders, as provided in certain other property appraisements, because one of the parties is interested in the result, and it would be an evasion of the law. It must be done by a jury or commissioners, or a court without a jury, but the commissioners can not be directly appointed by the legislature without the consent of the owners, or due notice of their appointment having been sent to the owners and an opportunity given for the owners to be heard.—A legislature can not declare a franchise forfeited and authorize a re-entry, because these interests are property, and can not be taken unless paid for by an amount of compensation established by judicial ascertainment.—Under the rule prescribing the character of property to be taken, a dwelling house would not be exempt from condemnation more than any other property, but a statute may provide that improvements of a public character shall not take a dwelling house or other necessary buildings. The house, however, must be a *bona fide* dwelling house, and may include a court yard, office, outhouse and garden, whether attached or not to the main building. An unfinished house in course of erection would come under the rule of exemption. Some statutes exempt gardens, yards, orchards, warehouses and manufactories. A lumber yard would not be exempt, and a garden must be annually cultivated to be exempt. A field with a few fruit trees therein would not be classed with orchards, and could be condemned. Land used by an iron and tin plate manufactory for depositing rubbish would be exempt. Under the rule a workshop or manufactory would be exempt and a warehouse used in connection with manufactories would be included, though separated by a road.—In determining the market value of all such property taken by right of eminent domain and for which compensation must be made, the value is not to be estimated at the sum the property might bring at a forced sale, but such a sum of money as the same character of property is worth in the market to parties desirous of purchasing for business purposes. The value must also be determined by the testimony and opinion of competent witnesses who must possess special knowledge as to the value of such property, to constitute them competent witnesses. Nor is the value of the property to be confined to its present use, but its value is to be estimated by the uses to which it may be put, and based on the uses to which men of ordinary business foresight, caution and prudence would usually assign it.—In those states whose system of laws concedes the fee of public streets and roads to be vested in the adjoining owners and not in the public, or corporate towns and cities, the rule is, that the use of all such streets and highways by railroads is an additional burden and subject to compensation. If no remedy is provided by the act of a legislature authorizing the use of a street by a railroad, the remedy at common law still remains, and the payment of these damages may be enforced in advance. With regard to horse railroads it is held that the use of a street by a horse railroad, when laid without disturbing the grade of a street by cutting or filling, is a proper modification of an existing servitude as defined by common law, and that no new burden is enforced by reason of a change from a carriage or other vehicle to a car, especially as the horse railroad does not attempt to debar other vehicles from the use of its particular part of the road. However, should it impair access to buildings by changing the grades of streets, compensation under the rule must be made to adjoining owners. —With regard to the power of the federal government to exercise the right of eminent domain, it is held that the federal government, being an independent sovereignty, possesses the power to condemn lands for public use, within the jurisdiction of states. This principle was clearly defined in

the case of Kohel *vs.* the United States (91 U. S., 367) This decision declared the existence of "an independent power in the federal government to condemn lands of private persons in the several states, for its own public use. That the right is the offspring of public necessity and is inseparable from sovereignty, unless denied to it by its fundamental law."—It is also held that the federal government and the state governments are each sovereign within their respective spheres, and neither compelled to obtain from the other permission to exercise its lawful powers; and that the right of eminent domain was one of the means employed to obtain lands for public use, and so recognized by the constitution. Judge Cooley, in the case of Trimbley *vs.* Humphrey (22 Mich., 471), held that the state could not condemn lands for the use of the United States so as to bind the United States in the payment of compensation. This of course implies the right of the United States to make its own condemnation in the states for public uses. In the Maryland case of Reddall *vs.* Bryan (14 Md., 444), the court held the uses of the general government to be co-ordinate with the public uses of the state wherein the land was condemned —The fifth amendment to the constitution of the United States provides for the exercise of the power of eminent domain, by providing for the compensation of private lands taken by the United States. This provision was also intended as a security to the states against the encroachments of federal power upon the rights of private citizens. Under the genius of our institutions the federal government can not interfere with the rights of the states in the exercise of their powers of eminent domain within their respective jurisdictions, as the states are separate communities. The constitution restricts this encroachment. The exercise of the right of eminent domain by the federal government to an unlimited degree was strongly objected to by the several states before the formation of the Union, and prevented, in part, some of the states from ratifying the great instrument for a considerable period of time, and a restraining safeguard was early adopted in the fifth constitutional amendment. With regard to the condemnation of lands within a state whose fee is vested in the United States, the rule is, that all such lands when held by the United States as a mere proprietor and not devoted to any special use, are liable to condemnation for public uses, such as streets, highways, railroads, etc. Should the lands be occupied as forts, arsenals, armories, navy yards or other public purposes, they can not be taken for any ordinary public use. This rule was established when the city of Chicago attempted to make streets through the grounds on which Fort Dearborn was located. The streets proposed by the municipal authorities would cut through some of the public buildings and seriously impair the public use to which the land was devoted. The city was enjoined from opening the streets, and the supreme court of the United States sustained the injunction. (United States *vs.* Chicago, 7 How., 185.)—The right of way granted by congress over public lands holds good as against pre-emptors who have failed to perfect their title by fully complying with the land laws of the United States, or against mere squatters. With regard to the right of eminent domain relating to lands owned by states or municipalities, the rule is, that states may be proprietors of lands, and when such lands are taken by the exercise of eminent domain, the state must be compensated like a private individual. When an authority is conferred by legislative act over lands belonging to the state, in the absence of a specific grant or the expression of a design to aid a corporation by the gift of the land, the rule is generally maintained that such authority is merely a use of the lands on payment of a compensation, and the state can recover compensation as an individual proprietor. —There are, however, exceptions to this rule in some of the states, and an authority by legislative enactment to enter upon state lands is presumed to be a devise by the state. In Indiana it has been held that the right granted to make a road between two fixed points, carried with it the right to take the intervening lands belonging to the state, without compensation. Such a privilege, however, could not be assumed over lands already devoted to another public use by the state, and the rule which might correctly apply to vacant lands owned by the states, could not apply to the taking of a franchise or a park, or a road owned by a city and which had been paid for.—Foreign corporations may be authorized to condemn lands in the state while the improvements may be operated entirely out of the state, but the power must be conferred in express terms, as under a general act permitting condemnation for railroad purposes, a foreign corporation could not condemn land. Nor could the owner institute proceedings against such corporations to recover assessment of damages, in accordance with the statute, but such a corporation occupying the right of way over home roads, could be enjoined from operating its road until the damages of original right of way should be paid. One state can not condemn property or franchises in another state, but a bridge across a river may be condemned by one state up to the line of another.

JNO. W. CLAMPITT.

EMPEROR. The Sabine tribes gave the name of *embratur* to their leader in war or pillage. The Romans used the word *imperator*, and reserved the title for the victorious general, which was bestowed on him upon the field of battle, just as the French at Friedlinger proclaimed Villars marshal of France. It is well known that it was not allowed to bear this title of commander in Rome, and that there could not be more than one *imperator* there at the same time. But after Cæsar had caused himself to be made

perpetual dictator by the senate, he had himself saluted as *imperator* by the people, and permitted Cicero to be so saluted as well as himself. The military power of the *imperator* was distinct from the *imperium* with which all magisterial offices were invested by the senate. — Octavius also declared himself *imperator*, though he had no fondness for commanding in war. He united the consular and proconsular power with the tribunitial authority; he was pontiff, prince of the senate, so that his was the leading voice, and he attributed to himself a censorship over the morals of others He and his successors favored the title of emperor but little; they preferred *prince* or *Cæsar*. It was in the following century that the name of emperor prevailed This title, which in itself only suggested the command of armies, called up as well the idea of all the judicial functions which had accumulated in the person of the prince, but it did not betoken absolute power. In the time of Alexander Severus the jurisconsults pretended that the prince was above the law; but the senatus consultum of investiture only exempted him from the *lex Papia*, the *lex Poppæa* and the *lex Voconia*, on legacies and inheritances. Tribonian says that the people had conferred their authority upon the prince by the *lex Regia*. But the people never made such a law. If Tribonian had in mind the law which named the kings of Rome, that law did not imply sovereign authority; and if the *lex Regia* is the senatus consultum of investiture granted to the emperor, neither does it imply any such authority. —The senatus consultum which gave the investiture to Vespasian has fortunately been recovered. It only enumerated the magisterial functions of the emperor. The convocation of assemblies, the proposal, sanction and execution of laws, the command of armies, and inviolability, are none of them beyond the prerogative of constitutional sovereigns.—The despotism of the Roman emperors did not exactly result from the accumulation of power in their hands, for there existed in the senate, in provincial representation and in the laws, enough controlling elements to guarantee liberty, if power had been then, as in modern times, a question of grant. But, the powers being the same, the thoroughly mechanical notion that the ancients had of authority did not give as much play to personal initiative as do modern governments. The despotism of the emperors was further aggravated by the situation which had made the empire a necessity, that is to say, the heterogeneous character of the civilizations and races brought into juxtaposition under the Roman rule, and of which the strongest in numbers were the least capable of self-government.— The earlier Roman empire of the Flavian Cæsars, and even of the first Antonines, was still a Roman magistracy, a dictatorship, but upholding the right of discussion. Otherwise it was military and judicial, and differed essentially from the aristocratic and dynastic royalty that existed among the barbarians. But the more the relations of the empire with the north and east were increased, the nearer did the empire approach that royalty whose name was so hateful to Rome. Adrian established a system of etiquette at his court; Diocletian imitated the eastern kings more and more, to the extent of requiring his feet to be kissed. He did away with public institutions, and thenceforward affairs were transacted secretly and in silence. The Byzantine historians call the emperor indifferently *autocrator* and *basileus*, and never call the kings of Asia anything but *basileus*.—The establishment of Christianity, and the addition of the Germanic nations to the group of Latin nations already under the discipline of the Catholic church, was the occasion, in the ninth century, of a restoration of the western empire that profoundly modified the features of the first magistracy. The *holy Roman empire* was a very ingenious conception, of which Voltaire remarked that it was neither Roman nor holy. Whether it was holy or not is certainly open to controversy; but it was undoubtedly Roman, inasmuch as the object of its institution was to unite, in one federal system, all nations of Latin race, speech or education. The sovereignty of the empire among such a diversity of states soon became merely nominal; the kings of France freed themselves from it from the tenth century, although the German government persisted, as late as the seventeenth, in treating all the kings of Europe as *provincial kings*. The empire was therefore limited to Germany and Italy, and even in these two countries the idea of this institution differed widely. While the Italians, attached to their municipal autonomy, only regarded the emperor as the nominal head of the temporal power, and as a mediator, without regal functions, between their domestic governments, the Germans, on the other hand, were disposed to endow the imperial authority with the usual attributes of a national royalty, in order to bring about unity of legislation. The empire had become elective. Moreover up to the sixteenth century the coronation of the emperor at Rome was necessary for his complete investiture. But at the end of the fourteenth century the emperors were hereditarily chosen in the reigning dynasties. Hence the distinction to be met with in authors of the last two centuries between the empire (the German princes and the Free Cities) and the emperor (the nation of which the emperor was hereditary king). The empire made war on the emperor; it was also supported by foreign nations, as France, Sweden, etc. The holy Roman empire of the German nation, which came by degrees to be called the German empire, was abolished in 1806. On Jan. 17, 1871, the delegates from the states of the two confederations of Germany, in assembly at Versailles, re-established the "German empire" without alluding to either Rome or Italy, nor consequently to any suzerainty over the other states of Europe.—How shall we distinguish between an emperor and a king? It is possible to be both at once. Napoleon was king of Italy; the emperor

of Austria is king of Hungary; the emperor of Germany is king of Prussia (or rather the king of Prussia is emperor of Germany). At first sight, the choice of title seems arbitrary; by following the empire, however, through its various metamorphoses it will be understood that the adoption of the name of emperor or king is governed by sufficiently strict analogies. The conception of sovereignty in the two cases is not the same.—In principle, there should only be one emperor, or two at most, one of the east and one of the west, since, according to the imperial idea, the whole civilized world is considered as one republic, governed by the same laws. But as, since the renaissance and the treaty of Westphalia, states are regarded as independent, each nation can give to its chief the title of emperor or of king, according as it approaches or withdraws from the political ideal, represented in pagan times by Cæsarism, and under Christianity by the holy empire.—Is an empire more despotic than royalty? No: the parliamentary constitutions of contemporary empires and royalties are identical. But an empire is generally considered as a grant, and royalty as a right; a king represents himself, while an emperor represents the people; he is the embodiment of a quantity of collective power which extends to everything. A king is a great lord; an emperor is a functionary. A king may govern through the disposition of subjects by making appeal to their good-will, for he is a privileged person among other privileged persons, lords or commons. But the emperor must govern strictly, because he is a responsible agent. In fact the distinction disappears, because a change of constitution carries away in its rapidity the characteristics of supreme power; but it is plain why such and such a nation imposes upon its dynasty one of the two titles. A new dynasty, which has no ancestry and derives all its force from the law, is rather imperial than royal. A new nation, which has no aristocracy, arrives at a more positive conception of the law, and will demand a king in preference to an emperor.

JACQUES DE BOISJOLIN.

ENCOURAGEMENT OF INDUSTRY BY THE STATE—Bounties, etc., General Principles. The word encouragement as here used includes the favors accorded by public administrations, in the shape of bounties, money grants, loans or advances, freedom from taxation, etc., to foster any branch of industry, to facilitate any operation or encourage any work that may be considered particularly useful to a country. Bounties, then, are means of incitement used by government, or generally by public administrations, in view of certain definite results. It would be a difficult matter to name them all, the more so that the shape they take is very variable, according to the object it is proposed to attain, the country and the times: but what we have to say will suffice to give a general idea of the subject.—Great confidence was formerly felt in the efficacy of bounties given by the public authorities. They were even believed in many cases to be a necessity, it might be to induce the commencement of industries altogether new, it might be to give others already existing greater development, it might finally be to give labor in general a salutary activity. Thus governments seldom hesitated when the interests of the country they guided were really the object of their solicitude, to lavish bounties in different shapes to the utmost extent of their financial ability. Colbert was a strong advocate of this course, and would have been stronger had he consulted only his love of the public weal and the advice given by some of the first minds of his age.—People at that time did not sufficiently take into account the natural tendencies of industry and the potential energy of which it is possessed. It was thought necessary to encourage it to produce useful things, whereas the production of such is its natural tendency, its constant pre-occupation, its daily care. It was thought, at the very least, necessary to stimulate it in the paths it was following; and yet the stimulants it brings in its train are incomparably more powerful than those at the disposal of any government. Nor were the resources which it possesses thought of either, nor the magnificent recompense it bestows itself on whoever assists it in its progress. It is but just to add that the potential energies of industry and its internal resources were not as great formerly as they have become in our days, and that it might sometimes be necessary to supplement them.—As industry and its tendencies have become better known, so has the confidence once felt in the beneficial effect of artificial inducements singularly diminished. It still exists, it is true, in many minds, but no longer with the same life, as generally or as absolutely as it did once. This may easily be seen by the conduct of most European governments. Although these governments are in general much more occupied with the interests of industry than were those which preceded them, because they much better understand their importance, they show themselves much less prodigal of material encouragement. We do not speak here, let it be understood, of that sort of indirect encouragement which they give, or believe they give, at the expense of consumers, by the increase of customs duties, but only of money bounties directly drawn from the public treasury. Bounties of this sort are to-day much less frequent than they have been at certain periods, regard being had to the relative interest displayed by governments in industry and the comparative extent of their resources. No government could be seen now-a-days, unless in exceptional cases, doing for industry what Colbert did with no little regularity: paying with state funds for the importation of certain products or certain industries; drawing by bounties foreign workmen to the country; subsidizing growing establishments; advancing money to silk manufacturers at the rate of 2,000 francs for every loom working, etc. No more could there be

seen a government paying about 500,000 francs annually of a gratuity for the exportation of grain alone, with no other special object than that of encouraging agriculture, as for a long time during the last century the English government did * More credit is given at the present time to that spontaneous activity of industry, whose energy and resources are much better understood than they were formerly. Except in certain special cases where action is taken in view of some great public interest, the direct assistance given to industry is limited to a few honorary rewards or insignificant pecuniary help.—As for economists, it is scarcely necessary to say that they are for the most part but little in favor of bounties, even when they are not directly hostile to it. Knowing better than other men, because it is the object of their special study, the natural activity of industry, the soundness of its tendencies and the extent of its own resources, they believe that it is always best to leave it to itself, that is to say, to its inborn energy, limiting all help to securing for it freedom, order and security; and that there is often a risk of hindering its advance by interposing in its operations with untimely subsidies.—However, although this belief is in a certain measure universal among economists, it must be confessed that they do not all possess it in the same degree, or at least that they are more or less absolute in the conclusions which they draw from it. Some seem to condemn subsidies utterly, as being invariably injurious except when they are totally ineffective and useless; others admit them as an exception in certain cases. Without discussing all the different opinions on this point, we shall try to sum up the principles, as they seem to us to result from economic works as a whole, and from the very nature of things.—As a general rule it may be said, without hesitation, that the system of subsidies given by the state is a bad one. When any sort of work is really useful, that is to say, demanded by the wants of society, general industry has no need of artificial stimulus to direct its attention to it, the natural stimulus which arises from the demand being sufficient. The encouragement to which it has a right springs, then, from its very source, that is to say, from the satisfaction of the demands to which it has come in answer. It consists in the recompense which it requires and obtains in return for the products which it delivers or the services it renders. The more valuable these services are, the more certain the reward. The more necessary the industry then, by so much the more effective is this natural encouragement. It is perfectly useless for a government to intervene to guarantee it or strengthen it.—On the other hand, government intervention may sometimes have troublesome results. If the help is extended to an industry the produce of which has already been tried and accepted by consumers, it can only appear superfluous; but besides the impropriety of uselessly expending public money, there is also the risk of stimulating the industry beyond bounds, in such a manner as to drive it sometimes to exceed, in its production, the just limit of the demand. If, on the contrary, the help be given to a failing industry, the product of which seems to be abandoned by the public, it appears in every way to be merely sustaining, very unseasonably, a kind of labor which had better be given up; because it fails to return either to the country or to those who work at it what it costs them. In this case the damage done is twofold; an unproductive industry is being maintained at the expense of the public treasury, the extinction of which would be a benefit.—We do not even admit that it would be an advisable and good thing, in the present state of industrial relations, to favor, by money subsidies, the introduction into a country of a kind of work hitherto new to it. The resources of general industry are in our own times sufficiently extensive, and the facilities for communication between peoples sufficiently great, for it to be left to the care of private persons to introduce into their country any foreign industry capable of being acclimatized there. They are at least as interested in that as their government can be, and they are much better judges of the suitability of transplanting the new industry as well as of the fittest means of accomplishing it. As to the necessary resources, if they are wanting to some they will not be wanting to others. Their sum total is already a very sufficient one, and the tendency is still for it to increase from day to day.—Is it then to be said on that account that official bounties ought to be proscribed in every case? Certainly not. Circumstances could be named in which it is scarcely permitted to doubt their necessity, and in which they have been productive of nothing but good. No writer known to us, for example, has pretended generally and absolutely to deny to the subsidies lavished by Colbert in France, all utility whatsoever. All are agreed, on the contrary, that France owes to them the birth or the development of some of the industries which have made its wealth. Very few will deny that it has been, if not absolutely necessary at least very useful, to subsidize the establishment and spread of savings banks.† Deprived of all assistance from external sources at their commencement these banks would with difficulty have been established, and yet every one is eager to recognize the immense services they have rendered.—The necessity or util

* By an act of the first year of the reign of William and Mary (1689) there was given a bounty or gratuity of three shillings per quarter of grain exported. The amount of bounty was, as may be surmised, very variable according to the year. We are making a very low estimate here in giving it an average of only £20,000. In 1748 and in 1749 it exceeded £200,000, and in 1750 it reached no less than £323,405.

† The subsidies which savings banks received in France on their commencement were given by wealthy private individuals rather than by the government, which at first did little more than sanction them, although it afterward took upon itself the task of directing them when they had no longer any need of its help. But this fact does not seem to us to alter the correctness of our conclusions.

ity of bounties must then be admitted in certain cases. But what are these cases? It would be perfectly impossible to detail them all. All we shall attempt to do is to reduce them to certain principal ones —It seems to us at first proper to consider in this matter the country and the times. The necessity for official bounties is greater in a country the less advanced it is in civilization and wealth, and the more imperfect is its social or political organization. It is, to begin with, obvious that the greater the vigor and resources which local industry possesses the less need it has for external assistance, because it is able to undertake more for itself. This consideration would, however, be insufficient if it were not remembered that the countries where industry is least advanced and least rich, are also usually those in which it encounters the greatest obstacles from imperfect laws or vices in social order —If a state could be imagined in which freedom of industry was established in its entirety, without restriction or reserve; where the rights of all were, in addition, perfectly and completely guaranteed; we believe that it would be possible then without danger, nay, even with great advantage, to dispense altogether with official bounties of every description. Industry would always be equal to the task of supplying its own wants, it would launch without effort into every sort of useful labor, and would, besides, create for itself all the kindred institutions of which it stood in need. But this condition of perfect industrial liberty is not, unfortunately, that of any people on earth; on the contrary, nations are still, for the most part, far distant from it. Among almost all, the development of industry is retarded by trammels more or less strong; and often also the establishment of the appendant institutions of which industry may stand in need to second its efforts, is forbidden. If attention is paid to it, it will be seen that it is almost invariably some imperfection in social order which has rendered necessary, when it has been really necessary, the active intervention of public authority.—The bounties lavished by Colbert were, we believe, very useful in some cases. Several very interesting branches of industry would not have been created without them, or, at all events, not till a much later period. But at the same time the utility of these bounties was only relative. It originated at first in the existence of privileged corporations which put in the way of a general development of industry, and particularly the starting of any new business, so many obstacles that private individuals scarcely dared face them, if dependent solely on their own resources, and would in any case have had the greatest difficulty in overcoming them. It sprang also from the absence of any institution of credit capable of aiding the efforts of the pioneers of industry by placing at their disposal the capital they lacked.—In more recent times, if the savings banks could not be started in France without some special encouragement, it seems to us still to be the imperfections of social order which are to blame. They would not have needed those artificial stimulants if the establishment of companies generally, and joint stock companies in particular, had been less interfered with by the law; and if, on the other hand, there had existed in the country the vast net work of banking institutions which spring up so readily wherever men are free to establish them. In taking notice, then, of the majority of instances where official or external bounties have been necessary to industry, it will be seen that this need arose from an analogous if not an identical cause. It was perfectly just, to our thinking, and perhaps necessary, that in the times of Louis XIV. good writers, those whose works were an honor to their country, should have been rewarded or encouraged by pensions from the public treasury or the privy purse, because the right of property in their works held by those authors was then very little recognized and still less guaranteed them. This was another imperfection in the laws, different from those of which we have just spoken, but producing substantially the same effects. The exercise of their legitimate rights either could not be, or was not wished to be, secured to those authors, and it was more or less made good to them by pensions. Similarly it was but right during all the last century, as the rights of inventors were not secured to them by patents, and as in addition privileged corporations barred their advance at every step— it was but right, we say, nay, even necessary, that government should either grant those inventors some special privileges or subsidies, to assist them. In this latter case, as in the former, it was a sort of making good or indemnifying the wrong done. We do not say, however, that the government of those days reasoned thus, that it recognized the wrongs done and that its precise intention was to atone for them. Not so, but it realized that here had been services rendered which had not been paid for, and it paid for them in its own way when it was well inspired.— It will be said that it would have been more logical to reform the abuses which were the obstacle to the normal development of industry, or which deprived certain private persons of the exercise of their legitimate rights. Doubtless it would have been more logical, but it would have been less simple and often more difficult to carry out. It is unhappily a matter of experience that in all countries the reform of abuses is slow, wearisome, and almost always bristling with the gravest difficulties, even for those who hold the power in their hands. Was it necessary, while awaiting the disappearance of all these abuses, to abstain from removing here and there, when it was possible, some of their most distressing consequences by bounties or subsidies properly given? We do not believe so. We will only say that official bounties scarcely appear to us to be useful except in similar circumstances, and that in all cases great circumspection should be used in their

distribution to avoid interfering with the progress of the very industry which they are designed to assist. In our own days the British government has on several occasions made use of the system of bounties on a grand scale, to repair, as far as lay within its power, the injury caused by great errors formerly committed. — When the negroes were emancipated in the British colonies there immediately arose there a great scarcity of manual labor. The freed negroes either refused to work, or turned to other employments than those they had formerly been engaged in, to such an extent that the workrooms of the colonists were almost deserted. To supply the want it became necessary to call in all haste free workmen from the countries nearest, and as the colonists had not perhaps all the means necessary to accelerate to the needful extent this movement of immigration, the British government undertook to help it on by powerful bounties. In a certain measure it succeeded. But the bounties it scattered broadcast did not fail to give rise to frightful abuses, which obliged it soon afterward to reconsider on short notice its former measures, to the great injury of all parties interested; so true is it that in following this path of official subsidies, even when the action is taken in view of a clear and pressing necessity, the evil is always found side by side with the good.—More recently, English agriculture seeming to be hard pressed in its present interests, as it might be to a certain extent, on account of the sudden repeal of the corn laws, which had for so long assured it an artificial price for its production, it was resolved to lessen the damage done, if damage there were, by giving bounties here and there. This was done, notably, by voting a pretty considerable sum destined for distribution in the shape of bounties to aid draining operations.—In France one of the last trials of the system which has been made on a large scale, was the vote of the constituent assembly, in 1848, of a sum of three million francs to aid the formation of workmen's associations. There was no question then of redressing an injury, the result of former legislative blunders, but a sacrifice to a then dominant prejudice, this sacrifice could not have and had not any but trifling results; therefore we merely remind the reader of it. More recently still, the state was at some expense, which it undertook, however, more circumspectly than it had formerly done, in aiding the establishment of superannuation funds for workmen.—To sum up: the bounties given by government have rarely been productive of the good effects hoped for by their projectors; they have sometimes hindered the progress of industry and have seldom stimulated it efficiently. Their usefulness and expediency in certain exceptional cases may, however, be admitted. In equity they are only justifiable when they are a species of reparation for an injury formerly done; for otherwise they are a sacrifice unjustly imposed on the tax payers for the benefit of a few. In public economy they are equally unjustifiable except as a sort of makeshift to correct in certain cases the imperfections of the laws. CH. COQUELIN.

ENEMY. The ancient Romans had two words to express what we understand by the one word, enemy. They used the word *hostis* when speaking of a stranger, of a man belonging to a nation which formed no part of the *Orbis Romanus*. *Inimicus* was applied only to private hatreds, to enmities between citizen and citizen. Every stranger to the Roman universe was considered an enemy, *hostis;* and, added the legislation of Rome, *may the authority of the laws be eternally against him*. Wars, however, were preceded by solemn declarations, which show what persons became enemies in war These were all individuals belonging to the nation against which war was declared, and even all persons to be met with on its territory.—"*Quodque populus Romanus cum populo Hermundulo hominibusque Hermundulis bellum jussit ob eam rem ego populusque Romanus, etc.*" (Declaration of war from a lost work of Cincius, *De Re Militari*. Grotius.) — Here is another declaration of war: "*Philippo regi, Macedonibusque qui sub regno ejus essent.*" Thus war was declared not only against the nation and the king, but also against all the men of the nation and against all the subjects of the kingdom. — We find the same principles of international law in Greece. Agesilaus spoke as follows, to a subject of the king of Persia: "While we were friends of your king, we acted also as friends in regard to all that belonged to him. But now, O Pharnabazus, since we have become enemies, we act as enemies. Since then you wish to be considered as belonging to him, *we have the right to injure him in your person.*" Yet morality sometimes asserted its rights. We meet with its happy influence in all ages and places. The very nations of antiquity, who admitted the right to *kill* all persons belonging to the nation of the enemy, wherever found, armed or not armed, able to defend themselves or not, allowed no attempts on the honor of wives and daughters—attempts which have thus been subjected, by way of an exception of which humanity may be proud, to the reprobation of the international law of all ages. "What brutality! O gods of Greece," exclaimed Diodorus Siculus; "so far as I can remember, the barbarians themselves did not approve such excesses!" —We find at Rome a Torquatus transported to Corsica for having committed, in time of war, an attempt of this kind; and Chosroës, a king of Persia, ordered a soldier to be crucified for the same crime. Hostages were not spared; to take their lives was considered right. Surrender was not sufficient to save life. The Romans were wont to put to death in their triumphs the enemy's chiefs, even although they had become prisoners by capitulation. The triumpher awaited at the capital the news of their execution.—Were there no limits to the power of the victor over the

person of the enemy? From the point of view of the laws of war there seem to have been but few restrictions. We have just called attention to the unanimous reprobation which was attached to certain acts, yet, in point of fact, women, though protected against violence in the beginning, became captives, that is to say, the absolute property of a master. It was an admitted principle throughout all antiquity that the prisoner of war became a slave, and the very etymology of this word implies that the unhappy conquered being had been *saved, preserved*, when the laws of war authorized his destruction. This, according to the publicists of antiquity, was the origin of the word.—To come down to Christian times. "If we keep before our eyes," says Montesquieu, "on the one hand the continual massacres of Greek and Roman chiefs and kings, and on the other the destruction of people and towns by Timur and Gengis Khan, who devastated Asia, we shall see that we owe to Christianity a certain political law in government and a certain international law in war, which humanity can not sufficiently acknowledge. It is this international law which brought it about that among us victory leaves to the vanquished life, liberty, laws, property." (*Esprit des lois*, book xxiv., chap. iii) This international law did not prevail in a day. Christianity had to make many efforts during the centuries of strife and social transformation which constitute the middle ages, before it succeeded. "The influence of the church, which was so powerful in the middle ages, was not sufficient to stop the belligerents, and to prevent the violence and the cruelty of the acts to which they were addicted." (Vergé, *Sur Martens*, book viii.; Heffter, *Droit International*, 1855, p. 127)—In the eleventh century, in England, at the time of its conquest by the Normans, nothing was respected, neither property nor person; men and women became the prey of the conqueror. The daughters of the noblest families passed into the hands of valets, who had become feudal lords by right of violence and rapine. The former lords were their serfs. Their property was almost entirely confiscated, and helped to establish those great aristocratic houses which to-day own the greater portion of the land in England. In the same century, in the wars between Philip Augustus and Richard Cœur de Lion, each blinded fifteen prisoners by way of reprisal, and sent them back in that state; in Palestine, Richard massacred 2,500 captives.—Chivalry, that flower of Christianity, realized in an instant in practice the idea of generosity toward an enemy and of loyalty in combat. Ransom was introduced, and is still a boon to humanity. In 1179 Pope Alexander III., or rather the third council of Lateran, suppressed, by a decree, the enslavement and sale of prisoners. Finally, in 1315, appeared the maxim: "No slave in France." (Edicts of 1315, 1318 and 1553.)—In the seventeenth century occurred the ravages of the Palatinate and the sacking of Magdeburg. However, ideas were progressing. There was always over all, dominating and judging events and actions, the evangelical law, the law of fraternity and humanity, which never permits tranquillity in evil doing.—Who, to-day, according to international law, are considered as enemies in case of declaration of war, and to what treatment are they subjected? A primary distinction and a great advance is this, that there are no enemies except those who take an active part in war, and then only during the progress of the struggle. Hence the following classes of persons should be spared: 1, children, women, old men, and in general all those who have not taken up arms or committed acts of hostility; 2, those who follow in the train of the army, but who are not intended to take part in hostilities, such as chaplains, doctors, surgeons, and vivandieres. To these custom has added quartermasters, drummers and fifers. As for officers and soldiers, "from the moment that they are so severely wounded or so surrounded by the enemy that they are no longer in a state to resist; or when they lay down their arms and ask quarter, the enemy is, as a rule, in duty bound to spare their lives. The only exceptions to this rule are: 1, in extraordinary cases when reasons of war forbid their being spared; 2, if it is necessary to use retaliation or reprisals, 3, if the vanquished is personally guilty of a capital crime, as, for example, of desertion, or if he has violated the laws of war. In all other cases we must consider as prisoners of war the soldiers who fall into the hands of the enemy; and in wars between nation and nation it would be a violation of faith and of the law of nature to put to death all prisoners of war." (*Prés*, book vii, chap. iv.) Hence there are no enemies except the combatants on both sides, and the quality of enemy, in so far as it authorizes to kill, vanishes the moment strife or resistance is no longer possible. Such is the positive, actual law of nations. It is for this reason that persons who take part in the struggle without making known from a distance their quality of enemy by wearing a uniform, are so severely treated.—Are all means of destruction against the person of the enemy permitted? Martens states that "the civilized powers of Europe recognize it as absolutely contrary to the laws of war to make use of poison and assassination, or even to put a price upon the head of a legitimate enemy, the case of retaliation alone excepted. Custom and many treaties condemn any kind of arms or open violence which would unnecessarily increase the number of sufferers, (explosive balls, for instance).—What are the laws of war in regard to the prisoner? Can a prisoner of war now be made a serf, in consequence of his being a prisoner? "Just as little," says Martens (book viii., chap. iv.), "as natural law permits the killing of the legitimate enemy when he has been vanquished, does it authorize the reducing him to slavery. But it is right to force him to lay down his arms, and to detain him as a prisoner of war until the re-estab-

lishment of peace, unless it has been agreed to allow him to depart, either immediately or at a fixed date. Officers are often released on their word of honor not to serve until they have been exchanged, or during a fixed period, or till peace is declared, and to repair to a given place when summoned to do so "—Can the members of the nation at war, who are captured, be made prisoners or be considered as such? Evidently not, because, as has been stated, they are not enemies. Martens sums up international law at present as regards them in the following words: "It is contrary to the usages of civilized nations to deprive of their liberty the innocent subjects of the enemy, who have taken no part in hostilities, and to remove them against their will, but it is admissible to force them to give hostages, or to take such hostages by force, to serve as guarantees of an engagement or obligation." And again: "Those who are simply attached to the service of the army, and are not among the number of the combatants, are not received and treated as prisoners of war; on the contrary, it is the custom to send them back to the enemy "—The taking by assault of towns and fortresses makes no change in the law. Life is due to the garrison. "But if there is no capitulation, and the place is taken by assault, the garrison has to surrender at discretion: then nothing can be asked but life."—What is the treatment of prisoners of war? M. Vergé thus deals with this question in his notes on our author: "Prisoners of war are deprived of their liberty in this sense, that they can not return to their own country, or take up arms again in the war then raging, but they are not subjected to violence or bad treatment, as long as they do not trouble the peace of the state. It is customary to allow officers a greater liberty than non-commissioned officers and soldiers. They are, in general, set at liberty on parol within the limits of a city, and provision is made for their maintenance. Non-commissioned officers and soldiers are placed under more direct surveillance, and their labor may be made to diminish the expense they occasion, but they can not be compelled to enter the army of the nation which made them prisoners." "The effects of captivity upon prisoners of war begin at the time of voluntary surrender, whether conditional or unconditional, and from the moment this surrender has been accepted by the promise of life being spared." "Captivity is terminated by a declaration of peace, by the voluntary submission accepted by the government which took the prisoners, by conditional or unconditional dismissal, or by ransom." (*Notes sur Martens*)—What is the law as regards the property of the enemy? "Civilized nations have substituted for pillage and devastation the custom of exacting war contributions, either in money or in kind under pain of military execution. The payment of these contributions should assure the preservation of property of all kinds, so that the enemy should then buy and pay for whatever he wishes delivered him thereafter, except the services he may demand from subjects, in their quality of temporary subjects." (*Martens.*) Respect for private property has to be established now only in naval warfare. This was almost effected in 1856, upon the initiative of the United States, which, almost a century ago, in 1785, sanctioned it in a treaty.—Since the institution of regular armies war tends to become a simple duel between the armed belligerents. The consequence will be ever-increasing fair dealing between enemies This latter appellation will pertain only to those who resist armed force; and it will not be applicable to these when defeated. Any outrage upon the property of the enemy, as well as an attack of any kind upon an unarmed person, women, children or old men, will still be regarded as a crime, will be subject to punishment, and will be checked, whether directed toward vanquished or victors. This will be the law of justice and civilization, until the word enemy itself shall disappear. EMILE JAY.

ENGLAND. (See GREAT BRITAIN.)

ENGLISH, Wm. H., was born in Scott county, Indiana, Aug. 27, 1822, was representative in congress (democratic) from Indiana, 1853–61, and was nominated for the vice-presidency in 1880 by the democratic party. (See DEMOCRATIC-REPUBLICAN PARTY, VI.)

ENTREPRENEUR. In taking account of the nature of the agents which co-operate in production, we distinguish, in any business enterprise, the *entrepreneur* and the *workmen.* The latter, according as they contribute to the industrial and ornamental arts, or to scientific work, take the name of artisan, mechanic, artists, savants, etc. The workmen execute the orders of the *entrepreneur,* who conceives the enterprise or operation, combines the scientific, moral and material elements which it requires, and directs the creation and sale of its products.—The *entrepreneur* must then have, in a certain measure, the knowledge of the artisan, the savant, the inventor, etc., at least so far as it is necessary for him to apply it: he must be familiar with the manual processes of the workman; must know how to procure the means required for production, to discern the best industrial processes, to choose the men who are to second him, and to procure, by way of credit or of association, the needful capital; and finally, he must direct all these elements of his enterprise with judgment, precision and energy. —"In the course of all these operations," says J. B. Say, "there are obstacles to surmount which demand a certain energy; there are inquietudes to bear which demand firmness; there are misfortunes to be repaired, for which a mind fertile in resources is needed."—Dunoyer has well portrayed the numerous and important qualities necessary for an *entrepreneur.* "In the number of powers which exist in man, the first which strikes me," he says, "the one which naturally takes the place

at the head of all the others, the one most indispensable to success in every kind of enterprise, and to free action in all the arts, is the *talent for business*, a talent in which are combined several very distinct faculties, such as a capacity for judging of the state of demand, or of knowing the wants of society; that of judging of the condition of supply, or of estimating the means of satisfying those wants; that of managing with ability enterprises wisely conceived; and finally, that of verifying the previsions of speculation by regular accounts intelligently kept. After this list of faculties relating to the conception and conduct of enterprises, of which the business talent is composed, come those faculties necessary for execution, from which the art talent arises. Such are, practical knowledge of the calling, theoretical ideas, talent for applying them, and skill in handicraft. All these faculties are *industrial;* * * * but I remark also a great number of *moral* qualities. Among these may be mentioned a whole class of habits which govern the conduct of persons with regard to themselves, and which in some sort concern only the individual. There may also be distinguished habits of another kind, which more particularly concern society. Power and free action in all kinds of occupations depend, as we shall see, on the perfection of both these classes of moral qualities."—The *entrepreneur* is, then, the principal agent in production. He devotes to it his activity, he sacrifices to it his repose; in it he risks his possessions as well as the capital of others; he may compromise in it his reputation and his honor; but, on the other hand, he may derive from it, with a high salary for his labor and profit on his capital, more or less important advantages which may augment his fortune, and which spring from the qualities with which he may be endowed, the activity he may display, and the risks he has to incur.—It is because of a failure to take into account all these circumstances, and to have a definite idea of the laws of the variations of profits and wages, and the importance and the reciprocal rights of capital, labor and talent in the distribution of profits, that the working classes have often been led to look suspiciously on the success of the *entrepreneurs*, and to consider the profits and advantages of the latter as acquired at the expense of the workmen. A more general acquaintance with the principles of political economy would have the effect of correcting this false and dangerous manner of looking at things, and of showing those who live by their labor alone that it is decidedly for their interest that *entrepreneurs* should be numerous and prosperous; for in this case labor is more in demand and wages rise. We will not say that there is no prejudice on the part of the *entrepreneurs*, some of whom do indeed seem to think that it is they who maintain their workmen, and that the latter owe them something besides the labor they sell to them. The study of the laws of political economy would not be without use to these persons. By giving them sounder views on all matters, and of their rôle in society, it would serve to strengthen their judgment and intelligence in the conduct of affairs; and to overcome their prejudices, which contribute to alienate their workmen, their natural allies, who, before the law of demand and supply, are neither their superiors nor their inferiors, but their equals.—Carrying on business enterprises by association does not change the nature and the rôle of the *entrepreneur*, but it lessens them. The various partners share in fact more or less in the conception, the direction, the honor and the responsibility of the business. Nevertheless, whatever be the societary combination, there must be, under penalty of failure, a director or manager possessing most of the qualities we have recognized in the *entrepreneur*. The value of the business manager determines largely the value of the association.—Lastly, we will say that every *entrepreneur* who does not work exclusively with his funds, is the pivot of an association, and that his workmen or those in his employ are partners, who, being bound only by temporary engagements and not being willing to participate in the bad chances, renounce the good ones and content themselves with a compensation regulated by the law of demand and supply.

E. J. L., *Tr.* JOSEPH GARNIER.

EQUITY, according to the definition given by Aristotle, is "the rectification of the law, when, by reason of its universality, it is deficient; for this is the reason that all things are not determined by law, because it is impossible that a law should be enacted concerning some things, so that there is need of a decree or decision; for of the indefinite, the rule also is indefinite: as among Lesbian builders the rule is leaden, for the rule is altered to suit the figure of the stone, and is not fixed, and so is a decree or decision to suit the circumstances." (*Ethics*, b. v., c. x., Oxford trans.) "Equity," says Blackstone, "in its true and genuine meaning, is the soul and spirit of all law; positive law is construed and rational law is made by it. In this respect, equity is synonymous with justice; in that, to the true and sound interpretation of the rule." According to Grotius, equity is the correction of that wherein the law, by reason of its generality, is deficient.—It is probable that the department of law called equity in England once deserved the humorous description given by Selden in his "Table Talk" "Equity in law is the same that spirit is in religion, what every one pleases to make it: sometimes they go according to conscience, sometimes according to law, sometimes according to the rule of court. Equity is a roguish thing: for law we have a measure, know what to trust to; equity is according to the conscience of him that is chancellor; and as that is larger or narrower, so is equity. It is all one as if they should make the standard for the measure we call a foot a chancellor's foot, what an uncertain measure would this be! One chancellor has a long foot, another a short foot, a third

an indifferent foot: it is the same thing in the chancellor's conscience."—This uncertainty has, however, long ceased in that branch of our law which is expressed by the term equity, and, from successive decisions, rules and principles almost as fixed have been framed and established in our courts of equity as in our courts of law. New cases do indeed arise, but they are decided according to these rules and principles, and not according to the notions of the judge as to what may be reasonable or just in the particular case. Nothing in fact is more common than to hear the chancellor say, that whatever may be his own opinion, he is bound by the authorities, that is, by the decisions of his predecessors in office and those of the other judges in equity; that he will not shake any settled rule of equity, it being for the common good that these should be certain and known, however ill-founded the first resolution may have been.—In its enlarged sense, equity answers precisely to the definition of justice, or natural law (as it is called), as given in the "Pandects" (i., tit. 1, s. 10, 11); and it is remarkable that subsequent writers on this so-called natural law, and also the authors of modern treatises on the doctrine of equity, as administered in the English courts, have, with scarcely any exception, cited the above passage from Aristotle as a definition of equity in our peculiar sense of a separate jurisdiction. But according to this general definition every court is a court of equity, of which a familiar instance occurs in the construction of statutes, which the judges of the courts of common law may, if they please, interpret according to the spirit, or, as it is called, the equity, not the strict letter.—It is hardly possible to define equity as now administered, or to make it intelligible otherwise than by an enumeration of the matters cognizable in the courts in which it is administered in its restrained and qualified sense. — The remedies for the redress of wrongs and for the enforcement of rights are distinguished into two classes, those which are administered in courts of law, and those which are administered in courts of equity. Accordingly, rights may be distributed into legal and equitable. Equity jurisdiction may, therefore, properly be defined as that department of law which is administered by a court of equity as distinguished from a court of law, from which a court of equity differs mainly in the subject matters of which it takes cognizance and in its mode of procedure and remedies. — Courts of common law proceed by certain prescribed forms of action alone, and give relief only according to the kinds of actions, by a general and unqualified judgment for the plaintiff or the defendant. There are many cases, however, in which a simple judgment for either party, without qualifications or conditions, will not do entire justice. Some modifications of the rights of both parties may be required; some restraints on one side or the other, or perhaps on both; some qualifications or conditions, present or future, temporary or permanent, ought to be annexed to the exercise of rights or the redress of injuries. To accomplish such objects the courts of law have no machinery whatever, according to their present constitution they can only adjudicate by a simple judgment between the parties. Courts of equity, however, are not so restrained; they adjudicate by decree pronounced upon a statement of his case by the plaintiff, which he makes by a writing called a bill, and the written answer of the defendant, which is given in upon oath, and the evidence of witnesses, together, if necessary, with the evidence of all parties, also given in writing and upon oath. These decrees are so adjusted as to meet all the exigencies of the case, and they vary, qualify, restrain and model the remedy so as to suit it to mutual and adverse claims, and the real and substantial rights of all the parties, so far as such rights are acknowledged by the rules of equity —The courts of equity bring before them *all* the parties interested in the subject matter of the suit, and adjust the rights of all, however numerous; whereas courts of law are compelled by their constitution to limit their inquiry to the litigating parties, although other persons may be interested; that is, they give a complete remedy in damages or otherwise for the particular wrong in question as between the parties to the action, though such remedy is in many cases an incomplete adjudication upon the general rights of the parties to the action, and fails altogether as to other persons, not parties to the action, who yet may be interested in the result or in the subject matter in dispute.—The description of a court of equity, as given by Mr Justice Story, is this. A court of equity has jurisdiction in cases where a plain, adequate and complete remedy can not be had in the common law courts The remedy must be plain, for if it be doubtful and obscure at law, equity will assert a jurisdiction. It must be adequate, for if at law it fall short of what the party is entitled to, that founds a jurisdiction in equity; and it must be complete, that is, it must attain the full end and justice of the case; it must reach the whole mischief and secure the whole right of the party present and future, otherwise equity will interpose and give relief. The jurisdiction of a court of equity is sometimes concurrent with the jurisdiction of a court of law, sometimes assistant to it, and sometimes exclusive. It exercises concurrent jurisdiction in cases where the rights are purely of a legal nature, but where other and more efficient aid is required than a court of law can afford In some of these cases courts of law formerly refused all redress, but now will grant it. For strict law comprehending established rules, and the jurisdiction of equity being called into action when the purposes of justice rendered an exception to those rules necessary, successive exceptions on the same grounds became the foundation of a general principle, and could no longer be considered as a singular interposition. Thus law and equity are in continual progression, and the

former is constantly gaining ground upon the latter. Every new and extraordinary interposition is by length of time converted into an old rule; a great part of what is now strict law was formerly considered as equity, and the equitable decisions of this age will unavoidably be ranked under the strict law of the next. (Prof. Millar, *View of the English Government.*) But the jurisdiction having been once acquired at a time when there was no such redress at law, it is still retained by the courts of equity.—The most common exercise of the concurrent jurisdiction is in cases of account, accident, dower, fraud, mistake, partnership and partition. In many cases which fall under these heads, and especially in some cases of fraud, mistake and accident, courts of law can not and do not afford any redress; in others they do, but not in so complete a manner as a court of equity.—A court of equity is also assistant to the jurisdiction of the courts of law in cases where the courts of law have no like authority. It will remove legal impediments to the fair decision of a question depending at law, as by restraining a party from improperly setting up, at a trial, some title or claim which would prevent the fair decision of the question in dispute; by compelling him to discover, upon his own oath, facts which are material to the right of the other party, but which a court of law can not compel him to disclose; by perpetuating, that is, by taking in writing and keeping in its custody, the testimony of witnesses, which is in danger of being lost before the matter can be tried; and by providing for the safety of property in dispute pending litigation. It will a so counteract and control fraudulent judgments, by restraining the parties from insisting upon them.—The exclusive jurisdiction of a court of equity is chiefly exercised in cases of merely equitable rights, that is, such rights as are not recognized in courts of law. Most cases of trust and confidence fall under this head. This exclusive jurisdiction is exercised in granting injunctions to prevent waste or irreparable injury; to secure a settled right, or to prevent vexatious litigation; in appointing receivers of property which is in danger of being misapplied; in compelling the surrender of securities improperly obtained; in preventing a party from leaving the country in order to avoid a suit; in restraining any undue exercise of a legal right; in enforcing specific performance of contracts; in supplying the defective execution of instruments, and reforming, that is, correcting and altering, them according to the real intention of the parties, when such intention can be satisfactorily proved; and in granting relief in cases where deeds and securities have been lost.—Various opinions have been expressed upon the question whether it would or would not be best to administer justice altogether in one court or in one class of courts, without any separation or distinction of suits, or of the forms or modes of procedure and relief. Lord Bacon, upon more than one occasion, has expressed his decided opinion that a separation of the administration of equity from that of the common law is wise and convenient. "All nations," says he, "have equity, but some have law and equity mixed in the same court, which is worse, and some have it distinguished in several courts, which is better;" and again "In some states, that jurisdiction which decrees according to equity and moral right, and that which decrees according to strict right, is committed to the same court; in others, they are committed to different courts. We entirely opine for the separation of the courts; for the distinction of the cases will not long be attended to if the jurisdictions meet in the same person; and the will of the judge will then master the law"—Lord Hardwicke held the same opinion. Lord Mansfield, it is to be presumed, thought otherwise, for he endeavored to introduce equitable doctrines into courts of law His successor, Lord Kenyon, made use of these expressions· "If it had fallen to my lot to form a system of jurisprudence, whether or not I should have thought it advisable to establish different courts, with different jurisdictions, and governed by different rules, it is not necessary to say; but influenced as I am by certain prejudices that have become inveterate with those who comply with the systems they find established, I find that in these courts, proceeding by different rules, a certain combined system of jurisprudence has been framed most beneficial to the people of this country, and which I hope I may be indulged in supposing has never yet been equaled in any other country on earth. Our courts of law only consider legal rights; our courts of equity have other rules, by which they sometimes supersede strict legal rules, and in so doing they act most beneficially for the subject." In England the principle of separating jurisdictions has been largely acted upon. She has her courts of equity and law, her bankrupt and insolvent courts, and courts of ecclesiastical and admiralty jurisdiction; indeed until lately her several courts of law had, in principle, jurisdiction only over certain specified classes of suits. In countries governed by the civil law, the practice has in general been the other way. But whether the one opinion or the other be most correct in theory, the system adopted by every nation has been mainly influenced by the peculiarities of its own institutions, habits and circumstances, and the original forms of giving redress for wrongs.—In some of the American states the administration of law and equity is distinct; in others the administration of equity is only partially committed to distinct courts; in a third class the two jurisdictions are vested in one and the same tribunal.—The English equity has some resemblance to the Roman edictal law, or jus prætorium or honorarium, as it is often called. All the higher Roman magistrates (*magistratus majores*) had the jus edicendi or authority to promulgate edicta. These magistratus majores were consuls, prætors, curule ædiles, and censors. By virtue of this power a magistrate made edicta or orders, either temporary and for particular oc-

casions (*edicta repentina*); or upon entering on his office he promulgated rules or orders, which he would observe in the exercise of his office (*edicta perpetua*). These edicta were written on a white tablet (album) in black letters; the headings or titles were in red: the alba were placed in the forum, in such a position that they could be read by a stander-by. Those edicta which related to the administration of justice had an important effect on the Roman law; and especially the prætoria edicta and those of the curule ædiles. That branch of law which was founded on the prætorian edicta was designated jus prætorium, or honorarium, because the prætor held one of these offices to which the term honores was applied. The edicta were only in force during the term of office of the magistratus who promulgated them; but his successor adopted many or all of his predecessor's edicta, and hence arose the expression of "transferred edicts" (*tralaticia edicta*); and thus in the later republic the edicta which had been long established began to exercise a great influence on the law, and particularly the forms of procedure. About the time of Cicero many distinguished jurists began to write treatises on the edictum (*libri ad edictum*). Under the emperors new edicta were rarer, and in the third century of our era they ceased. Under the empire we first find the edicta of the præfectus urbi mentioned; but these must be considered as founded on the imperial authority (*majestas principis*), and to have resembled the imperial constitutions. Under the reign of Hadrian, a compilation was made by his authority of the edictal rules by the distinguished jurist, Salvius Julianus, in conjunction with Servius Cornelius, which is spoken of under the name of edictum perpetuum. This edictum was arranged under various heads or titles, such at those relating to marriage, tutores, legata (legacies), and so on.—By the term prætorian edict the Romans meant the edicts of prætor urbanus, who was the chief personage employed in the higher administration of justice under the republic. The edicta which related to peregrini (aliens) were so named after the prætor Peregrinus, and other edicta were called censoria, consularia, ædilicia, etc. Sometimes an edict of importance took its name from the prætor who promulgated it, as carbonianum edictum. Sometimes the honorariæ actiones, those which the prætor by his edict permitted, were named in like manner from the prætor who introduced them. Sometimes an edict had its name from the matter to which it referred. The Romans generally cited the edicta by parts, titles, chapters or clauses of the edictum perpetuum, by naming the initial words, as unde legitimi, and so on; sometimes they are cited by a reference to their contents. Examples of these modes of citing the edictum occur in the titles of the forty-third book of the "Digest." In our own law we refer to certain forms of proceedings and to certain actions in a like way, as when we say quo warranto, quare impedit, and speak of qui tam actions.—The jus prætorium is defined by Papinian (*Dig.* i., tit. i., 7) as the law which the prætors introduced for the purpose of aiding, supplying or correcting the law (*jus civile*) with a view to the public interest. The edict is called by Marcianus "the living voice of the jus civile," that is, of the Roman law. (*Dig.* i., tit. i., 8.) The prætorian law, as thus formed (*jus prætorium*) was a body of law which was distinguished by this name from the jus civile, or the strict law; the opposition resembled that of the English terms equity and law. In its complete and large sense jus civile Romanorum, or the law of the Romans, of course comprehended the jus prætorium; but in its narrower sense jus civile was contrasted, as already explained, with the jus prætorium.—The origin of the Roman edictal law is plainly to be traced to the imperfections of the old jus civile, and to the necessity of gradually modifying law and procedure according to the changing circumstances of the times. It was an easier method of doing this than by direct legislation. Numerous modern treatises contain a view of the origin and nature of the Roman jus prætorium, though on some points there is not complete uniformity of opinion.—Böcking, *Institutionen*, vol. i.; Puchta, *Cursus der Institutionen*, vol. i., p. 293; Savigny, *Geschichte des Röm. Rechts*, vol. i; Heffter, *Die Oeconomie des Edictes, Rhein. Mus für Juris.*, i., p. 51; E. Schrader, *Die Prätorischen Edicte der Römer*, 1815. BOHN.

ERA OF GOOD FEELING (IN U. S. HISTORY), a period (1817–23) when the contests of national parties were practically suspended, partly through the exhaustion of one party (the federal party), and partly through the extinction of the surface issues of the past. The termination of the war of 1812 had put an end to every question which had divided the parties since 1800; it left the democrats a triumphant majority, and the federalists a discredited minority; and the new policy of internal improvements and a protective tariff had not yet been developed so far as to form a party issue. Neither of these last projects was supported generally or with any interest by the federalists, but both found their warmest supporters in the northern section of the democratic party.—The inaugural address of Monroe, in 1817, was exceedingly well calculated to soothe the feelings of the hopeless minority of federalists. It spoke warmly of their peculiar interests, commerce and the fisheries; it congratulated the country on the restoration of "harmony"; and it promised the diligent efforts of the president to increase the harmony for the future. The inaugural was a harbinger of a tour which he made through New England during the year, and he was received with enthusiasm by a section which had not seen a president or heard such conciliatory language from a president, since Washington. Party feeling was laid aside, and the leaders of both parties joined in receiving the president and in announcing the arrival of an "era of good feeling." The

"good feeling" lasted long enough to give Monroe an almost unanimous re-election in 1820, Plumer of New Hampshire being the only elector to vote against him; but it did not induce Monroe to take any federalists into his cabinet, as Jackson advised and urged him to do.—The era of good feeling was terminated by the election of John Quincy Adams to the presidency in 1824, the opposition which was formed during his administration, and the development of two opposing national parties. (See DISPUTED ELECTIONS, II.; DEMOCRATIC-REPUBLICAN PARTY, IV.; WHIG PARTY, I.) During its existence no characteristic is more striking than the torpor which seemed to affect principle in politics, and the extent to which personal feeling seemed for the time to have superseded it. The several factions which supported Jackson, Adams, Crawford and Clay for the presidency, in 1824, hardly pretended to assign to their candidates any distinctive political principles, and one of the candidates, Jackson, was most earnestly supported for his supposed liking for internal improvements and a protective tariff, to which, as president, he proved to be a consistent opponent.—The best medium for getting the spirit of the "era of good feeling" is 10–24 Niles' *Weekly Register;* see also 6 Hildreth's *United States*, 623; 3 Spencer's *United States*, 309.

ALEXANDER JOHNSTON.

ESSEX JUNTO, The (IN U. S. HISTORY) About 1781 this name was first applied by John Hancock to a group of leaders who were either residents of Essex county, Massachusetts, or were closely connected with it by ties of business or relationship. The great interests of the county were commercial, and the "Essex junto" was the personification of the commercial interest's desire for a stronger federal government. The ability and the ultraism of the junto made its members peculiarly objectionable to the conservatives and anti-federalists of the state, but the name temporarily died out after the successful establishment of the constitution.—Upon the first development of the federal party the Essex junto naturally fell into it, and ranked as the most ultra of the federalists. They counted among their number such state leaders as Cabot, the Lowells, Pickering, Theophilus Parsons, Stephen Higginson, and Goodhue; and Fisher Ames, a federalist of national reputation, was in warm sympathy with them until his retirement from politics. So long as the federal party was controlled by Washington and Hamilton, the junto's influence in it was very considerable; but when Adams succeeded Washington, its members followed Hamilton rather than the president. (See FEDERAL PARTY.) In his own state the president at once revived the old name of "Essex junto," threw upon its members most of the responsibility for the attempt to force a war upon France in 1798–9, and thus gave them a national notoriety as a "British faction," unworthy of recognition as an American party. (See ADAMS, JOHN.) After his retirement from office, in 1801, President Adams was very steadily engaged, for about seven years, in newspaper warfare against the junto and its open or secret allies in his own state.—The beginning of the "restrictive system," and of the New England opposition to it (see EMBARGO), deprived the name almost entirely of its local limitation, and made it a synonym for New England federalism. Throughout the rest of the Union, which was almost entirely republican in politics, it became convenient to attribute all the difficulties in New England, the resistance to the embargo, the alleged intention to secede in 1808, the open councils and suspected designs of the Hartford convention, and the stubborn opposition to the war, to the vague spirit of evil inherent in the "Essex junto" (See CONVENTION, HARTFORD; SECESSION, EMBARGO; FEDERAL PARTY.) See 4 Hildreth's *United States*, 375, and 5 : 52, 81, 119; 1 Schouler's *United States*, 469; Lodge's *Life of Cabot*, 17; 4 Jefferson's *Works* (edit. 1829, letters of April 20, 1812, and Jan. 13, 1813), 172, 184; 1 John Adams' *Works*, 286, and 9 : 618.

ALEXANDER JOHNSTON.

ESTATES, CASTES, CLASSES, ORDERS. Plato, in his "Republic," seeking, by the study of man, to acquire a knowledge of and attain to justice, analyzed the manifestations of the soul, and reduced them to three original faculties: intellect, sentiment and sensation. These three forces of our nature, though unequally developed in individuals, are considered by him to be the strict and complete expression of our being. He takes them, therefore, as the bases of a more general study, and, rising from the individual to society, he reduces all mankind to these three types, and he divides men into three classes, according as one or another of the three faculties predominates in the soul of the individual. These three classes he calls *philosophers* or *magistrates*, *warriors* or *gymnasts*, *laborers* or *artisans*, and gives them the following attributes: To the first, that of the intellect which presides and governs; to the second, sentiment, sympathetic and ardent, which obeys and combats; to the third, the common instinct which subjects external nature to our wants.—The history of human society seems to confirm the truth of this metaphysical analysis. Everywhere the existence has been shown of these three classes, the necessity of which Plato undertook to prove; and experience, in accord with theory, shows us the human race instinctively accepting this natural law, from the remotest epoch in India down to modern times, each nation dividing itself into three branches, we might say into three peoples, superimposed the one on the other, and reserving to each one of these branches a distinct part in the general labor of mankind.—But this hierarchy in the social body, enduring for centuries or reconstructed after revolution, modifies its character with the progress of civilization, in the lapse of time. The earliest nations looked on this hierarchy as a creation of the Deity, as something

providential. At a later period philosophers and legislators thought they detected in it a tendency inherent in man, and they upheld it no longer in the name of an immutable God, but in the name of wisdom and justice to which the personal rights of the individual should yield. Still later, when society had become more mature, this hierarchy was accepted only as a system more or less proper and useful in preserving order and directing nations, till at last equality was proclaimed as a principle by the French revolution.—Although in ordinary language, the terms *castes, classes, estates* and *orders* are frequently used as synonyms, their meanings are different, and relate to the different origins of these hierarchies. Castes are unchangeable divisions fixed by religious belief, and which have not really existed except in India. The general name of classes is given to all those political divisions founded on conquest or on civil legislation. Estates are merely a modern modification of classes, a more liberal and more philosophical way of calling and looking at them.—The transformations of which we have just spoken were not successive, and the progress of nations and civilization has not been continuous. Nations have advanced to the realization of what appears to us now to be justice and truth through many vicissitudes. Some succumbed to invasion and conquest, but no change was wrought in their institutions; others grew weak in proportion as equality overcame their social hierarchy, and new races, founding new empires, restored the classes, which had disappeared for a moment; still others preserve their social organization as it is described by the most ancient monuments of their history. Whatever science may say as to their historic origin, the castes of India have always had their roots in the supernatural order. Earthly life, in accordance with the laws of Manu, was nothing to the Hindoo but the inevitable consequence of a previous life, the recompense accorded or the punishment inflicted by God—an unchangeable destiny, against which revolt was either useless or impious. Brahma did not create man: he created three different men, who emanated respectively from his head, his arms and his feet — the *Brahman*, the *Cshatrya*, and the *Vaisya*, who alone compose humanity. The *stranger*, the primitive inhabitant of India, the *Sudra* or *Chandala*, was lower than a man, lower than certain animals, reverence for which was enjoined by the law. The contact of this impure creature, the Sudra, his look, even his shadow, defile regenerated men (*Dwidjas*) who might put him to death with impunity, or use him as a lifeless thing. Only the races issued from Brahma have a right to life here and hereafter, and the world is divided among them. To the Brahman belong science, wisdom and virtue; he is king of the earth; all its products belong to him of right and to the other classes only through his liberality: he prays, he contemplates, is the incarnation of Brahma; he is God himself, obeyed and honored as such, for his words express the divine will. The Cshatrya, under the supreme direction of the Brahman, govern, dispense justice, frame the laws, make war and peace, levy taxes, maintain social order, and the division of castes. Under the term *Vaisyas* are comprehended the cultivators of the soil, and artisans charged with the feeding of animals, the carrying on of commerce, of acquiring and increasing wealth, etc.—Could Buddha, by his milder doctrine, have in the long run overcome the rigidity of the dogma of castes? His system of morals which tended to equality would beyond doubt have been powerless to do away with the Brahmanic hierarchy (see BRAHMANISM and BUDDHISM), since the Buddhist considered that the unity and equality of men were to be realized only beyond the tomb and through annihilation. However this may be, the followers of Buddha, conquered and driven from India, were able to gain over to their new religion only the people of China, of the highlands of Asia, Japan, and some other islands. Persia, Judea and Egypt had also their sacerdotal order; but the Magi, the Levites and the priests of Memphis differed profoundly from the Brahmans. They occupied the first rank in society, as intermediaries between man and God, but they were not its predestined sovereigns. All power did not emanate from them; the kings and warriors enjoyed real independence; even laborers had rights which belonged to them personally. The Levite gave council to the chiefs of Israel, but he had no personal authority over them; the priests of Egypt studied the laws and guarded their perpetuity, but they could not encroach on the attributes and the privileges of the two other classes. The historians of Greece admired this priestly organization in which the present reproduced the past, and which was a guarantee of lasting peace. —Greek society made greater progress than the theocracies of the east. On Hellenic soil, as later at Rome, the city was the origin and the basis of the republic, and within such narrow limits the subordination of class to class could not endure very long. The difference between the conquering and the conquered nation was not very apparent. The Dorians and the Ionians belonged to the same family, spoke the same language, professed the same religion, but neither was able to master the other. The first and most important result of this coexistence of independent and hostile states, in the same region, was to destroy all uniformity of legislation, and to render the formation of a sacerdotal class impossible. The Greek genius, so far removed from the contemplative mysticism of the east, far more occupied with the present condition of man, with his relations to other men, than with his future destiny and his relations to the universe and God, simplified and humanized worship as well as religion. The sacerdotal order became useless in Greece.—The sacrifices were simply one of the privileges of the aristocratic and warrior class, in whose hands sovereignty for a long time remained. In Sparta and some other Doric cities,

where the influence of Crete and Egypt were considerable, this domination rested on characteristic institutions. The Spartans alone constituted the city, the government and the army; they owned a part of the lands and had a suzerainty over the rest. They guaranteed the integral preservation in each family of its property; they avoided all change in legislation and endeavored to preserve intact the traditions of conquest and of their establishment in the Peloponnesus. The conquered Laconians, scattered around them, became the laboring class, who cultivated the lands which were ceded to them on condition of their paying tribute. Thus they provided for the material wants of the Spartans, served as artisans, sailors and auxiliary troops, but had no political existence, and were scarcely recognized or protected by the law.—It was different at Athens: from the earlier centuries the races of Attica mingled, revolutions followed, systems of laws succeeded each other; and a multiplicity of laws, says Vico, soon leads to a democracy. In the seventh century Solon, in his effort to reconstruct society, was unable to take, as a basis and criterion of his division of classes, origin or birth, but simply wealth. Such an arbitrary hierarchy, and one so easy to modify, became illusory in a short time. Every citizen had equal rights, was a member of the popular assembly, and could attain to official position in the state. The form of the government never allowed authority to continue in a given group of families, nor privileges to become general. The offices themselves belonged, without distinction, to all, each one might become in turn a soldier, a judge, a legislator, a magistrate; for labor, instead of being a cause of inferiority, was imposed on all citizens. Thus was formed that Athenian democracy whose excesses were censured by the greatest minds of the ages of Pericles and Alexander, by Xenophon, Aristotle, Socrates, Aristophanes, and which excited the irony of Plato. —The hierarchy of the Roman classes, founded on more absolute principles and sustained by more powerful institutions, resisted for four centuries the most persistent and energetic efforts of the people. Under the kings, and during the earlier period of the republic, the patricians, who without doubt derived their origin from learned Etruria and warlike Sabina, were the active part of the republic. — After the ancient world had become one, it crumbled to pieces. From the Euphrates to the river Tweed, the provinces, attached to the capital only by bonds which grew weaker every day, and by an administration at once oppressive and powerless, were isolated from each other, and lost by degrees their collective and national life. Abandoned at last to themselves, they opposed no effort to the invasions of the Germanic tribes —From this contact of opposing peoples and civilizations a restoration of social classes necessarily resulted. The barbarians, who were warriors impatient of discipline, with no occupation but that of arms, united by their federative tendencies and by interest, found in the provinces of the empire only a sparse population, enfeebled and impoverished, devoted to continuous labor, unaccustomed either to independence or authority. This insured not only the domination of the conquering race, but the union of its chiefs in a body politic, into a superior class, who owned the land, exercised sovereignty over its inhabitants, and reduced to the labors of tillage or of daily industry the dwellers in the country and in the towns.—One authority alone stood erect amid the ruins of the empire, that of the ecclesiastical order After the official recognition of Christianity by Constantine, the chiefs of the Christian church had been invested with a temporal jurisdiction which increased continuously through the weakness of the imperial administration Entrusted at first with the government of the faithful and the material interests of their churches, the bishops, by slow degrees, had changed this altogether special authority, and when the barbarians came, they were the protectors and masters of cities, the only municipal and provincial authority capable of resisting the violence of invasion.—The rapid conversion of the barbarians to Christianity, and the need they had of making use of agents to subject the conquered population to the new organization of society, further increased the political influence of the clergy. Possessing, in the name of the church, considerable landed property which they lost but for a moment, the bishops entered easily into a hierarchy which had as a basis and measure property in its different forms. If it be true that feudalism was completely established only in the tenth century, it is none the less true that the principal elements of the feudal régime existed in the west in the beginning of the seventh and eighth centuries, that the spirit of individualism of the Germanic peoples made them look on property from the first as the essential attribute of personality, as the first condition of sovereignty and independence; and they graduated the rank, the duties and the privileges of each person according to the origin and the more or less complete control of the property he possessed. The bishops and the abbots were admitted, therefore, into the feudal hierarchy, with the rank of "leudes" and barons, by reason of being great proprietors.—After the beginning of the fourth century, although the Roman law was universal, the clergy obtained the establishment of special ecclesiastical tribunals, before which alone they appeared. This privilege they preserved after the invasion. The clergy besides demanded and enjoyed new privileges, such as exemption from taxes on their own property, and the establishment of tithes on all other property, tithes imposed and collected by themselves and for their own exclusive benefit.—Legislation, tribunals and resources of their own could not but put the clergy in a situation independent of, and in many respects superior to, the secular aristocratic class. At a certain period of history,

when the Germans, having entered orders, occupied all the dignities of the church, when these dignities ceased to be conferred by election in order to be given by the suzerain lords of territory, just like secular emoluments, when bishoprics and the papacy itself were transmitted in certain families like a sort of hereditary fief, it was to be feared that a real sacerdotal *caste* might arise in the bosom of Christianity as in the religions of the east. Certain popes in the twelfth century, and, later, the French kings, raised an obstacle to such a movement. In his struggles against the empire, Gregory VII. endeavored above all things to submit the clergy under the orders of the holy see to discipline, and prevent them from forming a sort of sovereign sacerdotal college in each nation. By the strict enforcement of celibacy, by vindicating the supremacy of the holy see and the separation of the two investitures, he made the clergy a regular militia, distinct no doubt from the rest of society and invested with numerous privileges, but with access to its ranks for all. The creation of the mendicant orders continued this work and rendered impossible a return to those sacerdotal castes, to the theocratic oligarchies of Asia, composed of a small number of members equal among each other, and sharing in perpetuity the government of the people.—The secular powers on their part, and among them especially the kings of France, when they observed the efforts of the papacy to form, not a caste, but a particular society within a general one, used all their adroitness and all their care to put themselves in the place of the holy see, assume the direction of this great ecclesiastical body, and transform the representatives of the church into spiritual functionaries of the state. While guaranteeing to them the greater part of their privileges, the sovereigns restrained and limited the authority of the clergy, by the granting only of special functions to them, and by the interference and permanent supervision of lay authority, so that it may be said, if the mode of recruiting the clergy and their position, privileged, as regards other classes and subordinate as regards the state, be considered, that they form in modern times a simple corporation rather than a class.—Is it necessary to add that, among the nations in which the reformation triumphed, the independence of the clergy as a social and political body was enfeebled and disappeared rapidly? The reformers have often been accused of having merely withdrawn their churches from the supremacy of Rome, to subject them more completely to the temporal power of kings; but no other result was possible in the sixteenth century. Royalty had then grown too strong, nationalities had become too matured, the civil power too firmly established. Deprived of the external support of the papacy, the members of the Protestant clerical body became almost immediately magistrates in the spiritual order, and the abolition of celibacy, which at any other time would have produced altogether opposite consequences, only served to cause the clergy to mingle more completely with the rest of society.—The profound difference existing between the Christian clergy and the sacerdotal castes of antiquity, separate modern aristocracies also from those of Rome and Sparta Even in countries where the hierarchy of classes was most deeply rooted, another civilization and different beliefs directed societies. Amid social and political diversities there appeared a sincere faith in the unity of the human race and an aspiration toward equality. Sometimes even, as in France and a great part of Italy, the nobility scarcely formed a body politic, a real aristocratic class In Italy, in fact, commerce and maritime republics, the industry of Lombard and Tuscan communes, obtained at an early day a considerable superiority of wealth for the bourgeoisie, and enabled it to attain power, to exercise an extended civil and military jurisdiction, and to play a great political rôle. There existed in France during centuries, several classes of nobility foreign to each other; the nobility of the south quasi-Spanish, that of the east, dependent on the empire, that of the great vassals of Burgundy and Brittany, and that of the king: but it was only very late that there was a real French nobility. This want of union, this absence of collective force, enabled the third estate, the commercial and industrial class, to rise from material occupations and interests to the liberal professions and public functions. While French chivalry was fighting on all the battle fields of Europe and Asia, careless of the place which it might have retained in the government, the third estate had gradually taken possession of all power of municipal, financial and judicial offices. and held, so to speak, the monopoly of them Its ideal was that of the empire —For different reasons the nobility of Germany, Spain and England preserved their supremacy longer than that of France. The federal form of the German empire, the division of the territory into a great number of principalities and independent lordships, the organization of diets and the weakness of the central power, enabled the German nobility not only to preserve a large jurisdiction within the more or less narrow limits of their domains, but to preserve also a majority of the attributes of sovereignty, and to leave existing a deep dividing line between the aristocratic and the lower classes of the nation. The long continued national wars which the nobles of Castile and Arragon waged against the Moors, gave them an *esprit de corps*, a spirit of independence and pride, which long made them the real sovereigns of the kingdom. It required nothing less than the stubborn genius of Ferdinand and of Charles V., aided by the resources of a vast empire and the power of the inquisition, to disorganize and bend to absolute power the haughty descendants of the Goths.—The Norman barons whom William the Conqueror led into and established in England, had need of mutual assistance, of union and organization, in order to overcome

the energetic resistance of the conquered population. Being almost equal among themselves, having no power above them but the royal power, in order to preserve their privileges, they were obliged to act collectively, to obtain a part of the public authority, to stipulate for general guarantees of permanent and exclusive rights. The English aristocracy sought for and occupied all the public offices, from lieutenancies of counties up to the great dignities of the state; it wrested from royalty supervision and control, by the definite establishment of parliament in the thirteenth century; it obtained the support of the commons by defending the general liberties of the nation, and in according to them rights inferior to its privileges, it is true, but real and practical. Neither the arbitrary attempts of the Tudors and the Stuarts, nor the two revolutions of the seventeenth century, could destroy a social condition founded on the character and origin of the nation; but in England, as on the continent, the increase of wealth, the importance of labor, and the progress of public opinion, left nothing else of value to the hierarchy of classes than what is attached to the external forms of a respected tradition —If we wish to find an aristocracy in modern times which recalls the patricians of Rome, we can mention only the Swedish aristocracy. To the material privileges which the nobility of Europe enjoyed, the most absolute monopoly of all the dignities and all the offices of the kingdom, the Swedish nobility added extraordinary personal privileges; every plebeian was prohibited from marrying a noble woman, under pain of confiscation of the property of both parties; some ordinances went so far as to decree capital punishment for inter marriage of classes. (Fryxell, *Gustavus Adolphus.*) But such legislation existed only in theory. The kings of Sweden, aided from time to time by peasants and citizens, struggled energetically against the nobles. The last two centuries witnessed despotism succeeding revolt, and political equality was finally established only by the constitution of 1866.—Thus at all times and in all places, in India, in Egypt, in Greece, in Rome, and in modern Europe, society, obeying a universal instinct, has been composed of three classes, to which it has attributed the rank and rôle of one of the human faculties mentioned at the beginning of this article. The mistake of the eastern world was in considering these three classes as three races of beings essentially different in origin, nature and destiny; the error of the Pagan world was in sacrificing the most precious rights of man to the general order of an hierarchical society. The humanity of Christianity and the individualism of the Germanic races vindicated the dignity of man, and led the human conscience to proclaim the equality of the rights of man. Such was and such will be the progress of humanity. B. CHAUVY.

EUROPE. Though the smallest of the continents, Europe now sways the sceptre of the world. Asia precedes it in the annals of mankind, but the daughter has eclipsed the mother, not because she is younger, but because she has surpassed her in civilization Europe has raised man to his true dignity by developing in him a horror of despotism, her people have spiritualized religion, purified morals, and broken the bonds of mankind. Her sons have freed the sciences from the superstitions which loaded them down, and they have widened and deepened them. It is they who have carried art to its sublimest heights. In fine, Europeans conceived the idea of unlimited, indefinite progress, which, even if it be not an illusion in part, is the most solid basis of the civilization upon which we so justly pride ourselves. Why is it that Europe has enjoyed and still enjoys such distinction? Let us put aside the explanation of this question which traces everything to a Providence whose motives our intelligence can not comprehend. Let us put aside also that which attributes the government of all things here below to chance as blind as it is capricious, and adhering to that plain method of reasoning which finds everywhere the relation of cause and effect, let us seek out the causes which have produced the superiority of Europe over other parts of the world.—We do not by any means pretend to discover all of these causes, but there are some which we can not fail to recognize. The first of these is climate. We are not of the number of those who attribute to this agent a power so great that everything must yield to its action; but man is subjected to the influence of the climate in which he lives, excessive heat enervates him; piercing cold weather weakens him The moderate temperature of the greater part of Europe, and especially of that part which first received the benefits of civilization, Greece, Italy, Spain and the central portion of France, has helped the development of the intellectual and moral germs of its inhabitants. At a later period the climatic differences between the north and the south of Europe led to commercial intercourse and to the exchange of the products of one country for the products of another —The configuration of the continent of Europe has exerted an equally beneficent influence. No part of it is very far removed from the sea. The Baltic, by means of the gulf of Bothnia and the gulf of Finland, penetrates far into the interior of the northern countries and communicates through three straits and large canals with the North sea, which washes the British and many smaller islands. On the west the Atlantic and the gulf of Gascony bathes a long line of coast, from the strait of Gibraltar to the extremity of Norway. On the south the Mediterranean cuts up the land into numerous fertile and picturesque islands, peninsulas and bays, and through the canal of the Dardanelles puts forth the sea of Marmora and the Bosphorus as an arm that afterward enlarges into the Black sea with the sea of Azov as an annex. Numerous routes lead to these seas, rivers accompanied by a cortege of streams which flow much more

regularly than most watercourses of other continents. The two kinds of labor which have most contributed to civilization are the cultivation of the soil and navigation.—Upon this land, so highly favored, the best endowed races of mankind intermingled. This intermingling has been one of the most potent causes of European progress. We shall not here relate the history of the populating of Europe, nor of the migrations of its inhabitants; but the consideration of the political aspect of the continent of Europe during the different epochs of its history is not without interest.—The earliest is that of the yellow race of men who were probably of the same origin as the Laplanders. All that we know of this people has been learned from the ruins of their habitations discovered in the lakes of Switzerland and elsewhere. They did not know how to work in the metals, and their age is called the stone age.—The years 440 to 450 before the Christian era are memorable in the history of Europe. Pericles ruled in Athens, which had just been subdued by Rome under the dictatorship of Cincinnatus. The Etruscans still existed, although more or less enslaved. The Gauls followed the religion of the druids, and their sacrifices were defiled with human blood. Spain worked her mines, and began to feel the yoke of Carthage. The rest of Europe was overrun by nomads where it was not covered with forests and swamps. — Eight or nine centuries later, about the year 476, at the time of the downfall of the last successor of Romulus (Augustulus), German races had taken possession of almost all the entire south and west of Europe. Odoacer had just founded a new empire in Italy. The Visigoths held Spain and France as far as the Loire. The Ostrogoths were in possession of Dalmatia, Servia and a part of what is now Turkey. The north of France was in the possession of the Franks. Germany was divided among several Teutonic tribes. The Slaves dwelt to the east of the river Oder, and the Celts retained only the peninsula of Brittany and the British isles. All was chaos, from which order was not to be drawn for several centuries. And what was the order it produced even then? Feudalism.—We pass over the centuries that witnessed the formation and development of the middle ages, to consider the picture presented to our view in the fifteenth and sixteenth centuries, when medieval made place for modern times, when Christopher Columbus, Guttenberg, Luther, Calvin, Descartes and Bacon renewed the face of Europe and created our civilization. The Iberian peninsula was divided into Portugal, Castile, Arragon and Navarre. France had not yet absorbed Burgundy and some other territories. England had conquered Ireland, but Scotland still retained its political independence. Germany constituted the "holy Roman empire," whose powerful ruler then possessed but a limited number of those "*states of the crown*" which in our day form such an imposing whole, and one possessed of greater unity than the adversaries of Austria are willing to concede. Italy was divided into small states. Genoa, Florence, Milan, Venice, Rome, Naples, Parma, and some other places, were capital cities, and were as proud of their independence as the Swiss, the *Eidgenossen*, their neighbors. Neither Scandinavia nor Russia had played any important part in the affairs of Europe, but Poland was flourishing, and the united provinces of the Low Countries, which had won their liberty at the cost of rivers of blood, were on the point of astonishing the world by their prosperity.—Since the end of the middle ages the physiognomy of modern Europe has been clearly enough defined for us to recognize its principal features. When the French revolution broke out in 1789, Spain had acquired Castile, Arragon and Navarre; France had enlarged its boundaries; England and Scotland had become Great Britain; Prussia Austria and Russia had acquired very extensive territory. Poland had already been divided, and was soon to disappear, like the holy empire Let us pass over the ephemeral changes which the wars of Europe wrought upon its geographical boundaries; let us pass over the famous treaties of 1815, so often assailed and now perhaps regretted, and endeavor to present a view of the continent (of Europe) as it is.—The European *republic* is composed of a considerable number of large and small states. During about half a century, five of the number formed a sort of areopagus which ruled the destinies of the continent by the law of might. This power seems so natural that authors were found to justify this oligarchical domination, to establish the right of the "five great powers." One of their arguments, and, unfortunately, the best they had to offer, was that there would be no more wars, the pentarchy would be able to prevent them.—It could not even prevent the creation of a sixth great power. Nor do we at all regret this; we only ask that by degrees every state may have a seat in the areopagus of Europe. Meantime we should not attempt to deny this self-evident fact, that France, England, Russia, Austria-Hungary, Germany and Italy are preponderating powers in Europe.—France is undoubtedly one of the most powerful among them. Her 128,000,000 acres afford ample accommodation for her 36,000,000 inhabitants. Her nationality is firmly established, or, at least, it is strong enough to assimilate the small number of foreigners to be found within her territory. Thus her unity is assured. Her geographical position is excellent. she has a long line of coast, and her frontiers, washed by the sea, have scarcely any need of an army to defend them. Finally, her people are warlike, although she nevertheless loves peace, and cultivates the arts of peace with sufficient success to secure her a prosperity which a disastrous war aided by a revolution and a formidable insurrection (1870–71) had not power enough to impair.—England is the richest country in Eu-

rope, and as money is the sinew of war (whatever Machiavelli may say to the contrary), she is much more powerful than the number of her inhabitants would seem to indicate. But little centralized and having no law of compulsory military service, she is not adapted for aggressive warfare, while her insular position, on the other hand, renders it quite easy for her to defend her own. Moreover the ambition of Great Britain is being more and more closely restricted to the domination of the sea—even which she may some day be deprived of. Since all power has completely been absorbed by Parliament, England has abstained as much as possible from taking part in European wars. Her influence also has become merely one of opinion, for just as in private life a man is most frequently esteemed according to the capital he possesses, or the generosity which he displays, so also in politics, a state is reckoned according to the military force it can command. —Russia's power lies in her immense population, which is said to exceed eighty millions, but her strength has been greatly exaggerated by those who forget that the lever, money, is needed to move this mass. And Russia has not money enough to mobilize all the soldiers she could muster, and so a portion of this mass of population remains inert. It is fortunate that such is the case, for if her power were greater, she would the less easily resist the temptation to abuse it. Will this colossus of the north ever become strong enough to balance the strength of the rest of Europe? — Austria-Hungary has more than once seemed "on the very verge of dissolution," but fortunately this state is hard to kill. It is to be hoped that the dualism introduced in 1867 will consolidate this empire, for it is a necessary member of the European republic. The Hungarians would have very little political wisdom if they were not willing to make every effort and every sacrifice necessary to preserve it, for it is they who profit most by the existence of Austria. As to the Tchechs, who are a little too jealous of Hungary, they can only injure themselves unless they consider themselves, above all things else, as Austrians.—Germany, into which Prussia shows a tendency to be dissolved, has again tightened the bounds of its states, and while it has, in certain respects, undergone unification, it still remains a confederation from a political point of view; that is, the right to declare war belongs to a committee in which all the German governments are represented. The new empire is not, therefore, organized for aggression, but inasmuch as it exhibits a much closer union of its various parts than before, it will be stronger for defense. Germany has need of strength, for she has enemies both external and internal; she requires great wisdom indeed to avoid the onslaughts of the one and the troubles caused by the other.—Italy is considered the sixth great power. She numbers between twenty-six and twenty-seven million inhabitants. She has Rome. Her organization has been consolidated. Her opinion is constantly gaining weight in the councils of Europe. Her geographical position between Austria and France might, under certain circumstances, give her a decisive influence, but there is reason to believe that she will not intermeddle in what does not concern her. Let Italy be content to remain mistress of Italy, and encourage her agriculture, industry and commerce, in order that she may safely carry the burden of her debt.—Let us now pass to those nations that have less pretensions to preponderance in Europe.—Spain and Portugal are situated at the very extremity of Europe, and although Spain numbers sixteen million inhabitants and is comparatively prosperous despite her so frequent revolutions, it is rather beyond the seas than beyond the Pyrenees that she seeks, and with reason too, to exercise her influence. How could she exert any influence over Prussia, for instance, where distance renders it impossible for her to enforce her demands.—Switzerland and Belgium are nearer to the scene of whatever important events may happen in Europe; but if their relative weakness did not compel them to abstain, the neutrality, which the public law of Europe imposes upon them, would forbid them to intermingle in the quarrels of other nations. And they have no desire to do so. We have coupled them together here, because they are, to all appearances, the two freest states in Europe, despite the difference of their forms of government. By comparing the constitutional kingdom of Belgium with the federal republic of Switzerland, we become convinced that liberty may reign in countries which are governed by constitutions that have very few points of resemblance.—The Low Countries also have a liberal government. This state perhaps even preceded all others in this respect, for it had already given civil equality to all its citizens without distinction, when England was still proscribing Catholics, France Protestants, and Germany the Jews. No matter what certain publicists may say, Holland has nothing to fear for her liberty, no one threatens it, and in case of need she would have powerful supporters. However, we know that she has too pacific a spirit to enter without reason into any aggressive combinations whatever.—The Scandinavian states, Sweden, Norway and Denmark, occupy the north of Europe. Scandinavianism makes a great noise, but is it not after all "much ado about nothing"? So long as Sweden and Norway, united under the same king, remain separated by laws, by customs barriers imposed, and above all by prejudices, we can not consider as serious the advances they seek to make to Denmark. This little country would do well to devote all its energies to the cultivation of the arts of peace, education and industry. Denmark would thus acquire a moral influence far superior to her material power.—From the northern peninsula we pass to the peninsula at the southeast of Europe. Here Turkey and Greece look defiance at each other. Greece, however, no longer has anything

to fear from her old master. (See TURKEY.) — We have now considered in their order the various states which compose Europe. We should like to submit to our readers some conjectures, regarding the future, but we dare not attempt it; time alone can solve the many questions suggested by the present position of European nations. MAURICE BLOCK.

EVERETT, Edward, was born at Dorchester, Mass., April 11, 1794, and died at Boston, Jan. 15, 1865. He was graduated at Harvard in 1811, became pastor of a Unitarian church in Boston in 1814, served as representative in congress (whig) 1825–35, was governor of Massachusetts 1835–40, minister to Great Britain 1841–5, secretary of state under Fillmore (see ADMINISTRATIONS), and United States senator, 1853–4. In 1860 he was the constitutional union party's candidate for vice-president.—See *Boston Memorial of Everett;* 15 *Atlantic Monthly;* 100 *North American Review;* Everett's *Works.* A. J.

EXCHANGE, An, may be described briefly as a localized merchants', traders' or dealers' market. Those who do not make buying and selling their occupation do not, for the most part, have direct dealings in any exchange market. As a rule, producers of such articles as are bought and sold on the exchanges sell to dealers who have more or less intimate relations with those markets; and consumers, on the other hand, buy of dealers, and do not deal in person "on 'change." Hence an exchange is almost wholly a traders' market, or a market in which the buying and selling is done by those who make trading their business. It is a great intermediary market, receiving products from producers, and advancing them on their way to consumers. It is also a localized market. In every considerable commercial centre are many markets which are not localized. All who make a practice of buying any article that is from time to time offered for sale, and who are accessible to the body of sellers, constitute the market for that article, though their places of business may be remote from one another, and though they may never deal in that article among themselves. An exchange differs from such a market as this in that it is localized. The body of dealers find it convenient, not to say necessary, to have a place where they may meet to transact business among themselves. It is this localization which, as much as any other one thing, goes to make an exchange as near an approach as possible to a perfect market. It affords an opportunity to put the entire trading body in possession of the latest intelligence from all kindred markets, and from all other sources, touching the conditions of supply and demand, and it affords the most free scope for the prompt action of all the forces of competition.—An exchange may be organized for the purpose of facilitating dealings in any one commodity, or any number of commodities. We have cotton exchanges, sugar exchanges, coffee exchanges, and others, in each of which only one product or commodity is the subject of dealings; and we have produce exchanges where nearly all staple farm products are bought and sold, and stock exchanges where government bonds, railway shares, and stocks of all kinds that have secured recognition in market, are dealt in. Only such commodities as are of considerable commercial importance are made the subject of dealings on 'change. The number of such commodities is continually increasing as commerce is extended, and the dealings throughout the list come to be so numerous and large as to demand more exclusive attention, and give employment to an increased aggregate of capital. Hence there is a tendency here, as in other fields of human activity, to differentiate functions. What began as a produce exchange may become divided into a breadstuffs exchange, a butchers' exchange, and a number of other separate organizations. And where there may be no formal dissolution of the original exchange, and no organization of new ones occupying more restricted fields, individuals will confine themselves more and more to selected branches, with the result that a number of really distinct markets will come to exist under one roof and one name, the dealers in each being different from those in any other And this may, in some fields, be preferable to the lopping off of branches from the original organization and the establishment of separate exchanges. The most signal example of this multiplication of markets in a single exchange is afforded by the London stock exchange. Here there are many groups, in each of which only a limited number of securities are bought and sold, and the dealers in any group confine their attention to that one exclusively, as a rule, and when any one of them removes to another group, it is with the intention of making the removal permanent. Where securities in such great numbers, representing credits, properties and enterprises in all parts of the world, are dealt in, this subdivision of one great market into many markets becomes necessary. No man can become so familiar with all securities as to be able to deal in all with the requisite intelligence and promptitude. And even if every man could do this, there would still remain the necessity of localizing markets for the different kinds of securities, so that a person wishing to buy or sell a particular stock could know just where to find others wishing to deal in the same stock. The broker may, and generally does, deal in a considerable number of securities, but he does not himself operate on the exchange. When he wishes to buy or sell shares of any particular kind he goes at once to the group in which those shares are embraced, and concludes his bargain with a "jobber," or "dealer," in that group, who has no business relations at all with the public, but only with brokers and other dealers. As a rule, the broker asks the price without saying whether he wishes to buy or sell. Accordingly the jobber states his buying price and

his selling price, and about half the difference is his margin for profit. So sharp is the competition among jobbers that, if the shares concerned have a pretty firm footing in the market, the difference named is small, affording a margin, usually, of not more than one-sixteenth of 1 per cent. for profit. Thus the broker may enter any group and, for a moderate compensation, secure the services of a jobber thoroughly familiar with that group, and always at the very heart of the market, ready for action.—The economic advantages of this differentiation of functions have, perhaps, been sufficiently suggested already Dealers or jobbers, on the one hand, can perfect themselves in their several specialties, each having a limited range. Brokers, on the other hand, whose dealings necessarily extend over a broader range, have always at their command the services of trained specialists. What is even more important, perhaps, the formation and localization of special groups enables an investor or vender to reach, through his broker, the very heart of the market, for any particular security he may wish to buy or sell. Demand and supply are thus promptly focalized, and prices as promptly adjusted. So great is the advantage resulting from this arrangement that a comparatively small number of brokers and jobbers transact with ease a business which could not otherwise be transacted at all. Exchanges in general afford like economic advantages in their relations to the producing and consuming public. Trained dealers, skilled in estimating supplies and their relations to demand, are brought into direct and sharp competition. Some of these dealers are either agents for the producers of the commodities offered for sale on the exchange—agents compensated by commissions—or speculators who have bought with a view to selling at an advance. These dealers seek to obtain the highest prices possible, and are known in the language of the market as "bulls." Other dealers are agents for consumers, or speculators on the consumers' side of the market, and therefore seek to buy at the lowest prices, and are known as "bears." These opposing forces are always present on every exchange. They bring to the contests in which they engage, superior and highly trained faculties, and the advantage of the earliest intelligence, secured for the most part through the instrumentality of the exchanges themselves, from all the leading markets of the same kind in the world. The result is that prices are promptly adjusted to existing conditions of supply and demand, the wide fluctuations which are especially injurious to original producers and final consumers are in a great measure prevented, and those differences in the price of a commodity at the same time and in the same neighborhood, which indicate the existence of a very imperfect market, become impossible. Their great function is to receive and diffuse with the greatest celerity all those complex influences affecting prices of staple commodities, and thus not only maintain equable markets, but also supply producers with timely and trustworthy evidence of either general excess or deficiency in the supply of any product, so that they may apply the needed corrective in either direction. This function may be, and no doubt is, sometimes perverted. Speculators may produce artificial scarcity and force prices above the level which would be reached under the influence of the ordinary forces of competition alone. But it does not follow because this sometimes happens that exchanges are, on the whole, economically injurious; that they make prices to producers lower and to consumers higher than they would otherwise be; that they afford special facilities for gambling in the necessaries of life, and for levying tribute upon both producers and consumers for which no just equivalent is rendered. It would be as reasonable to infer that railroads are, on the whole, economically injurious because those who control them sometimes practice extortion. It would probably be quite as easy to monopolize or "corner" wheat, or corn, or pork, if there were no such thing as a produce exchange. The exchanges, so far from encouraging such operations, afford every possible opportunity to thwart them by giving them early publicity. "Cornering," under the name of engrossing or forestalling, was practiced long before there was a regularly organized produce exchange. The worst that can be said of the exchanges in this regard is, that so long as they perform their legitimate function of supplying the best facilities for buying and selling, they must necessarily afford the best facilities for monopolizing any commodity for which they afford a market. But let that be granted, and it does not follow that exchanges are to be condemned as injurious. A sufficient proof that they are useful institutions is to be found in the fact of their survival and multiplication. Old ones would not survive and new ones would not be organized if they were economically more injurious than beneficial, any more than steam engines would be used in greater and greater numbers if there was found to be an economic balance against their use —Exchanges perform useful functions other than those already stated, such as grading commodities, certifying to their quality upon inspection, etc., upon which it is not necessary to dwell.—Exchanges may be incorporated bodies, sometimes under their proper name, and sometimes under the name of chamber of commerce, or board of trade. They are not, however, incorporated for the purpose of enabling them to discharge their chief functions. They do not deal in produce, stocks, etc., in their corporate capacity. Their individual members deal with one another, and for this purpose no charter is necessary. The act of incorporation is serviceable to them only in that it enables them in their collective capacity to own and buy and sell the real and personal property required by the members in the transaction of business, such as grounds and buildings, and to sue and

be sued, to the end that they may collect by lawful process the means requisite to the maintenance of their organic character and the discharge of their limited organic functions, and that they may be liable at law for any obligations incurred by them. — There is reason to believe that markets answering more or less completely to the description of exchanges have existed wherever any considerable commercial progress has been made. The modern institution, however, involving the deliberate appropriation of a locality or building to the use of an exchange, is believed to have originated about the beginning of the sixteenth century, under the name of "bourse." This name, which is still applied on the continent of Europe to bill and security exchanges, originated, according to one tradition, in the belief that the first gathering of the kind took place in the house of a man named Van der Bourse at Bruges, Flanders. According to another tradition it originated in the belief that the first exchange assembled in a house in Amsterdam, which had three purses hewn in stone over the door. One of the oldest exchange buildings was erected in Antwerp, and was selected by Sir Thomas Gresham as the model of the building in London which, on Jan. 3, 1570, was proclaimed by Queen Elizabeth "The Royal Exchange." This latter exchange has been twice destroyed by fire and rebuilt. The present Royal exchange was opened by Queen Victoria Oct. 29, 1844. It is the most important theatre of bill and security transactions in the world. The most celebrated of the exchanges of continental Europe is the Paris bourse, which was established in 1824. There are now fine exchange buildings in Amsterdam, St. Petersburg, and other European cities. The Merchants' exchange in New York was founded in 1817. Its first building was destroyed in the great fire of 1835. The second was sold to the government of the United States for a custom house. The third is still in use by the exchange. At the present time exchange markets of different kinds exist in all the important commercial centres of the world. HAYDN SMITH.

EXCHANGE AND "FOREIGN EXCHANGES." Exchange is a term that makes a great figure in political economy. In the view of one school of economists, indeed, it covers the whole domain of economic science; but at least a severe strain is put on the word by including under it the laws of production as well as of the distribution of wealth. No theory of population can well be brought within the limits of exchange; hence some authors who define political economy as the science of exchanges, or of value, are disposed to relegate to another department of sociology all inquiry into the laws of population. Yet almost all text books of economics do, as a matter of fact, include some theory of population. It may throw some light on the part played by exchange, as distinguished from production in the economy of society, to point to the errors committed by writers who, like Mr. H. D. Macleod, treat bills of exchange, promissory notes, and other instruments of credit and acknowledgments of debt, as themselves constituting wealth—adding *pro tanto* to the sum of a nation's valuable possessions. There is in this doctrine a confusion between production and exchange. The argument in support of it is, that such instruments have an exchangeable value and must therefore be wealth. The answer is, that when a man borrows say £100 on his promissory note or bill for £105, all that takes place is an exchange between borrower and lender. There is no production of new wealth; £100 in hand is exchanged for £105 at a future time; and the note or bill is only evidence of the claim to the £105. An instrument of credit resembles the title deed to an estate. When a person buys a landed estate, all that is visibly transferred in the first instance, in exchange for the purchase money, is the conveyance or title deed; but what it really bought is the estate, and nothing but an exchange is effected. Doubtless bills of exchange and other instruments of credit may add indirectly to the wealth of a country in two ways: 1, by enabling persons engaged in production to borrow funds which would otherwise have been unemployed and unproductive; 2, by taking the place of coin as media of exchange, and saving the cost of metallic currency. But there are unproductive as well as productive borrowers, and instruments of credit may transfer to prodigals sums that might have been productively employed. — A large and increasing number of writers in England, Germany, France, Italy and Belgium refuse to restrict the field even of distribution to the partition of wealth by exchange, which, like J. S. Mill, they regard as only a particular mode of distribution. Adam Smith, in the First Book of the Wealth of Nations, under the head of "natural distribution," treated only, it is true, of the division of the annual produce of a country effected by the exchanges consequent on the appropriation of land, the accumulation of capital, and the division of labor; but in the Third Book he has referred to the distribution effected by laws of property and succession; and both in England and on the continent of Europe there is a growing tendency on the part of economists to extend their investigations to the effects of positive laws and political institutions upon both production and distribution. Nevertheless the topics which have hitherto covered the greatest part of the ground in almost every systematic treatise on political economy, fall under the head of exchange, and in any view of the limits of the science, the importance of the subject can hardly be overestimated. — It is characteristic of the method of the purely deductive school of economists founded by David Ricardo, that his theory of exchange and value was deduced from the assumption, in his own words, that in the early stages of society the

exchangeable value of commodities depends almost exclusively upon the comparative quantity of labor expended on each. If, for example, he said, among a nation of hunters it usually costs twice the labor to kill a beaver that it does to kill a deer, one beaver should exchange for two deer. And on this principle he inferred that the value of all things, except those which can not be increased by industry, depends. But the assumption is plainly an untenable one Labor is too abstract a measure for the minds of uncivilized men to conceive; there is, indeed, no regular labor among them, and the produce of the chase is in a great degree governed by chance. The earlier stages of society are regarded by most modern investigators as having been more or less communistic, with little or no individual property; in which case few, if any, exchanges could take place. And if any, they would probably follow the principle of the exchange between Esau and Jacob, of a birthright for a dish of pottage; being determined by the relative urgency of the needs of the parties. Even at a more advanced social stage, at the beginning of settled agricultural life, each family would probably provide for its own wants, and few exchanges would take place within each little community. Regular exchange or traffic seems to have begun, not within the community, whether of hunters, shepherds or farmers, but between different communities, exchanging the special produce of different localities. Such exchanges could not be governed by estimates of labor or cost of production; they would partake of the nature of international exchanges, and fall under the principle which Mr Mill applies to international commerce and values, namely, demand and supply. Nor would it be difficult to show that in a great modern and industrial society the relative cost of an infinite multitude of commodities is incalculable, and that the hard and fast line drawn by Mr. Mill between international values and the values of things produced in the same country, is untenable. The best general formula for the conditions determining values is, in short, demand and supply. Cost of production, even within the same country, can act on value only by roughly adjusting the supply to the demand, and its action is uncertain and irregular.—A grave error in both Ricardo's and J. S. Mill's exposition of the principles governing both internal and international exchanges and values seems to have escaped detection. According to the two great writers referred to, the introduction of money makes no difference in the terms on which exchanges are conducted, or in the values of the commodities exchanged. Things, says Mr. Mill, that would have been equal in value if the mode of exchange had been barter, are worth equal sums of money. And he quotes with emphatic approval the words of Ricardo, that "gold and silver, being chosen for the general medium of circulation, are by the competition of commerce distributed in such proportions among the different countries of the world as to accommodate themselves to the natural traffic which would take place if no such metals existed and the trade between them were a trade of barter." An example will show at once the fallacy of this doctrine. Were the precious metals not in circulation in China, and the barter of English cottons, woolens and hardware for Chinese tea the system of trade between the two countries, the demand of China for the manufactures of England might be so small that tea could only be procured by the latter country on the most onerous terms of exchange. But let silver become current as money in China, and the demand of the Chinese for that metal, both for circulation and hoarding, might become so intense that with a given quantity of manufactures England might buy in America enough silver to pay for twenty times as much tea as she got for the same amount of goods by direct barter. Mr. Mill forgot his own doctrine that money differs from all other things in the property that it is the object of a demand to which there is no limit. His reasoning confounds also two very different propositions. It is true, as he argues, that both under a money system and a system of barter the equation of international demand is the fundamental principle of international trade But it does not follow that the reciprocal demand is the same under the two systems; the exchange may be conducted on very different terms, and very different equations may exist under money and barter respectively.—The transactions, however, which mercantile men generally have in view when they speak of the exchange between different countries, are those technically called the foreign exchanges, in which the balance of international dealings, the prices of foreign bills of exchange and the movements of bullion are the chief objects of consideration. The balance of international dealings and claims, it is now well known, is no mere balance of international trade. In the middle ages the balance of exports and imports between England and the continent was generally in favor of England, for whose wool the continental demand was intense. Yet the balance of international payments was often against England; and that country, though possessing, down to the fifteenth century, mines of precious metal, with difficulty maintained a scanty stock of coin for circulation. The reason was, that the exactions of the pope, the revenues drawn from English benefices by foreign incumbents, and the sums wasted by English kings in continental wars, caused a constant drain on the English currency. On the other hand, in our own age England has maintained a generally favorable balance of dealings with the world, although her demand for foreign commodities has often exceeded that of her foreign customers for her manufactures, because many other items besides purely commercial exports and imports go to determine the claims of England on the rest of the globe. She receives vast sums in payment of interest on capital invested abroad; she has an

immense carrying trade, and her earnings for freight make a large figure in her imports; and she receives, in addition, large payments in commodities from India for the government of that great dependency. Were the United States or France by superior ship building and navigation to deprive England of her carrying trade, the amount of her imports would fall off, the country cutting her out of the business would get the imports she now receives in payment of freight; the exchanges would turn heavily against her, and a drain of the precious metals from her shores would infallibly follow. The case of the United States is different. America is able, in spite of the loss of no small part of her former share of the carrying trade, to maintain a favorable balance of exchange with foreign countries because of their immense demand for her exports.—The chief rule laid down in treatises on foreign exchanges is, that the premium on a bill of exchange in a foreign country can not in ordinary cases exceed the cost, in freight, insurance and brokers' charges, of sending the sum in actual bullion; and that the discount, in like manner, on a foreign bill can not exceed the cost of transmitting the required amount in gold or silver. Under peculiar circumstances, however, the premium or the discount, it is now well ascertained, may exceed the expense of transmitting the precious metals. Thus at the beginning of the American civil war there was a great anxiety in the United States for gold, and at the same time a very large amount was due from Europe, for which Americans held bills. Had they been willing to wait until the money could be brought over, the discount on the bills could not have exceeded the cost of its transmission. But in their eagerness to realize at once, and to get cash, the holders of the bills parted with them on much less favorable terms. The cause of the great rise in England in the premium on bills on the continent, when the news of Napoleon's escape from Elba arrived, was of a different nature. The premium could not have exceeded the cost of sending bullion, had the notes of the bank of England been convertible, for any one could have presented notes at the bank, demanded cash, and sent it to the continent. But at that time the payment in cash of bank of England notes was suspended, and the notes were depreciated. Hence to the expense of remitting bullion was added a charge proportionate to the depreciation of the notes with which the bills were bought. Again, the discount on foreign bills of exchange may descend below "specie point," as it is called, from distrust. Uncertainty respecting the solvency of the parties bound to meet the bills at maturity, or respecting the state of credit in the country on which they are drawn, may lower their price in a degree to which there is no assignable limit.—It will be seen from what has been said, that the topics coming under the head of Exchange are wide enough without treating it as co-extensive with the entire field of economic science. T. E. CLIFFE LESLIE.

EXCHANGE OF PRISONERS. The conventions entered into sometimes between belligerent powers, to regulate the methods of carrying on war and to determine the hostilities from which the respective armies are to abstain, are generally called *cartels*. Thus certain parts of territory are declared neutral ground, and contributions to be levied, the repression of marauders, the continuation or the stoppage of commerce and postal service, etc., are agreed upon.—One of the most important cartels is that relating to prisoners of war. Engagements are made on both sides to treat prisoners according to their rank and fortune; the bases of this treatment and the price of their maintenance are fixed; finally, arrangements are made for exchanging them In times long passed, not to speak of antiquity proper, it was the rule, with few exceptions, that the prisoner belonged to his captor. The latter gave him his liberty in consideration of a ransom, the amount of which was agreed upon between the interested parties. At that time the exchange of prisoners was very rare, for it could only happen by the merest chance that the man who had made a prisoner of another man had a personal interest to redeem another prisoner, whose fate was at the disposition of his prisoner. But by degrees sovereigns or governments came to form regular armies, and soldiers in their pay captured prisoners only on the account of the state. It was the affair of the state, then, to pay the ransom to redeem its own men, and treat with the enemy in order to fix the price for which it would free those which it had taken itself. Then, by the nature of things, exchanges became easy and frequent.—It must be observed that two belligerent armies are interested in the mutual liberation of prisoners. Each army is glad to recover the troops which are useful to it, and each glad to find itself freed from caring for hostile prisoners and from conducting them to their final destination. — The first cartels were chiefly cartels of ransom. On both sides, lists of officers of every grade were drawn up, and even of simple soldiers, and the amount of ransom for each grade in the ranks was fixed. Thus in glancing over some of the most ancient cartels mentioned in diplomatic collections, we find that at the end of the seventeenth century there was an enormous disproportion between the prices of men of different grades. A marshal of France, commander-in-chief, or vice-admiral, was generally valued at 50,000 *livres tournois;* a soldier or sailor at five or seven livres. The price of men being determined, the exchange of prisoners was easily effected at their money value.—A century later, the development of civilization and philosophic ideas had accustomed governments to consider men as having a personal value independent of their social position. In a cartel of 1780 between France and England, a marshal of France, an admiral, etc., were valued at 1,500 livres; simple soldiers and sailors at twenty five livres. The idea of ransom was no longer uppermost,

but that of exchange. Exchange was made as far as possible for men of equal or nearly equal grade. In 1690 a marshal of France would have been exchanged for 10,000 soldiers; in 1780 no one would have thought of offering sixty soldiers for a marshal. — At the period of the great wars of the French republic, another step in advance was made. The principles of equality which ruled in France caused the rejection of every estimate of a man at a money rate.—Cartels for the exchange of prisoners are usually concluded directly by the government, that is to say, by commissioners with the plenary powers of the sovereign. Still, commanders-in-chief being always authorized to make military conventions in the name of the state with hostile generals so far as their own command is concerned, it frequently happens that cartels of exchange are concluded between general and general. Even an exchange of prisoners is often made without a count, except of officers who have a greater importance on account of their rank.—Finally, it has become an invariable custom, as soon as peace is concluded, for the prisoners remaining in the hands of their enemies, to be sent by both sides in complete liberty to their respective countries, without exchange or ransom. ROYER-COLLARD.

EXCHANGE, Rate of. (See BILL OF EXCHANGE.)

EXCHANGE OF WEALTH. Human society was organized originally in accordance with the restricted principle of the community. The community whose essential characteristics are labor in common and the division of its fruits, is, in fact, the simplest and most elementary form of human society. It is a suitable form so long as the men who compose the same group are engaged exclusively in one and the same kind of labor. This is the case with the savage tribes whose only labor is the chase. Animals which work in common, such as the bee, the ant, the beaver, etc., also adopt or conform to this form of society. But it ceases to be sufficient for man the moment he extends his sphere of action, and employs his labor in different ways. Thus it gradually disappeared, as communities enlarged and civilization began; it reappeared afterward only accidentally, and remained always and necessarily confined to small groups of individuals engaged in some one kind of labor. — This first form of society was succeeded by another, in which men divided among themselves the different kinds of labor, the result of the wants of a growing civilization. In this new system, the germ of which was contained in the primitive communities, production was not in common. Each person chose for himself the kind of work which suited him, and devoted his energies to that alone. He may indeed have associated himself with a few others when the work which he proposed to undertake exceeded the powers of a single man; but all the different kinds of labor in the production of wealth were none the less performed separately. Does this mean that men hereby renounced society and social ties? On the contrary, man became in consequence more than ever a social animal; but the association of men changed in character; it assumed a form at once freer, more varied, and skillful. Instead of working in common, as they could and should have done when the work of production was one and simple, they divided the different kinds of the labor of production which had become more complex, among them. This was a new and more extensive mode of associating and combining their different kinds of labor: then they exchanged the results of these different kinds of labor, which served to complete one another. To the rudimentary system of laboring in common, and sharing the fruits of the common labor, succeeded the superior system of separate kinds of labor, and of the *exchange* of the products of that labor.—The adoption of this system, gradually supplanting that of the primitive community, is the true source of man's greatness and power. So long as man is obliged to labor in a community, like the bee, the ant and the beaver, and to share the fruit of this common labor, he does not rise much above these animals, which have, like him—and perhaps in a higher degree than he possessed them in his state of primitive ignorance — the gifts of order and foresight. The savage tribes would perhaps be lower than the troops of beavers and swarms of bees, were it not for the fact that they bore within them, even in the community, the germs of the higher organization which humanity was afterward to attain. From that time onward we find men manifesting a propensity for *bartering*, *trading*, and *exchanging* one thing for another; a propensity which, as Adam Smith justly remarks, is not observable in other animals, and which by degrees produced the division of labor with all its consequences.—But the disappearance of the system of the community, and the establishment of the system of divided labor which succeeded it, together with the exchange of products, which is at once its point of departure and its necessary complement, were not effected all at once. The change has been slow and gradual —We have just seen that the propensity of man for bartering and trading appears even among the savage tribes. The community subsists to divide among its members the much greater part of production and consumption, but exchange takes place in the case of things which are only accessory. The chase is engaged in in common, and is the great industry of the tribe; and the flesh, skin, horns, etc., of the animals killed are divided among the members of the tribe. War, which is at times another branch of industry, is waged in common, and the booty taken from the enemy is divided; but barter is carried on, elsewhere, in the objects of which the separate members of the tribe have acquired exclusive possession. One warrior, who is skilled in making bows and arrows, exchanges the

weapons he has made for the skin of a wild beast, which another warrior offers him. A third gives his share of the booty for an ornament, which he intends for his wife. And owing to these exceptional cases of exchange, which become more and more frequent in proportion as the tribe becomes richer and its products more varied, there was some attempt at that division of labor which in time became general. — Among nations which are simply barbarous, that is to say, which are no longer savage and yet not civilized, the community of production and its fruits is not so absolute as among the primitive tribes, but it is still very great. Whether it be a pastoral and nomadic people, or a people who have already begun to cultivate the soil, the chief wealth is always in common, and their chief labor collective labor. They possess a common herd, which furnishes wool and milk for all; they cultivate the soil in common, and divide the fruits it produces. And this must necessarily be so, for, in this stage of civilization, man is so weak in the presence of the obstacles of all kinds which brute nature puts in his way, that divided labor is impossible.—"Wherever it has been possible," says Charles Comte, "to observe nations when they began to emerge from barbarism, it has been noticed that they cultivated the soil in common; that its products were placed in public storehouses, and that each family then received a part of them proportionate to its wants. This community of labor and of goods the Romans found in practice among several of the German nations; it was likewise observed among the tribes of North America by the first explorers who visited them; the English who founded the state of Virginia were obliged to have recourse to the same means to bring the soil under cultivation, * * * *," a fact which Charles Comte rightly explains by the powerlessness of man at such a time to subdue the earth, except by the united and energetic efforts of all.—But even in this barbarous state the system of exchange, which embraces all products of secondary importance, is more extended than it was among the savage tribes, because production is more varied. It afterward extends by degrees, according as civilization progresses and the power of man increases, itself contributing largely to the increase of that power. The system of the community becomes restricted and contracted in the same proportion, without, however, disappearing entirely, even in the most advanced state of civilization. Some primary attempts at exchange are observed in the nascent societies which we see organized into close communities, and some remnants of the primitive community are found even in the most civilized nations.—It is not, as Adam Smith remarks, a blind instinct that determines men to *barter*, *trade* and *exchange*, but a clear conception of the actual advantages which result from it. In fact, it is no very difficult matter to perceive that it is an advantage for each one to be able to part with his surplus, or that of which he has no present need, and receive in return what he is wanting in. This is what even the most untutored savage can understand. Exchange in early times scarcely extended beyond the things which each had in greater quantity than he needed: it was not until later, that, after having produced the division of labor, it embraced in most cases the sum total of production. The smallest intellect can understand the idea of exchange within these narrow limits. Nor could we understand why the practice of exchange did not spread more rapidly from the very first, did we not reflect that in primitive society it met with many obstacles which impeded its course.—The practice of exchange, as Skarbek well says, in his *Théorie des richesses sociales*, is subject to three essential conditions: the *appropriation*, the *transmissibility* and the *diversity* of things. To these three conditions we may add a fourth, the liberty and security of trade transactions. But let us first consider the three given by Skarbek.—If when exchange takes place, "there is always one thing given by one party as compensation for another thing or equivalent value, these values must be previously possessed by the two parties who enter into a contract of exchange. This same principle of equity, which is the basis of exchange, does not admit as legal the exchange of a thing which the party exchanging does not possess by virtue of the *right of property*: the existence of this right, therefore, forms the first indispensable condition to the introduction and existence of exchange, for if all values were common to all men, if all had the same right to enjoy them, and no person could be excluded from their possession and their enjoyment, there would be no exchange, as all would have the same right to the values capable of satisfying our wants. The existence of the exclusive right to property is, therefore, indispensable to the establishment of exchange among men."—The *transmissibility* of things is no less necessary than their appropriation, and this quality all values do not possess. "A man's talents, intellectual faculties, or his ability to perform some special task, are goods, are real values, which can not be parted with to any one else, giving to the latter the right of ownership in them, for it is impossible for their possessor to divest himself of these goods in favor of another. The light and heat diffused through the atmosphere are also real goods and values indispensable to our existence, but they can not be appropriated by any one because they can not become the exclusive property of any one. This line of reasoning and these examples lead us to the conviction that even the values most precious to man can not become objects of exchange if not transmissible, if they can not be transferred by one man to another in virtue of the right of ownership. The second condition of exchange is *the property inherent in things of passing from hand to hand, and of being transmissible, with the right of property.*"—Finally, there must be *diversity* of values, or of exchangeable objects, without which ex

change itself would have no object. "If all the individuals who compose society were equally provided with the things able to satisfy their wants, if all possessed the same values, no one would desire to possess what belonged to others, being sufficiently provided with all things necessary to his existence. There must, therefore, be a diversity of exchangeable things, and men must possess different values, in order that exchange may be practiced among them. This *diversity* constitutes the third condition indispensable to the existence of all exchange.— The idea of appropriation, even of individual appropriation, is so natural to man that it is found in all stages of civilization, even among savage tribes. But if private property exists in the earliest society, at least in the case of a certain number of objects, it is, as a general thing, very little respected. The stronger violates the private property of the weaker, even in the same tribe; and *à fortiori* is it thus outside the limits of the tribe. Under such conditions it is evident that exchange can not easily extend very far. As to transmissibility, although, strictly speaking, it exists in the case of all material values, it is in fact limited, among savage nations, by the general insecurity of circulation and of transportation. War being almost the permanent condition of primitive nations, it is only within their respective limits that the transmission of products can take place. What is true of savage tribes, is also true, though in a less degree, of barbarous nations. In this state of things, there may be a virtual but there can hardly be an effective transmissibility of products, since transmission is impossible except within a very small circle. For the same reason, there is no great diversity. So far as natural products are concerned, diversity can be great only when the nation extends over a large surface, for it is only then that the fruits of the earth are varied; and in the case of the products of human industry great diversity supposes a rather extensive division of labor, which can scarcely be realized within such narrow limits. Thus is exchange limited on all sides in this first stage of civilization. The spirit of violence, hostility and war reigns everywhere, and the general insecurity that results from this hostile spirit is the chief obstacle to the progress of exchange.— But as soon as security begins to be established among men, the practice of exchange spreads rapidly. It is generally understood, however, that its development may be either favored or impeded by certain advantages or inconveniences of position. The particular circumstances which favor it among certain peoples are well indicated by Adam Smith in the passage which follows. After having shown, by several examples, the advantages of transportation by water over transportation by land, he thus continues: "Since such, therefore, are the advantages of water carriage, it is natural that the first improvements of art and industry should be made where this conveniency opens the whole world for a market to the produce of every sort of labor, and that they should always be much later in extending themselves into the inland parts of the country. The inland parts of the country can for a long time have no other market for the greater part of their goods but the country which lies about them and separates them from the seacoast and the great navigable rivers. The extent of this market, therefore, must for a long time be in proportion to the riches and populousness of that country, and consequently their improvement must always be posterior to the improvement of that country. In our North American colonies the plantations have constantly followed either the seacoast or the banks of the navigable rivers, and have scarce anywhere extended themselves to any considerable distance from both. The nations that, according to the best authenticated history, appear to have been first civilized, were those that dwelt round the coast of the Mediterranean sea. That sea, by far the greatest inlet that is known in the world, having no tides, nor consequently any waves, except such as are caused by the wind only, was, by the smoothness of its surface, as well as by the multitude of its islands and the proximity of its neighboring shores, extremely favorable to the infant navigation of the world, when, from their ignorance of the compass, men were afraid to quit the view of the coast, and from the imperfection of the art of ship building, to abandon themselves to the boisterous waves of the ocean. * * * *." "Of all the countries on the coast of the Mediterranean sea, Egypt seems to have been the first in which either agriculture or manufactures were cultivated and improved to any considerable degree. Upper Egypt extends itself nowhere above a few miles from the Nile, and in lower Egypt that great river breaks itself into many different canals, which, with the assistance of a little art, seem to have afforded communication by water carriage not only between all the great towns, but between all the considerable villages, and even to many farm houses in the country; nearly in the same manner as the Rhine and the Meuse do in Holland at present. The extent and easiness of this inland navigation was probably one of the principal causes of the early improvement of Egypt." — These natural advantages lose, however, something of their original value, now that human industry has discovered so many means of supplying their place.—However this may be, with the progress of time and civilization exchange has grown to be almost universally practiced among men. It has, in turn, introduced the division of labor, which is at once its consequence and complement, and which takes place more or less in all branches of industry. These two phenomena, which are intimately connected, constitute the fundamental basis of the industrial order existing in the world to-day. We shall not enlarge upon the advantages which result therefrom with regard to the relative productivity of labor, for these advantages have been sufficiently explained

already while treating of the division of labor; but it remains for us here to show some general consequences that particularly belong to this part of the subject.—Exchange, and the division of labor which flows from it, create between men relations as necessary, and ties as strong and as numerous, to say nothing more, as those which existed between them under the primitive system of the community. It is sometimes said that in society as it now is, man isolates himself—that he separates himself from his fellow-men, to withdraw himself into his own individuality. But is he not, on the contrary, because of this division of labor, and of the law of exchange which is connected with it, in a constant and very restricted dependence upon everything that surrounds him? He works for his fellow-men, and they work for him; when the work of production is terminated by each, they exchange its products among themselves. Is there any closer bond of dependence than this? The difference between this new bond and the primitive one is, that the new one is more complex, and incomparably more favorable to the increase of production. There is, however, still another difference in its favor: it is much more susceptible of extension.—In society in its primitive state production in common and the division of its fruits were necessarily confined within a very restricted circle. By its very nature, which was opposed to expansion, such a system could not extend beyond the limits of one tribe. Thus all social relations of man with his fellows ended here. Everything outside this limit was foreign to him, if not hostile. But from the moment that industry felt the influence of the division of labor and of exchange, the social bonds which it created among men were susceptible of indefinite increase. Provided peace reigns between different nations, exchange may take place from one to the other, just as it takes place within each one of them, and the division of labor may follow the same line of progress. Thus human sociability extends, it does not even stop now at the conventional limits of states; it crosses, if we may say so, mountains and seas, and aims at forming, little by little, upon the earth one immense society, varied in its forms, but always one, embracing the whole human race. Exchange could never have reached the point to which it has come, without the fulfillment of certain necessary conditions. (See CIRCULATION, DIVISION of LABOR, and MONEY; see also COMMERCE, and FREE TRADE.) CH. COQUELIN.

EXCISE, a term employed to designate a great variety of taxes. In its more limited and more correct sense it is applied only to taxes imposed on the sale and production of commodities produced and consumed within the country levying the tax. Excise duties are distinguished from customs duties by the fact that the latter are imposed upon commodities when imported into or exported from a country. They are further distinguished from such taxes on consumption as a tax on dogs, on horses and carriages kept for private use, etc., in that the latter are direct, while the excise duties are indirect. (See TAXATION.)—The excise has been a very important element in all modern systems of finance. It has indeed been by far the most fruitful source of revenue for many nations. It has also been employed as a means of restraining luxury or intemperance by being made so exorbitantly high as to diminish the consumption of the article taxed. The nations of antiquity do not seem to have made very extensive use of this method of taxation. Augustus, it is true, introduced a universal excise duty on whatever was sold in the markets or by public auction. But it did not amount to more than 1 per cent., and was but inefficiently collected. It was exceedingly unpopular, and even Augustus, in order to maintain it, was obliged to declare by a public edict that the support of the army depended in great measure on the produce of the excise. Tiberius reduced it one half and promised to abolish it altogether, although he did not keep his promise. Some of the later emperors availed themselves of the excise to a greater or less extent. But it was reserved for modern times and for industrial states to discover how large a revenue could be derived from this method of taxation.—When the payments in kind, which in the old agricultural and feudal state had proved amply sufficient to defray all public expenses, were no longer adequate to the demand, the need of some standard of taxation for movable property began to be keenly felt. In the country, under the simple conditions there prevailing, it was not unfair to distribute taxation according to the amount of land held by each individual. But in the cities it was evidently impracticable to concentrate all taxation on real estate. Consumable commodities seemed the most available subjects of taxation. By shifting the burden upon them the city authorities could gain two things. They could prevent the tax collector from interfering in the internal administration of the city, and could also save themselves the trouble of fixing a definite amount for each individual citizen to pay. This last was considered a great saving, especially as these taxes were everywhere regarded as temporary on their first introduction. They became permanent when wars began to be carried on largely by money, and began to leave behind them national debts which demanded a constant source of income for their liquidation. Thus the Netherlands adopted the excise in their war for independence against Spain; Saxony, after the thirty years' war; Brandenburg, under the great elector. Spain had a similar tax in the Alcavala at the time of the Moorish wars.—It is usual to assign 1643 as the date at which the excise was introduced into England. This is in so far correct as the term *excise* then appears for the first time, and as the imposts then levied remained a permanent feature of the English revenue system. But excise duties had been in existence long before. There are evidences which prove the

existence of an excise on meat as early as the time of Richard I. In the time of John and of Henry III. there was a tax on bread, which was nothing but an excise, in which the price of bread was regulated according to that of grain. Later, in the time of Edward VI., a tax of eight pence in the pound was levied on all woolen goods manufactured in England for sale. But it became so unpopular that the king was obliged to give it up within a year after it was first imposed. From that time on no attempt seems to have been made to introduce an excise until the time of James I., when this monarch imposed a tax of one shilling per chaldron on all coal shipped by water. This was not a customs duty, for it was levied on English coal shipped from one English town to another. Soon after, (1626), Charles I. attempted to introduce an excise on provisions, but was thwarted in his design by the obstinate resistance of parliament.—In 1643 the revolutionary parliament at Westminster established the first excise. The tax was laid on the manufacture and sale of ale, beer, cider and perry. The king and his parliament at Oxford soon followed the Westminster example. Both parties promised that the excise should be abolished at the close of the war. But when the time came it had proved to be too fruitful a source of revenue to be given up, and it has remained ever since a part of the financial system of Great Britain. In 1647 the excise was extended to meat, bread, salt, wine, sugar, tobacco, and other less important articles. Some of these articles (as wine and sugar) were shortly afterward relieved of taxation. In 1659 the excise yielded about £500,000. At the restoration, the produce of the excise was granted to Charles II. No essential change was made in the excise during the reigns of Charles II. and James II., although the amount realized from it constantly increased. When William III., however, ascended the throne and undertook the costly wars against France, not only was the excise on ale, beer, cider and perry increased, but malt, sugar and wine were added to the taxable articles. The sum realized from it now exceeded £1,000,000, and in Queen Anne's reign reached the sum of £1,600,000. The development of these indirect taxes was exactly similar to that of the customs duties. (See Customs Duties.) Every addition formed a special tax for a special purpose, so that at Anne's death there were twenty-seven branches. Among other objects taxed during Anne's reign, the following may be mentioned: leather, candles, parchment, hops, paper, pasteboard, soap, printed cotton, linen and silk goods, starch, gold and silver wire —During the peaceful reign of George I. war, of course, could no longer pass as an excuse for increasing the taxes, but the government and the aristocracy had so fallen in love with these indirect taxes which fell principally upon the shoulders of the common people and were comparatively easy to collect, that they advanced still farther along the course upon which the long parliament had entered. The number of branches rose to twenty-nine, and the average yield to £2,600,000 per year. The increase in the yield is to be attributed mainly to the increase of population and prosperity. The people, however, hated the tax bitterly; not merely because it made the necessaries of life dearer, but also because the administration was hateful and oppressive. Aside from the restrictions upon production and commerce which can not be separated from any tax on consumption, the needless complexity of the tax, the vast number of laws, the collection by farming, and the decision of disputes by dependent officers, caused wide-spread hatred. It can easily be seen how these various influences worked hand in hand to excite public bitterness against the excise; how the obscurity, which necessarily followed from taxing the same object at several different rates and from the number of complicated and ambiguous laws, led to constant violations; how the avarice of the tax-farmers detected these; how these farmers sought to overstep the necessary restraints and to use them if possible to vex and oppress the public, and what an impression condemnations must produce that were made on account of unintentional or ignorant violations. The loud complaints made about this time produced such an effect that the system of farming the taxes was given up. The collection passed into the hands of government officials.—But the government was not persuaded to limit the sphere of the excise at all; on the contrary, it was constantly enlarged. It was even allowed to encroach upon the field of the customs; without any other effect, however, than simply to increase the labor of the collectors and the vexations to which the public were exposed. In order to diminish smuggling which the high customs had greatly encouraged, certain duties were lowered and an excise also collected upon the articles. The duties on tea were lowered four shillings, on coffee two shillings, and an excise equal in amount to these items imposed. The importation of chocolate and manufactured cacao was at the same time forbidden, and an excise laid on their domestic manufacture. This separation of the imposts, after having been extended to tobacco and spirits, was finally given up in the year 1825.—Of far greater importance than this event, so far as administration is concerned, was a plan which the famous Walpole proposed in 1733. It was no less than such an extension of the excise system as to do away with the necessity of all other taxes. The hope was expressed that by diminishing the number of taxes simplicity and economy could be obtained in the administration; that by abolishing the customs duties, particularly those on raw materials, and by introducing a régime of free trade, a new impetus could be given to commerce and industry, the necessaries of life could be cheapened, England could be converted into a vast free port, and finally, smuggling could be destroyed and the public revenues increased.—This plan was not laid before parliament in its completeness at once, but

the minister merely attempted to extend the excise to a new commodity; but the knowledge of his intention had gotten abroad, and excited a storm of opposition throughout the whole kingdom. The most exciting scenes occurred in parliament, and the house itself was fairly besieged by the people. The bitterness increased constantly. Walpole himself was in danger of violence. After an exciting contest the minister declared, that, as the law could not be executed without an army, even if parliament should pass it, he would rather give it up than insist on a tax which would endanger England's peace. The joy at the withdrawal of the bill was boundless. The victory of the people, as it was then considered, was celebrated throughout the kingdom with bonfires, illuminations and excesses of all kinds.—The authorities are not even yet agreed as to the merit of the scheme. One party praises the grandeur of the plan to accomplish free trade, alleviation of industry, and simplicity of administration; the other party condemns the idea of shifting the burden of taxation entirely to the shoulders of the poor. We can not deny that the plan had an element of grandeur in it. It could only have been devised by an able man. But it is hard to see how the excise was to yield so much, if the rates were to be kept low and were not to be imposed on the necessaries of life. Nor is it clear that anything would have been gained if the smuggling had been simply transferred to the excise, and if the cost of living had been increased by increasing the taxes on the necessaries of life — With the rejection of Walpole's plan the English people had shown its reluctance to follow out the excise system to its utmost consequences. But the system was still retained and developed in such a way that it was certainly no better in its results than Walpole's plan would have been. For the advantages which his plan would undoubtedly have offered, namely, simplicity of administration and destruction of smuggling, were given up entirely, while they allowed the disadvantages of indirect taxation to develop themselves in their most objectionable forms. The great wars during the reigns of George II. and George III. compelled them to seek new sources of income, and driven by necessity they picked out the most productive, which were indirect taxes on consumption. At the same time instead of developing the direct taxes simultaneously, they even abolished the most important of all, the general land tax.—Among the additions to the excise under George III. the most important were a tax on auctions and one on bricks. The rates were in the meantime constantly increased, so that the yield grew regularly from decade to decade, in 1792 to ten millions, in 1800 to fourteen millions, in 1810 to twenty-five millions, and even approached in subsequent years the sum of thirty millions sterling. The excise had now become the most important source of public revenue. This period, the last years of war and the first of the succeeding peace in the early part of this century, was the time when the excise flourished most. But it was also the time when the height of the excise began to be unbearable and in which men began to recognize its defects. Now also, as formerly, it shared the lot of the customs. Both imposts are indeed, aside from the economical effects of the customs, nothing but two branches of the same tree. At the same time with the reform of the customs, Canning began to reform the excise with the aim of producing lower prices for the necessaries of life, and thereby contentment among the laboring classes, and of establishing normal wages and thus cheapening production, and causing a revival of industry and commerce.—The first commodities upon which the taxes were diminished were malt and salt (1822, 1823 and 1825), then followed glass (1825), cider and perry and brandy (1826), beer from which the tax was entirely removed (1830), printed cloths (1831), candles (1832), soap (1833), starch (1834), paper (1836). It will be seen that after 1830 their zeal in diminishing the taxes abated somewhat, and that it entirely ceased with the year 1836. In 1840, indeed, a general increase of 5 per cent. was resolved upon to cover the deficit in the budget. But the old system was no longer tenable, and with Sir Robert Peel the reform movement began again. The excise was diminished upon glass (1844 and 1845), on auctions (1845), bricks (1850), soap (1853). The war years 1854 and 1855 occasioned an increase in the malt tax, which was again reduced in 1857, and upon brandy which has never been reduced since, though the tax on brandy has been retained from other than financial considerations.—The number of articles subject to the excise decreased gradually, so that in the year 1850 only malt, hops, paper, soap, brandy and sugar remained, of which the last is hardly worth mentioning as it produced next to nothing. Of these, soap, hops and paper have been freed from the excise.—It is natural that the produce of the excise should sink under these reductions, and especially on account of the administrative reforms of 1825. It sank in 1830 to less than nineteen millions, and in 1840 to thirteen millions. But the practical rule that reasonable reductions in high taxes on consumption increase the revenue, verified itself here also. The income from the excise rose in 1850 to over fifteen millions, and in 1866 to over twenty millions. Of late years a new excise has been introduced, viz., that on substitutes for coffee. It was introduced, however, to counterbalance a duty laid upon coffee, so that the latter might not act as a protective duty. The taxes now classed under the head of excise include those on chicory, coaches, licenses, malt, race horses, railroads, brandy, and sugar. Some of these, of course, ought not to be classed under that head in a scientific classification, but the income from such articles is so small that it may be practically disregarded. The taxes on brandy and malt and the licenses to persons dealing in those articles amounted in 1866 to

nineteen-twentieths of the produce of the excise. —It would be interesting to consider the part that the tax on each particular commodity made of the whole amount, but the investigation would lead us too far. Worthy of note it is, however, that the excise, after a devious course of two hundred years, has at last become essentially what it was at first, viz., a tax on beer and brandy. We have given this somewhat lengthy sketch of the English excise, because it was the origin of our American excise. The statesmen of the time immediately following the revolution, when they introduced our first excise law, copied the English excise laws almost word for word so far as they dared, and English legislation and English history have been the sources from which all our legislation has drawn its inspiration.—To show clearly the relative importance of the excise as a financial device, the produce of the English excise has been compared in the following table with that of the customs duties for a series of years, beginning with 1701:

YEAR	Excise.	Customs.
1701	£ 986 004	£ 1,539,000
1710	1,609,720	(1709) 1.358,483
1720	2,526,441	2.749.855
1730	2,935,840	2.989 517
1740	2,876,028	2 633.892
1750	3.549,853	3.686.185
1760	3.887,349	4,250,705
1770	4,613,217	4,776,143
1780	5,749,060	(1782) 3.965,723
1790	9.054,850	(1789) 5.417,333
1795	10,866,170	(1796) 6,381,902
1800	14,342.791	10.226,717
1805	22,470,312	11,214,257
1810	25.163,893	16,886.655
1815	29,089.530	16,623 971
1823	29,308,987	15.504 869
1825	26,089,408	20,367,653
1827	22.224.444	
1830	18.644,354	21,084,525
1843	14,593,676	22.850,619
1850	15,968 512	22,194.142
1860	19,435,000	24,376 169
1863	19,102.911	23,993,546
1866	20,646,187	22,294,920

The years printed to the left of the figures and in parentheses in the customs column show the year for which that item is given. The excise has even yielded a larger proportion of the net income than the above table would seem to show; for the customs items of each year contain large sums which were returned as rebates, paid out as premiums, etc., amounting, in some cases, to as much as £2,500,000. It will be seen that the produce from the excise generally exceeded that from the customs from 1780 down to 1825, though it will be remembered that for a hundred years preceding 1825 several items had been counted under the head of excise which belonged properly under the head of customs.—The history of the excise in the United States is brief. The colonists had inherited from their English ancestors a hatred of this tax in any form. Pennsylvania, Massachusetts and Connecticut, however, had been forced from financial considerations to adopt an excise on spirits, and the latter state had even imposed a general excise upon the consumption of all foreign articles. But there was a great reluctance to allowing the national government to levy such an impost.—Several states had joined in the first congress in recommending an amendment to the constitution, prohibiting the federal government from ever resorting to the excise. But in 1790, in spite of the repugnance exhibited by congress to such a measure, Secretary Hamilton, in an elaborate report, insisted upon the necessity of an excise. He proposed that it be limited to spirits, and aside from financial considerations, he urged the great injury inflicted upon the country by such enormous consumption of intoxicating liquors, and the great advantage it would be to diminish such consumption by high taxes After a series of exciting debates the law was passed. A tax varying from nine to twenty-five cents per gallon, according to the proof, was imposed on spirits distilled from articles grown or produced in the United States, and a higher tax upon imported spirits. The law was modified in 1792 in the direction of lower rates. In subsequent years the scope of the tax was enlarged under the direction of Hamilton until it included carriages, refined sugars, snuff, auction sales, stamp duties on various instruments of exchange, and some other objects. The opposition to the law, which from the first had been powerful enough to prevent its execution in many portions of the country, finally broke out into open war in the so-called whisky insurrection in western Pennsylvania. After this disturbance was quieted, the country seems to have acquiesced in the payment of the tax. When Jefferson came to the presidency, however, he recommended that the whole system be abolished, and as the revenue from the customs was constantly and rapidly increasing, congress willingly voted for its abolition.—When the war of 1812 broke out, it again became necessary to resort to the excise. In June, 1813, a bill was passed imposing a tax on distilled spirits in the shape of license money, an excise of four cents a pound on domestic refined sugar, twenty cents on each half-hundred weight of salt, $2 to $20 on carriages, 1 per cent. on auction sales, and a stamp duty of 1 per cent. on all instruments of exchange. These duties were all repealed in December, 1817, and no excise duty was levied by the United States government until the war of the rebellion necessitated a recourse to this measure.—The present system of internal taxes was inaugurated July 1, 1862. It has embraced, since its origin, taxation upon occupations and trades; upon sales, gross receipts and dividends; upon incomes of individuals, firms and corporations; upon specific articles not consumed in the use; stamp duties, taxes upon various classes of manufacture, upon legacies, distributive shares and successions. It will be seen that the internal revenue system has included many different kinds of taxes. It furnished for a time the greater portion of the national revenue. In the article INTERNAL REVENUE will be found the receipts from

1792 to 1880 from the sources included under the head of internal revenue in the finance report for 1879. In the report above mentioned returns are made for the years 1804–13 and 1821–48. But in no one of these years did the produce amount to as much as $100,000, and that was not raised by means of an excise. Although the system adopted in 1813 was abolished as a system in 1817, yet some of the taxes were retained for a few years longer, but their yield was insignificant after 1820. As we have already said, the returns given in the table in the article INTERNAL REVENUE include also the produce of taxes which can not be classed under the head of excise. At present, however, nearly the whole of the internal revenue is raised by an excise duty on spirits and tobacco. These two articles yielded in 1875, for instance, over 89 per cent. of the total produce of the internal revenue system. — It will be seen from the preceding sketch that the United States government has been forced to adopt a system of excise during or after each of the three great wars it has waged, and also that it gave up this system in the first two instances as soon as its financial necessities would permit. One reason for this policy of giving up the excise as soon as possible has been mentioned already, viz., the prejudice against such a tax inherited from the colonial period. Another strong reason lies in the fact that the protectionists have always worked earnestly for the abolition of every such tax, as they desire all national revenue to be raised by an impost on imported goods. It is perhaps too early to predict the fate of our present excise. As now constituted it is free from many of the objections which are urged against such taxes. But our revenue is now in excess of the legitimate demands of government, and the various parties opposed to the excise are planning to demand its abolition. Political tradition and prejudice, combined with the active influence of protectionism, will probably ultimately effect its overthrow in the United States.—The other prominent nations of modern times all derive a large income from the excise. Nor in any of them does there seem to be any inclination to give up this fruitful source of revenue. The new German empire, which resembles our own government in many respects, is tending more and more toward raising all its revenue by indirect taxation, and the greater part of it by the excise. The following table shows the relation between the produce of the excise and the total revenue of four European nations:

NATIONS	Year.	Total Income	Income from Excise.
1. Germany	1878	Marks. 536,496,800	Marks. 143,776,370
2. France	1878	Francs. 2,793,177,804	Francs. 1,056,628 000
3. Austria	1878	Gulden. 399,795,163	Gulden. 190,063,000
4. Russia	1877	Roubles. 537,784,596	Roubles. 220,105,177

—The economical effects of the excise are great and lasting. Like all indirect taxes on commodities, the excise will raise the price of the commodity in the long run by at least the amount of the tax. In most cases it will raise it by more than that amount. Adam Smith, and, subsequently, John Stuart Mill, have described clearly the characteristics of an excise. Such a tax makes it necessary to impose restrictive regulations on the manufacturers or dealers in order to check evasions. These regulations are always sources of trouble and annoyance and generally of expense, for all of which, being peculiar disadvantages, the producers or dealers must have compensation in the price of their commodity. These restrictions also frequently interfere with the processes of manufacture, requiring the producer to carry on his operations in the way most convenient to the revenue, though not the cheapest or most efficient for purposes of production. Any regulation whatever enforced by law makes it difficult for the producer to adopt new and improved processes. Further, the necessity of advancing the tax obliges producers and dealers to carry on their business with larger capitals than would otherwise be necessary, on the whole of which they must receive the ordinary rate of profit, though a part only is employed in defraying the real expenses of production. The consumers, of course, must give an indemnity to the sellers equal to the profit they could have made on the same capital if really employed in production. In addition to this, it must be remembered that whatever renders a large capital necessary in a business really limits competition in that branch, and by giving something like a monopoly to a few dealers may enable them to keep up the price beyond what would afford the ordinary rate of profit. Finally, whatever raises the price of a commodity, *ceteris paribus* checks the demand for it; and since there are many improvements in production, which, to make them practicable, require a certain extent of demand, such improvements are obstructed and many of them prevented altogether. In all these different ways indirect taxes on consumption cost the public much more than the government realizes. Excise duties are, however, in some respects less objectionable in this regard than customs duties. Customs are levied ordinarily on the elements of a commodity before it is manufactured, as well as on the finished product; the excise, generally, only on the commodity ready for market. The latter, therefore, does not require such a long advance of capital as the former.—The excise, levied on the necessaries of life, produces great and injurious effects on the whole national economy. It may lead to a permanent deterioration of the condition of the laboring classes or to a peculiar burdening of profits, which must be injurious to the increase of national wealth. Many authorities attribute the difference in prices between England and the continent to the high prices of the necessaries of life, brought about by the long-continued system of indirect taxation.

And in spite of England's greatness there is little doubt that its middle classes to-day would be more numerous, and the chasm between the rich and the poor less deep, if it had not been for the peculiar form of the excise which for over a century shifted the burden of taxation to the shoulders of the poorer classes.—The objections to the excise lose their force largely when it is imposed on only a few objects, and those articles of luxury. Of such a character is our present system of excise. Its opponents greatly exaggerate its defects. The hardship it inflicts, when confined to luxuries, as at present, is reduced to a minimum. It has been more economically collected than the customs, and its political and economical effects on the country are far less injurious than those of the former. Our own experience and that of other nations prove that a low excise on articles of luxury which are widely consumed is one of the most productive and one of the least objectionable of all indirect taxes. The history of America, as well as that of England, proves also that low rates are more productive than high rates, as the latter lead to evasion and fraud.—The excise has often been fixed at a high rate from a desire to use it as a sort of sumptuary device. Adam Smith says that taxes upon luxuries act as sumptuary laws on the sober and industrious poor, and dispose them to moderate or to refrain altogether from the use of superfluities which they can no longer afford. He mentions, among other commodities, intoxicating liquors and tobacco as liable to be consumed in smaller quantities on account of high taxes This question has been keenly debated in the United States. The prohibitionists, *i. e.*, those in favor of forbidding the sale and manufacture of intoxicating beverages, have uniformly thrown their influence in favor of high duties. One thing is indisputable, that a low duty has been more productive than a high one. One party claims that this is proof that consumption increased under the low duty; the other, that fraud and evasion ran riot under the high duty. It may still be an undecided question whether sumptuary laws are ever of any value, but it would seem less disputable that financial schemes should stand or fall on their own merits instead of on their tendency to act as sumptuary devices —Compare INTERNAL REVENUE. —LITERATURE. The standard works on political economy and finance all furnish more or less elaborate discussions of the excise. The general encyclopædias offer some valuable considerations upon the subject. W. Vocke's *Geschichte der Steuern des Britischen Reichs* contains a vast fund of information in reference to British taxation. The above sketch of the excise in England is based largely upon Vocke. McCulloch's *Taxation and The Funding System*, Tennant's *The People's Blue Book*, and Baxter's *Taxation of the United Kingdom*, are all valuable for the study of this question. The reports of the secretaries of the treasury, and, in late years, of the commissioners of internal revenue, are the most valuable contributions to this subject by Americans. The Germans have produced some valuable monographs on the subject during the last ten or fifteen years. Consult files of Conrad's *Jahrbücher fur Nationalœkonomie*, 1867–81.

E. J. JAMES

EXCISE LAW. (See WHISKY INSURRECTION.)

EXCOMMUNICATION, ecclesiastical censure, by which a member of a religious community is excluded therefrom until he has mended his ways. Excommunication, in its essence, therefore, is intended less as a punishment than as a means of improvement. Its origin is lost in the night of time; pagan and Jewish antiquity were acquainted with it, and we must admit that the practice has its foundation in justice Society does not exceed its right when, seeking to protect itself against those of its members who fail to fulfill the obligations imposed on them, it excludes those who show themselves, after admission to it, unworthy of membership.—We can not, therefore, reproach the Christian church for having borrowed excommunication, as well as the greater part of its primitive organization, from the synagogue. The synagogue excluded from its meetings those whom, rightly or wrongly, it judged unworthy to take part in them; this was called, *being driven from the synagogue*, and this disciplinary measure was applied more than once to the early preachers of the Gospel.—When the first Christian congregations were organized they assumed the same power; but at this time the conditions of admission to the church were in great part moral. It was especially in cases of notorious immorality, easily proven in a small community, that excommunication was pronounced. Thus the Christians of Corinth, on the advice and at the command of Paul, excluded from among them one guilty of incest, who, however, on repenting, subsequently obtained pardon. It must be remarked that the first Christians lived almost in common, and celebrated the holy supper at their frequent brotherly feasts. In case of excommunication this intimate relation with the guilty person ceased The faithful no longer received him. They avoided speaking to him or meeting him, and would not sit at the same table with him. When, later, the Christian church — its members having become very numerous—was persecuted; when, especially after the time of Constantine, violent dogmatic controversies arose, excommunication was resorted to, particularly in cases of apostacy and heresy. The clergy, whose power increased daily, reserved to themselves the right to pronounce sentence of excommunication, a right which in the beginning belonged to the assembly of the faithful, and it became a powerful weapon in their hands. The belief that the church alone could grant pardon, that outside of it no salvation was possible, became more and more prevalent, and led men to

regard the excommunicated person as one damned forever unless restored to the fold. Thus excommunication, which in principle was a censure intended to warn the sinner and favor his reformation, while protecting Christian society against corruption, became a punishment, and the most severe of all punishments. Afterward different degrees of excommunication were introduced, the first traces of which are found in the time of St. Augustine, and which have been preserved and precisely distinguished from one another. A distinction is made between the *major* excommunication which cuts one off absolutely from the communion of the Catholic church and carries damnation with it as a consequence, and the *minor* excommunication whose only effect is to deprive him of participation in the sacraments. It must be added that the sentence of excommunication may be fulminated against a person, naming him, or in a general manner against all those who have taken part in any act reprehensible in the eyes of the clergy. It may even be incurred *ipso facto;* that is to say, a believer who commits an act forbidden by the church, under pain of excommunication, should consider himself excommunicated even when no general sentence of excommunication has been pronounced, and he has not been excommunicated by name. The canon law enumerates more than two hundred cases of excommunication *ipso facto*, and determines, by minute rules, what members of the clergy have the right to excommunicate or to free from excommunication.—The clergy made frequent and formidable use of the sentence of excommunication in the middle ages more than in any other period of history. The church, which was united to the state in the time of Constantine, finally became confused with civil society, which it not unfrequently controlled. Wielding immense moral power, it made its censure feared, even by the mightiest. The unfortunate man whom it struck with the sentence of major excommunication became an object of terror and contempt to all. All intercourse with him was forbidden. Cut off from the society of his fellows, he met with neither aid nor pity. The hell to which he was doomed began for him here on earth. He recoiled before no penance, no matter how rigorous it might be, to obtain pardon and to be reconciled to Christian society. Thus in those times of dissolute life, feudal tyranny and universal disorder, excommunication often served as a protection to the weak and a powerful curb on the cruel and gross passions of the descendants of the barbarians. Unfortunately the church employed this formidable weapon in defense of its earthly interests, and the extension of its temporal power. From the right which belonged to him of excommunicating all baptized believers, even princes, Gregory VII. pretended to deduce that of disposing of kingly crowns. Believers were bound to avoid all commerce with an excommunicated person, not to greet him, not to talk to nor eat with him. In case of a king they were no longer obliged to obey him; he had no longer the right of requiring the obedience of Christians, for he was no longer a member of Christian society, and his power crumbled the moment the church cut him off from her communion. The conclusion that Christians were not obliged to obey an excommunicated king, which the stubborn genius of Gregory VII carried into practice, was reasoned out so logically that his adversaries were reduced to maintaining that a sovereign could never be excommunicated; while Gallicanism, by a compromise difficult to reconcile with the canon law, maintained that excommunication, a punishment purely spiritual, could not have civil consequences, and that thus the subjects of an excommunicated sovereign could not be absolved from obeying him. — The church had abused the powerful weapon which it held, and saw it broken in its own hands. Philip the Fair, supported by the states general, twice braved the excommunication launched against him by Boniface VIII., and in proportion as, in all Europe, civil society severed its connection with religious society, it became more difficult to make men respect the sentence of excommunication and its consequences, which soon ceased to inspire terror. The bulls of excommunication launched against the reformers did not sensibly hinder the spread of their doctrines, and this weapon, once so terrible, became less feared every day, and was therefore less and less employed. At present the church seems to fear the use of it, especially in grave cases relating to politics. When its traditions or the rules of its constitution force it to have recourse to excommunication, it carefully omits the mention of names. After the decree by which Napoleon I., May 17, 1809, suppressed the temporal power of the pope and united the states of the church to the French empire, Pius VII. confined himself to excommunicating, in a general manner, the authors of the deed, without even naming the signer of the decree. More recently Pius IX., when he saw his provinces taken away one by one, imitated this example, and, without naming any one, excommunicated all who had contributed to bring about that result. Thenceforth it was for each one to know how far the decree concerned him. Count Cavour, and after him many others, were able to obtain priests to minister to them in their last moments.—It must not be supposed, however, that the Catholic church has entirely given up excommunication. Thus the Jansenists have organized a church in Holland at the head of which is an archbishop who resides at Utrecht. Whenever the see is vacant the church nominates a bishop, and the newly elected writes to Rome asking the pope to approve his election and bless it. A little later the pope answers him and all those who have contributed to his election by a sentence of excommunication. If, however, excommunication is a thing almost unknown to-day in some countries, it is not in certain countries where Catholicism has retained more of its ascendency and is

still able to execute, at least in part, such a sentence. Thus in Austria, at the end of the year 1862, a person was excommunicated by name on account of heresy.—This is a fact far from unique. In 1857 M. Braun, an ecclesiastic of the diocese of Passau, was subjected to the major excommunication for refusing to read from the pulpit the bull relating to the dogma of the immaculate conception; in 1856 the pastor of Thonex, canton of Geneva, excommunicated several of his parishioners for having joined an aid society in Geneva which admits as members Catholics and Protestants without distinction. The following year a shoemaker of Budweis, afterward confined as insane in consequence of a medical examination, was excommunicated by his bishop for having maintained that he and he only possessed the power of casting out devils.—More recently the church has again used excommunication against some of its rebellious children. The council of the Vatican having proclaimed the doctrine of the infallibility of the pope, attempts to resist the decree were made in different countries, notably in Germany, and sentence of excommunication was passed in very many cases against the *Old Catholics*, but the sentence could not stop the movement. On the other hand, since the major excommunication may have, if not a civil, at least a social effect, governments have thought of interdicting it. (German law of March, 1873.) In the different Protestant churches the use of excommunication, preserved in the beginning, soon disappeared. The reformers maintained it, and the confessions of faith drawn up in the sixteenth century and the rules of the reformed church made mention of it, but it was maintained only with important restrictions. Thus major excommunication and excommunication *ipso facto* were rejected by the Protestants; they preserved only the minor excommunication, which is reduced to non-participation in the sacraments, and which, as it never involved civil disabilities, could be pronounced only by the body of believers. A little later, it is true, in Germany and at Geneva, the right of excluding unworthy members from the Lord's supper was given to the ecclesiastical authorities, but soon fell into disuse. In many places excommunication was replaced by public penance, which was abolished in Pomerania in 1744, and in Prussia in 1746. Würtemberg preserved it, at least in its laws, till 1806. Notwithstanding some attempts made in various parts of Germany to establish a stricter discipline, it may be said that excommunication is unknown to Protestant churches in our day.—It is not so in the Greek church, where it has always existed. Nevertheless, the orthodox clergy, who never attained the summit of power to which the Catholic clergy formerly rose, have never, like the latter, made a formidable use of excommunication, and it is scarcely ever used at present by them. (See ABOLITION, EMANCIPATION PROCLAMATION, SLAVERY, ETC.)

ET. COQUEREL.

EXECUTIVE, The (IN U. S. HISTORY), the officer whose function it is to see to the execution of the laws which have been made by the legislative. Properly speaking, the whole body of officials, high or low, charged with this function, make up the executive department; but usually the highest in rank is named as "the executive." Thus, in a state, the governor is "the executive," in common phrase, but every officer, whether elected or appointed, down to sheriff or constable, whose office is the execution of the laws, is a part of the executive department. The president for the time being is "the executive" of the federal government. The power of all executive officers is limited and defined by law, generally by the organic law, the state or federal constitution, but in the case of some subordinate offices by statute or common law. This article is confined to the executive of the United States.—I. THE COLONIAL EXECUTIVE. In considering the executive power of the British colonies which afterward became the United States, it is primarily necessary to forget the present constitution altogether, and to remember that the colonies, as they were a part of the British empire, were under the unwritten British constitution, and that their common executive, the king, enjoyed far larger powers than any which are ever entrusted to an American executive. His prerogative really comprised all that residuum of originally absolute power of which the growing power of nobles and commons had not yet deprived him, or of which he had not voluntarily divested himself by charters; and, though it by no means equaled the powers of our entire federal government, it compared more nearly with them than with those of the president alone. Thus, the powers to make peace and war, to contract treaties and alliances, to send and receive ambassadors, were all in the king alone, and the king's American assemblies had no more claim to a share in them than his British parliament. The governors of the various colonies were not principal executive officers, but viceroys, representing the king's person and the king's will, though in some of the colonies the governor's power was limited by the charter granted by the king. In Connecticut and Rhode Island the choice of the governor was given to the people.—The fundamental grievance which led to the American revolution was the effort of this executive, the king, to ignore the legislative in America, the colonial assemblies, as he would not have ventured to do in Great Britain. It is true that the effort came disguised as an assertion of the power of parliament to legislate in all cases for the colonies; but, as there was hardly any attempt to disguise the power of the king to control absolutely, by patronage or direct purchase, the legislation of parliament, the animus of the king's new-born zeal for the privileges and dignity of parliament is easily apparent. It was not so apparent at first to the mass of the colonists, who were ignorant of the corruption of parliament, accustomed to reverence its authority in Great Britain,

or not directly affected by the new legislation; and for a long time they and their legislative assemblies were nearly unanimous in acknowledging the general power of parliament over foreign commerce, while denying its power over the domestic affairs of individual colonies. Reflection, however, necessarily showed that there was no logical ground for such a distinction, and that it was impossible to locate and maintain it in practice; and, while the first continental congress acknowledged it explicitly, the second repudiated it altogether. The earlier struggles of the revolution were against the power of parliament to legislate for the colonies, and it was not until July 4, 1776, that the continental congress, by renouncing allegiance to the king, put a formal end to his authority as the executive of the united colonies. (See CONTINENTAL CONGRESS, REVOLUTION, DECLARATION OF INDEPENDENCE.) — For the next thirteen years the country was practically without an executive. The continental congress, which, by the will of the whole people, had already assumed most of the king's prerogatives, soon passed under the dominion of the state legislatures. The scheme of government which it contrived for the country was subordinated to the likings of the leaders of the legislatures, to whom it was ultimately submitted for ratification. (See CONTINENTAL CONGRESS.) Under the articles of confederation there was no distinct executive (see ADMINISTRATIONS), and congress itself was only an inefficient substitute for it. Its introduction into the new constitution was an evident necessity, and met very little opposition from any quarter. — II. ORIGIN OF THE PRESIDENTIAL OFFICE. When the convention of 1787 met, there was a general agreement among the delegates that a distinct executive must be provided for, and the only difference of opinion was in regard to its form. Many delegates supposed the feelings of the people to be opposed to even "the semblance of monarchy," and preferred a plural executive, to be composed of one member from each of two or more divisions of the Union. Accordingly, while the "Virginia plan" and the "Jersey plan" agreed in making provision for "an executive," the latter proposed a plural executive, "to consist of — persons," and the former carefully used language applicable to either a singular or a plural executive, without undertaking to settle upon either. Charles Pinckney's plan proposes a single executive, to be called "the president," but this was probably an emendation at a late day of the convention's existence. Hamilton's plan, which was not considered, proposes a single executive, to be chosen by electors, to serve during good behavior, and to be called "the governor" June 4, by a vote of seven states to three, the committee of the whole decided upon a single executive, to be elected by congress for a term of seven years, to be ineligible for a second term, and to have a qualified veto; and in this form the resolution went, with the others, July 26, to the committee for reporting a constitution. — In the report of the committee, Aug. 6, the resolution was changed only in giving the executive "the style of the president" and "the title of his excellency." The name of president was familiar to the delegates. It had been proposed in 1754 (see ALBANY PLAN OF UNION), and had already been given to the executives (now called governors) of most of the states which had formed constitutions. It was therefore adopted without hesitation. The title of "his excellency" was a different matter, and the delegates struck out a provision so certain to awaken the strongest prejudices of their constituents. The term of office was also shortened to four years, and the disqualification for a re-election was struck out. These latter changes, though made by a vote of ten states to one, have been found to be of very doubtful utility. The manner of the election of the president gave rise to a separate series of difficulties, which are treated elsewhere. (See CONVENTION of 1787; ELECTORS, I.) — III. POWERS OF THE EXECUTIVE. The powers of the executive are given in full in article II. of the constitution (See CONSTITUTION.) They may be divided into three classes, those relating to foreign affairs, those relating to home affairs, and those relating to war. 1. The direction of the foreign policy of the United States is left very much to the discretion of the president, limited by the approval of two-thirds of the senate, which is required for the ratification of a treaty. His appointments of ambassadors, other public ministers and consuls must also be approved by the senate, a majority vote only being requisite. Foreign governments can legitimately have no official knowledge of the intentions or proceedings of the government of the United States, except through the executive; and the executive, as in Jackson's case in 1834, referred to below, has always refused to allow foreign ministers or governments to criticise, or claim any official knowledge of, the president's language to congress in his messages, or the interior workings of the government. The house of representatives has asserted, but never yet established and enforced, its power to refuse appropriations for the execution of a treaty of which it has disapproved. (See JAY'S TREATY.) It has also approved or disapproved, by resolution, of particular points of the president's foreign policy; but such resolutions are always treated by the executive as mere expressions of the opinion of a transient majority of the members, and without any force of law. This trust of power to the executive can hardly be said to have been abused; the foreign policy of the successive presidents has almost invariably been pacific. The general line of neutrality, marked out by Washington in 1793, and followed by Adams in 1798–9, was finally elaborated by Monroe in 1823 into a form which all his successors have closely followed. (See these names, and GENET, CITIZEN; X. Y. Z. MISSION; and MONROE DOCTRINE.) In 1834 President Jackson's recommendation to congress of reprisals

on the commerce of France, as a "pacific means" of obtaining redress of grievances from that country, nearly involved the two nations in war; but in this case the conduct of France gave abundant excuse for the recommendation. (See also ANNEXATIONS, and paragraph 3, below.) — 2. In domestic affairs the powers of the executive fall into two great classes: the appointment, with the concurrence of the senate, of officers whose appointments are not provided for in the constitution (see CONFIRMATION BY THE SENATE); and the execution of the laws. In the appointing power is included also the power of removal (but see TENURE OF OFFICE); and in case of vacancies during the recess of the senate the president is empowered to grant commissions which shall expire at the end of the next session. Supplementary powers are those of granting reprieves and pardons for offenses against the United States, except in cases of impeachment; of receiving ambassadors; of convening both houses, or either of them, on extraordinary occasions; and of adjourning congress to such time as he shall think proper, when the two houses can not agree on a time of adjournment. The last-named power has never been exercised. — 3. Closely connected with the duty of seeing that the laws are faithfully executed, is the war power of the president. In peace the execution of the laws is usually a matter of routine and clerical work, and the great mass of the people of the United States live and die without any personal and practical contact with the workings of the executive. Behind this simplicity of execution, however, sleeps the power of the president as commander-in-chief of the army and navy, a power which is roused by the first symptom of organized resistance to the laws, and grows with the extent and possibilities of the resistance (see INSURRECTION, DOMESTIC), bounded, however, by the limitations hereafter specified.—In foreign affairs the first draft of the constitution, as presented Aug. 6, gave congress the power "to *make* war," and this was afterward changed into a power "to *declare* war." The distinction was well understood by the delegates, and is undoubtedly well founded. A state of war does not necessarily include a declaration of war, and where war is made upon the United States with or without a declaration, it is evidently the duty of the executive, as commander-in-chief, to repel force by force, and to use all the means at his command for prompt and effectual resistance. Of course, an ambitious or unprincipled executive would be able to gradually force a foreign country into acts of aggression which would enable him to commit congress to the support of a war which the executive had really begun; but the rapid increase of the population and domestic wealth and interests of the country will probably give all future executives abundant occupation at home, and compel the maintenance of the traditional policy of peace abroad. The dangerous point in our history was from 1830 until 1860, when the country's war power had become very considerable, while its executive was not fully occupied with domestic concerns; and it was just in the heart of this period that President Polk forced Mexico into an attitude of aggression which resulted in the Mexican war and the dismemberment of Mexico. (See ANNEXATIONS, IV.; WARS, V.) In this instance the result was eminently fortunate for the territory which was annexed — Enormous as is the war power of the president, it is entirely the creature of law, even in its highest development. The great limitation upon it is the war power of congress, particularly the absolute power of congress to grant or refuse troops and money to the president. There is no obligation upon congress to vote any supplies whatever beyond what it considers requisite for the government of the country, and in many instances congress has coupled its appropriations for the army with limitations upon the use of the army. (See RIDERS, RECONSTRUCTION.) In time of peace, when the army is reduced to the level of a police force, this war power of congress ceases to apply; in war it is in full vigor, and must of necessity be final and decisive upon the president. The constitution has not made, and could not make, other provision than impeachment for such an unimaginable contingency as the refusal of the executive to make peace when a majority of both houses had pronounced against the war. (See WAR POWERS.) — IV. RELATIONS OF THE EXECUTIVE TO THE LEGISLATIVE AND JUDICIARY. 1. The constitution requires the president, from time to time, to "give to the congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient." This clause has occasioned the annual messages of the presidents at the beginning of each session of congress, and their special messages on other occasions. During the first three administrations the annual message was always delivered in person by the president, after the manner of the king's "speech from the throne" to the British parliament. Thus the main body of the message was addressed to the president's "fellow-citizens of the senate and of the house of representatives," the part relating to revenue and appropriations to the "gentlemen of the house of representatives," and the conclusion to the "gentlemen of the senate and of the house of representatives." At its conclusion the president retired, and the two houses addressed themselves to the composition of an answer, an affair which always gave rise to a long debate upon the intricate shades of meaning in its various sentences. Special messages were sent in writing, though Washington at first occasionally met the senate in person to confer upon executive business. In 1801 Jefferson substituted a written annual message, as more consonant with republican simplicity; but the reason assigned by his political opponents was his consciousness of his inability

to speak in public with effect. In 1813 the senate endeavored to revive the early practice by requesting the attendance of the president to consult upon foreign affairs, but Madison declined the invitation.—In addressing the president, some of the federalists, in 1791, wished to give him the "style" of "His highness, the president of the United States, and protector of their liberties." A burlesque motion was offered from the democratic side that the "style" of the vice-president should be "His superfluous excellency"; and it was finally agreed that communications should be addressed simply to "The president of the United States." In 1792 a clause in the bill passed by the senate for establishing a mint, to place upon the coins "a representation of the head of the president of the United States for the time being," was defeated by a vote of only 26 to 22 in the house. The act of Sept. 24, 1789, fixed the president's salary at $25,000 per annum. This amount was increased to $50,000 by the act of March 3, 1872. An attempt to repeal the act in the following session was vetoed, and failed to pass.—Direct intercourse between congress and the heads of the executive departments has been the rule since Washington's presidency. His cabinet, except Hamilton, were of the opinion that congress could only communicate with the heads of departments through the president, but the obvious tendency of the opposite plan to facilitate the business of the departments almost immediately compelled the adoption of it. In practice, however, it has been found open to the objection that it leads to informal and uncontrolled intercourse between secretaries and individual members or heads of committees, for the purpose of influencing legislation. To obviate this it has been proposed in congress to vote seats, without votes, in each house, to the heads of departments, in order that they may be in attendance on specified days and explain or defend publicly the legislation which they desire. A provision to this effect was inserted in the confederate constitution in 1861 (see CONFEDERATE STATES), and its chances for adoption by congress seem fair. If adopted, its ultimate influences upon the practical constitution of both the executive and the legislative are as yet beyond calculation.—For the results of the necessity for obtaining a confirmation of the president's nominations by the senate, see CONFIRMATION BY THE SENATE, TENURE OF OFFICE. —For the veto power and its influences, see VETO.—2. After the appointment and confirmation of the judiciary there are no direct official relations between that branch of the government and the executive. Various efforts have been made to bring about such relations, with the view of establishing some power in the judiciary to revise or control the action of the president; but the courts have steadily refused to encourage anything tending to a collision between the judiciary and the executive. Soon after Jefferson's inauguration, suit was brought against the secretary of state to compel the delivery of a commission signed and sealed by the preceding administration; but the supreme court, while it considered livery to be already complete, refused to interfere. In 1807 the counsel for Burr endeavored to compel the president's personal attendance as a witness, but did not succeed. In 1861 the chief justice ordered an attachment for contempt to issue against an army officer for disregarding the writ of *habeas corpus*, which had been suspended; but when the attachment was returned unsatisfied, the chief justice abandoned further proceedings. In October, 1865, and until martial law had ceased in the south, the supreme court refused to hold sessions in that section. In 1867 the state of Mississippi applied to the supreme court for an injunction forbidding the president to execute the reconstruction acts, but the injunction was refused. (See BURR, AARON; HABEAS CORPUS; RECONSTRUCTION.)—The general principle in this connection is well stated by Chief Justice Chase in the last case referred to: "The congress is the legislative department of the government; the president is the executive department; neither can be restrained in its action by the judicial department, though the acts of both, when performed, are in proper cases subject to its cognizance." The "proper cases" there referred to, are such as are not political in their nature.—President Jackson has been much censured for vetoing the bill to recharter the national bank in 1832, on the ground of its unconstitutionality, after the supreme court had decided that such a bank was constitutional. His position, as stated in his veto message, was that "each public officer, who takes an oath to support the constitution, swears that he will support it as he understands it, and not as it is understood by others." The high political excitement of the time obviously carried both parties to extremes. The position of the bank advocates, in its results, would imply that, when the supreme court had once decided that the general idea of a national bank was constitutional, the president would be bound to approve any bank bill which congress might see fit to frame; and the position of the president would equally imply a power in the executive, for instance, to persist in the execution of a law which had been judicially, and finally, pronounced unconstitutional and void. In his political acts the president is responsible only to his own conscience, to the people, and to the representatives of the people under a trial of an impeachment, but his conscience, like that of any other citizen, is bound by the final decision of the constitutional tribunal. The distinction between the official free will and necessity of the executive is extremely difficult to define in theory, but very simple in practice, since the judiciary and executive have always studiously avoided any conflict. (See CONGRESS, JUDICIARY.)—V SUCCESSION TO THE PRESIDENCY. In the regular course of events the president is succeeded at the end of his term of office by his successor already

chosen. The selection of March 4, 1789, by the congress of the confederacy, as the day for the inauguration of the new government, has fixed that day as the beginning of the four years' terms of succeeding presidents; in case of an entirely new election, be hereafter specified, the new president would serve for four years, and "inauguration day" would be changed. In case of the "removal, death, resignation or inability" of the president, his office devolves upon the vice president, and when the disability extends to the vice-president also, congress is empowered to regulate the succession, "declaring what officer shall then act as president until the disability be removed, or a president shall be elected." The act of March 1, 1792, has therefore declared the president *pro tempore* of the senate, or, if there is no president *pro tempore*, the speaker of the house, to be the officer upon whom the succession should devolve.—"Removal" can only be effected by impeachment. The act last cited has provided that "resignation" must be in writing, signed by the party, and deposited in the office of the secretary of state. The question of "inability to discharge the duties" of the office presents more possible difficulties. The "inability" of the president may be patent. He may be made a prisoner by an enemy: President Madison was in danger of capture at Washington in 1814, and the capture of President Lincoln was Booth's original plan in 1865. He may visit or retire to a foreign country during his term of office. But who is to decide when lunacy, paralysis or illness of any kind has gone so far as to result in "inability"? How long would the subordinates and party friends of the president be allowed to discharge the duties of the president for him, as the subordinates of Secretary Crawford did during his paralysis in 1823–4, before the vice-president would be entitled to assume the place of the president? No rule can be given until a precedent has actually been made, but as the provision of the constitution is mandatory and addressed to the vice-president, the decision would seem to rest mainly with that officer.—In order that an officer may be in readiness to take the place of the vice-president, if necessary, it has been customary for the vice-president to retire from the senate a few days before adjournment, and a president *pro tempore* has then been elected. In 1881 the vice-president declined to retire and permit the election of a president *pro tempore*, and as the new house had not yet met or chosen a speaker, there was no lawful successor in case of the death of both president and vice-president. The shooting of the president, July 2, 1881, and his possible death, gave some prominence to considerations of the complications which might be involved in the death of both president and vice-president under such circumstances. The administration of the government would probably go on, under direction of the cabinet, until the meeting of congress and the election of a president *pro tempore*. In extraordinary circumstances, requiring the authority of an executive at once, there seems to be no good reason why the cabinet should not summon an extra session of congress, for, though such a summons would have no *authority* upon congress, congress would undoubtedly respect it, and the first exercise of the legislative powers would cure all defects of form.—The greatest danger in the matter of the presidential succession lies in the possibility of a failure to elect, or to settle the result of a disputed election, before the end of a presidential term. The country has twice, in 1801 and 1877, come to the verge of such a possibility. (See DISPUTED ELECTIONS, I, IV.) In 1801 it was proposed by the federalists that a bill should be passed to designate some officer, as the chief justice or the secretary of state, to act as president and order a new election; and by the democrats that the new congress should be convened by proclamation to be signed by Jefferson and Burr jointly, as one of them was president elect. Both programmes were evidently unwarranted by the constitution, but the latter was infinitely less objectionable than the former. It would be no misdemeanor for even a private person to summon congress to an extra session; and if an undisputed majority of both houses chose to obey any summons, however irregular, it is difficult to imagine a decision by the judiciary against the legitimacy of acts of such a congress, because of defects in the form of the summons.—The 12th amendment to the constitution, which was soon after passed, provided that "the vice-president" should act as president in case of a failure by the house to exercise its right of choice between two or more equal candidates before March 4. In case of a failure to choose both president and vice-president, the senate is evidently to choose the vice-president at once, and that officer is to act as president in case of the house's failure to choose. If the senate also fails to choose a vice-president in time, the whole scheme of the executive is again adrift. In such a case the act of March 1, 1792, has assumed the doubtful power to order a new election, which would probably be submitted to by the country as the easiest escape from the difficulty.—There are, however, other difficulties unguarded against. In case of a failure to choose by the electors, the house is to choose a president from the *three* highest on the list. Suppose that in some general break up of party lines, as in 1824, the *four* highest on the list should be a tie, or, as is much more possible, that the third and fourth candidates on the list should be a tie: who is to decide which of the tie candidates is to resign his pretensions in order to enable the house to choose between the *three* highest? The case of a closely contested presidential election, in which the few decisive electoral votes are claimed by both parties, as in 1876–7, offers still greater dangers. It was avoided, at that election, by the creation of an electoral commission, but it is highly improbable that this remedy will ever be

available again. Apparently, the methods of the presidential election and succession are now the only points in the constitution which can seriously threaten the perpetuity of the Union; in them, if anywhere, lie concealed the germs of disintegration and destruction. They deserve prompt consideration, for, in a country whose population doubles in each quarter of a century, every year increases the difficulty of making amendments to the constitution. (See ELECTORS, ELECTORAL COMMISSION.)—See IMPEACHMENTS, WAR POWER, RECONSTRUCTION, TENURE OF OFFICE, ELECTORAL VOTES, ADMINISTRATIONS. For popular votes for president, see UNITED STATES.—See, in general, Story's *Commentaries*, § 1404; 2 Bancroft's *History of the Constitution*, 165; de Chambrun's *Executive Power;* 1 Kent's *Commentaries*, 255; The *Federalist*, xlvii.–li., lxvii.–lxxvii.; Rawle's *Commentaries*, 147; 2 Wilson's *Law Lectures*, 187; A. Conkling's *Powers of the Executive Department*. (I.) 1 Blackstone's *Commentaries*, 262, 408; Marshall's *History of the Colonies;* Lodge's *English Colonies in America;* Frothingham's *Rise of the Republic*, 419; 4 Franklin's *Works*, 282. (II.) 5 Elliot's *Debates*, 127. 131, 205, 376, 380, and authorities under ELECTORS, 1 Tucker's *Blackstone* (Appendix), 349. (III.: 1, 2) Hunt's *Life of Livingston*, 395; 3 Parton's *Life of Jackson*, 569; and authorities under articles referred to; (3) 1 Elliot's *Debates*, 226; The *Federalist*, lxxiv.; Tiffany's *Constitutional Law*, § 517; Whiting's *War Power*, 82; 2 B. R. Curtis' *Works*, 306; Story's *Commentaries*, § 1485; 1 Kent's *Commentaries*, 264; and authorities under WAR POWER. (IV.: 1, 2) 3 Jefferson's *Works* (edit. 1829), 470; 5 Niles' *Register*, 243, 340; 1 Benton's *Debates of Congress*, 14, 17, 117, 267, 371; 1 *Stat. at Large*, 72, and 17: 486 (acts of Sept. 24, 1789, and March 3, 1873); 4 Jefferson's *Works* (edit. 1829), 463; Rawle's *Commentaries*, 171; 2 Pitkin's *United States*, 285; 1 Lloyd's *Debates*, 511; (3) 1 Cranch's *Reports*, 137; Tyler's *Life of Taney*, 420; Schuckers' *Life of Chase*, 535; and authorities under articles referred to. (V.) Story's *Commentaries*, § 1476. The act of March 1, 1792, is in 1 *Stat. at Large*, 239. ALEXANDER JOHNSTON.

EXEQUATUR, a Latin word, which means *let this be done.* It is a decree by which a sovereign authorizes a foreign consul to exercise within his jurisdiction the functions of his office; a decree which is generally attached to the consul's commission, or written on the back of that document. In most countries there are two kinds of consuls: salaried agents, who are forbidden to engage in trade; and others who are merchants, do not always belong to the country which they represent, and who receive no pay. On this account governments generally have a double formula for their *exequaturs*, the first for consuls who are officials, the second for consuls who are merchants.—The form of the *exequatur* varies with the country; most frequently, as in France, England, Spain, Italy, the United States, and Brazil, it is a letter patent, signed by the chief of the executive power, and countersigned by the minister of foreign affairs. In other countries, such as Denmark, for example, the consul simply receives notice that he has been recognized, and that the necessary orders have been given to the authorities where he resides. In Austria only the word *exequatur* is written on the original commission.—The government from which the *exequatur* is asked has the right to refuse it: the refusal may be based on purely political reasons or on personal motives. The government may also withdraw it if it thinks proper. Whatever be the motives which a government may have for depriving a consul of his *exequatur*, the consul can only conform exactly to the orders given him by the representative of his country. According to circumstances, he will have to retire with his records, or delegate his powers to another acting *ad interim*, so that his countrymen may not lose the protection to which they have a right.—The *exequaturs* of consuls are generally delivered without charge; there are, however, some exceptions.—A state of war, or a renewal of diplomatic relations, brings the withdrawal or may bring the renewal of the *exequaturs* of the belligerent powers; some treaties specify the cases in which the *exequatur* may be withdrawn.

RITTIEZ.

EXPORTS AND IMPORTS. By imports is meant all the merchandise brought into a country from other countries; by exports, all the merchandise which leaves a country for other countries. The imports and exports together constitute the foreign trade, a statement of which is annually made out by those in charge of the customs.—Formerly, when commercial policy was still more influenced by the ideas of the mercantile doctrine than it is to-day, tables of the exports and imports were drawn up for the especial purpose of showing the difference between these two branches of foreign commerce, a difference which was called the *balance of trade*. To-day, these tables, which are made public in most countries, and notably in England, France, the United States, and Belgium, where they have been brought to a good degree of perfection, are no longer considered by the administrative authorities as anything but statistical information on commerce, navigation, the course of trade between ports, transit, etc.—The reader is referred to the article BALANCE OF TRADE for anything which pertains to the false theory which so long induced the legislator to encourage exportation by artificial measures and to hinder importation by innumerable political, diplomatic, administrative, financial and commercial restrictions. We shall confine ourselves here to a few considerations.—One who studies the nature of exchanges is not slow in perceiving that it is only in exceptional cases, such as where there is trickery, fraud or ignorance, that one of the contracting parties can be injured. In general, in exchange transactions,

interests counterbalance each other, the values exchanged are equal. It is consequently difficult to admit that a nation, which is a collection of a great number of individuals, parts with the mass of its products for products of inferior value; hence the official reports which acquaint us with the exports and imports of a country should present no noteworthy difference between the exports of that nation to all other countries and the imports from all other countries to that nation. It would even seem that the difference, if there is any, must of necessity be in favor of the imports, for the reason which leads to an exchange is that one has greater need of the products he receives than of those he parts with, and consequently he must attribute more value to the former than to the latter. In fact, the amount of the imports must necessarily exceed, among all nations, that of the exports. [An apparent exception to this rule occurs in the case of a debtor nation, which, until its foreign debt is paid, sends abroad, besides its other exports, merchandise to pay the interest and principal of its indebtedness to other countries. If, however, we take into account the period from the time of contracting the debt until its final discharge, this case will be found to be no exception to the rule. —E. J. L.] J. B. Say admitted this proposition, and an explanation of it is found in Necker's work on the administration of the finances. "If we estimate," said Necker, "the merchandise we take from foreigners at the prices current within our kingdom, we shall overrate the debt contracted by the state; for the price current is composed not only of the sum paid to the nation which has sold the merchandise, but also of the profit and the interest on the advances of the merchants, and the expenses of transportation and freight which may have been earned by our merchant marine; whence it results that the true balance always inclines in favor of the people under consideration." This has been completely established in the article on BALANCE OF TRADE. —In the second place, it should be observed that the custom house records only show those exchanges which are manifested by the payment of duties; that they say nothing of the contraband trade so considerable in all countries where there are prohibitions and high tariffs; nothing of the various securities and titles to property which are exchanged between citizens of different nations; nothing, or at least nothing accurate, concerning the daily importation or exportation of specie, especially between countries which border on each other. Now this clandestine movement of merchandise which escapes the eye of the customs officials, this transmission of securities of various kinds, and this constant filtration of specie, must be taken into account in any comparison of imports and exports; and it is another error of the partisans of the doctrine of *balance of trade* that they fail to do this.—If, then, we should find in the official statements a notable difference arising either from excess of imports or excess of exports, we must simply conclude, admitting the accounts to be free from any systematic error or any material error in the calculations, that they are not the complete expression of what takes place in the commerce of the nation under consideration, whether because the officials who prepare them must of necessity omit a notable part of the imports and exports, or because their bases of valuation are incorrect, or because they do not include sufficiently long periods in their totals. System and base of valuation have been mentioned under the article CUSTOMS DUTIES. As to extent of the periods of observation, we must consider that the statistical tables are made out yearly for inspection, that the commercial transactions are neither completed nor balanced in the course of these periods, which are artificial in this respect, and that it is necessary to extend the calculations to periods which would include the whole of the reciprocal movements of this commerce between two countries—movements which are influenced by various circumstances, climatic, political and economic. (See BALANCE OF TRADE, SMUGGLING, CUSTOMS DUTIES, COMMERCE, FREE TRADE, VALUE.)

E. J. L., *Tr.* JOSEPH GARNIER.

EXPOSITIONS, Industrial. These began in a very humble way. The first in Europe was opened at the end of the last century, and continued not more than one week. The world was far from anticipating, in that age, the consequences of these great industrial strifes between nations. All their ideas were turned toward war, and in the thoughts even of the originators of the first exhibition, the character of this contest, apparently peaceful, was warlike to the last degree. The French minister of the interior wrote to the departmental authorities: "The exhibition has not been very numerously attended, *but it is a first campaign*, and that campaign is disastrous to English industry. Our manufactures are the arsenals destined to furnish the most deadly weapons against the power of Britain." Who could then have told that minister that sixty years later England would open to the industry of the whole world in London itself the forever famous crystal palace, and that there, under the auspices of universal peace, France would obtain, without ruin to any one, the greatest of her victories?—What was at first but a simple contest between individuals engaged in industrial pursuits, tends to become a general periodic assemblage of all the productive forces of the entire world. It is proper, then, to render to the French nation, which was the first to give so many great ideas to Europe, the honor which is its due for the successive organization and development of industrial exhibitions. These great occasions have contributed in no less degree than the genius of that nation itself, to the progress of all industries, and it is probable that they will exercise a considerable influence on the solution of the most important economic questions of the day, by fur-

nishing new elements of comparison which have hitherto been wanting. — Nevertheless, the first exhibition, that of 1798 in France, was not very successful. France had barely emerged from the intestine and foreign troubles of the first republic; and Frenchmen during that fitful period had fought more than they had worked. Ten or twelve exhibitors only obtained medals; and about twenty honorable mention. Most of the great manufacturing cities of France were not even represented. However, some products worthy of note were exhibited, and the dawn of a better future was perceptible, for the government promised twenty silver medals and one gold medal for the next exhibition. A feeling of war invariably pervaded their councils. this gold medal was to be the reward of the manufacturer *who should give the most disastrous blow to English industry.*—The two French exhibitions of 1801 and 1802, following too close upon the first, were not less remarkable as being the date of the appearance of names celebrated in the annals of French industry. Then it was that Jacquard was crowned, for his weaving-loom; Carcel, the ingenious inventor of the well-known lamp; Ternaux, for his woolen stuffs; Montgolfier d'Annonay, for his paper; Fauler, for his morocco leather; Utschneider of Sarreguemines, for his beautiful pottery. In 1802, owing to the peace of Amiens, the exhibition assumed a less bellicose character, and was visited by some eminent English statesmen. The most remarkable feature of it was the appearance of the first cashmere shawls in imitation of those of India, and copied from samples brought home by some officers of the Egyptian expedition. Twenty-two gold medals were then given to the most successful, and from that moment it was easy to foresee that the impetus given would not stop there. That was proved by the exhibition of 1806, which only lasted ten days, but where the number of exhibitors was ten times greater than in 1802.— Many departments and industries of France which had not contributed anything to former exhibitions, figured creditably in this one. Lyons, Nimes, Avignon and Tarare shone there with a brilliancy, which since indeed has been greatly surpassed, but which created at the time an immense sensation on account of the prolonged absence of the representatives of those cities during the whole of the revolutionary period. Manufactories of cloth suddenly rose again from a long depression. Merino sheep began to be acclimatized in France; Elbeuf, Louviers, Sedan, again soared upward. Mulhouse sent some products. Thomire and Ravrio inaugurated bronze working. Cotton spinning was not yet represented, and it may be said that notwithstanding the encouragements of every kind lavished by the emperor on French industry, it was as yet only a period of learning and of incubation. — France was quietly preparing, in the laboratories of her savants, the magnificent appliances which have since then raised her manufactures to such a height. Chaptal, Berthollet, Conté, Vauquelin, Thénard, d'Arcet, were all at work endeavoring to extract from science the secret of the new industries which burst upon the world almost simultaneously, when peace restored capital and security to labor; and thus is to be explained the great movement which began with the restoration and which still continues. The first of the three French exhibitions of the restoration took place in 1819, the second in 1823, and the third in 1827. That of 1819 aroused so much interest that the public demanded its prolongation for a month. It seemed as though France divined her new destiny. Progress manifested itself in everything. The number of exhibitors was more considerable than at previous exhibitions; machines, simple and original, bore witness to the genius of the French nation. Collier's shearing machines, Ternaux's cashmere shawls, some beautiful looking-glasses and magnificent samples of silk, marked the advance of the national industry. In 1823 there were renewed efforts; woolens were improved, silks multiplied and gained in quality; muslins, both plain and embroidered in the most tasteful way, appeared for the first time, but woven of fine imported thread. Parisian manufactures, such as paper hangings, bronzes, lamps, furniture, articles of luxury and of taste, shone everywhere More than sixty-six departments contributed.—But, of the three exhibitions of the restoration, the last, that of 1827, greatly excelled the preceding two, and it may be said that it was this one which chiefly contributed to the maintenance of the periodic character of exhibitions. It greatly surpassed all the others. Shawls commenced to rank among the most original products of French industry, the manufacture of cloth entered upon that new career in which it was destined later on to achieve such marvelous results; the prints of Mulhouse and of Rouen surpassed the most brilliant that had as yet been seen. The city of Lyons exhibited church ornaments and stuffs for tapestry of the rarest magnificence. The cambrics of Cambrai, the table linen of St. Quentin (Aisne), the manufactures of Roubaix, elicited universal admiration. Flax spinning now first appeared. Lithographing, Parisian cabinet making, and typography, introduced new and original designs. Attention was specially directed to very beautiful steam engines, the monopoly of which it was supposed had up till then belonged to England.—But it was reserved for the reign of Louis Philippe to present the most brilliant series of exhibitions which have ever done credit to French industries, and to render those memorable shows popular throughout Europe. That of 1834, in grandeur and extent as much surpassed that of 1827, as did the latter all preceding ones. French industry evidently felt itself on a firm footing; new workshops were everywhere established; the spirit of emulation developed under a system of legislation which government investigations tended to render more liberal; new arts sprang into existence, and manufacturing seemed

to proceed step by step toward reduction of prices, as being the most assured stimulant to increased consumption. The official reports, which were summaries by the president of the central jury on each of those great occasions, must be read as an exact statement of the progress achieved. That of Baron Thénard was particularly noticeable by reason of the deep research displayed, by the simplicity and sobriety of its style, and by the impartiality of its judgments. The king and the royal family were accustomed from that time to visit repeatedly, and with the most minute attention, all the galleries of the exhibition, lavishing encouragement on all exhibitors, and causing it to be well understood that the tendency of the new reign was pre-eminently pacific and industrial.—It may be confidently affirmed that from this date industrial exhibitions had indisputably an economically useful character, due to the novelty of the information and to the variety of the facts which they furnished to scientists. These exhibitions would have been mere tournaments without importance, if political economy had not in time educed from them instructive comparisons on the prices of raw materials, on the rates of wages, on the effects of machinery, on the means of communication, and the customs laws of different countries. The proof of it soon came in 1839, when delighted Europe was able to appreciate the master pieces of industry in shawls, cloths, silks, crystal ware and printed goods; when the commissioners awarded prizes to the hydraulic wheel of Fourneyron, to the printing cylinders of Grimpé, to the steels of Jackson, to the pianos of Erard, to the cashmeres of Hindenlang, to Bréguet's chronometers, etc. The number of exhibitors had increased from 110 in 1798 to 3,381 in 1839, and the number of medals awarded, from 26 to 805. — From this time forward industrial exhibitions counted whole armies of adherents. The limited space allotted them in the court of the Louvre, in the Invalides, in the Place de la Concorde, was no longer sufficient for their purposes. It became necessary, in 1844, to open to them the immense arena of the Champs Elysées, and to accord them a duration of three months. From this time on no one man could suffice to fill the office of judge; every commissioned judge became responsible for his own decisions, and these combined constitute to-day the annals of French manufacture. It is in these valuable collections that some day we shall have to study the history of the development of the different industries of France. — From 1844 rivalry became general throughout Europe. Exhibitions were instituted in Belgium, in Prussia, in Austria, and in Spain. Every nation in turn manifested a desire to muster its forces and to compute the resources at command for representation in these contests now everywhere opened throughout the civilized world. It is just this period between 1844 and the unlucky epoch of 1848 which presents the most varied and the most captivating interest. However imperfect the first attempts of the nations of which we have just spoken, as may be seen from the reports of the commissioners delegated by the French government, it was possible to judge, with a full knowledge of the matter, of the particular character of the chief European industries.—In spite of the mystery everywhere accompanying the analysis of net cost, it was easy to discover in what the relative superiority of the great manufacturing centres consisted. Thus every country became better acquainted with itself and its neighbors It was everywhere a complete revelation, and it may be boldly asserted that it was this example of Europe which succeeded at last in arousing England, and gave birth to the idea of a world's fair. This exhibition, as is known, was to have taken place at Paris in 1849. The French government took the initiative, and even hoped, after the violent convulsions of 1848, that France would worthily resume the rank from which she had for the time fallen. But anarchy then prevailed not less in the highest than in the lowest ranks of society Scarcely was the government's project made known than the protectionist crowd affected to see in it danger to French national interests. Thus was the government thwarted, and, owing to this hostile element, was obliged to abandon the only productive idea which those troublous times had given birth to The French exhibition of 1849, thus restricted, was nevertheless very remarkable by reason of the manifest progress in all the various branches of industry, and this notwithstanding the calamities which had overtaken them —Economists had a very difficult part to play in those critical times. They had to oppose, on the one hand, a herd of ignorant utopists who had swooped down upon society and clamored to make it the vile subject of their experiments; and, on the other hand, the great manufacturers who claimed to have a right of taxation as laborers did to have a right to work. All the laws of political economy seemed to be overthrown: under the pretense of affording protection, each man laid his hand on his neighbor's goods, some to demand bounties, others increased wages, and it soon became impossible to estimate the true value of things in the midst of this confusion of tongues and of these absurd pretensions of various interests. England did not miss the chance of realizing the great idea which the prohibitionists had thus caused to miscarry in France. —It is from this time, properly speaking, that the new and complete character of exhibitions dates and although that of London left some things to be desired, it will not the less on that account continue to be one of the most important events in the history of political economy. Till then each local exposition had been only a more or less complete inventory of the productive powers of each nation.* The English, in inviting the whole

* It is neither necessary nor desirable to give here a list of the local or special industrial exhibitions not mentioned in the text. The world's fairs and international expositions following the first in London in 1851, are: the exposi-

world to this memorable gathering, afforded all studious men an opportunity of satisfactorily observing the collected products of the world, and of noting the conditions and necessities of production among the different nations. We shall not speak here of the purely technical part of this vast subject, nor of the wonders of the crystal palace, nor of the immense concourse of sight-seers who flocked to it from all points. all these interesting details will be found in special works. The capital fact of the universal exhibition was, that it afforded a synoptical view of all the products of the globe, furnished for the first time an opportunity of comparing fabrics of such different origins and natures, and of studying the productive genius of nations in their most elaborate as in their least important works. It was evident that there were no longer any industrial secrets in the world; that mechanical methods were about the same everywhere, and that everywhere also the tendency was to substitute machine power for manual labor. It was shown that wages were higher in the countries where machinery was employed than where hand labor prevailed, and that the surest way of stimulating consumption was to reduce prices by means of improved processes of manufacture. — The London exhibition proved irresistibly the advantage of low prices in raw materials, and consequently the disadvantage of a customs system which loads them with taxes; it proved at the same time beyond all question what profit would accrue to nations from freedom to exchange such a rich variety of products. Thus, little by little, died away the prejudices held by the adherents of the prohibitory system, who would fain have drawn a line of demarcation between nations never to be crossed. These last, represented by their most skilled manufacturers, distributed the awards with perfect impartiality, honestly recognizing any superiority gained, and with steady hand holding up the veil of the future, no longer regarding labor from the narrow viewpoint of nationality, but from the height of the principle of freedom of trade.—It was hoped to obtain on this occasion the secret so much desired of the net cost in all industries; but private interests were aroused, notably those of the middlemen, and this precious element of information was not obtained. Perhaps this is the less to be regretted as net cost prices are essentially variable; but it would have been interesting to have settled them officially for one given time, if for no other purpose than as data for future comparison. However, the most incontestable result of that memorable contest is the progressive tendency to render prices uniform in all the markets of the world, and to their reduction when free trade shall prevail. The exhibition established this also, viz., the futility of dreading competition, that is to say, of industrial rivalry. When industry was confined within the family circle there was a dearth of almost everything, and the result was poor manufactures, at a high cost. In proportion as the field of labor enlarged and as industry extended from the family to the town, division of labor took place and began to supply more completely all wants. And when production had spread from the town to the province, and, after the collapse of all internal obstacles, from the province to the whole state, an immense advance was again made. The only thing left to be desired, but the chiefest of all, is to extend to the whole world that contest too long confined within the narrow limits of the home market. Each nation of to-day has so much the greater need of expansion as it has become more powerful and wealthier, and it would be simply protracting its infancy to confine it within the limits of its boundaries, when the whole human race is standing before it with outstretched arms. — The universal exposition proved that the greatest nations were the first called upon to take the initiative in effecting that commercial reform which took place in England, and of which the great gathering at the crystal palace was the natural consequence. It is in fact the part of the most advanced nations to overthrow the barriers which separate them from other nations, for they have the most need to do so. What would English industry be without the cotton of the United States, the copper of Russia, or the iron of Sweden? Does not all Europe get its lead from Spain, its beautiful wools from Saxony or Australia, and its silks from France or Italy? What country can to-day lay claim to producing everything? What heaven-favored land would try to reproduce the wines of France or of Spain? If fevers rage in Europe, quinine is brought from America. India rubber, gutta percha, to day essential materials in so many industries, are not indigenous to all shores; the coffee, the cocoa, the tea of our breakfast tables, and nearly all the

tion held in New York in 1853; that in Munich, in 1854; that in Paris, in 1855; the Paris international agricultural exposition in 1856; the second world's fair in London, and the agricultural exposition at Battersea in 1862; the international expositions in Dublid and Oporto in 1865; the agricultural expositions at Stettin, Cologne and Crofurt; the second world's fair in Paris; the international horticultural exposition in Hamburg, 1869; the international exposition in Graz, 1870; the international art exposition in Kensington Gardens, London, 1871; the Moscow international exposition in 1872; the world's fair in Vienna in 1873; the international agricultural exposition in Bremen in 1874; the American centennial exposition at Philadelphia in 1876; the Paris exposition of 1878.—"Expositions have met with opponents who have pointed out wherein they are wanting, but there can be no doubt that they have great advantages. From whatever point of view we look at them, whether material or intellectual, politico-economical or merely commercial or industrial, they exert a decided influence on the welfare of nations. They are the milestones of progress, the measure of the dimensions of the productive activity of the human race. Many new branches of production have either been called into existence or greatly extended by their agency They make people acquainted with the market. They cultivate taste. They afford material for valuable comparison They bring nations closer to one another, and thus promote civilization. They awaken new wants and lead to an increase of demand in the markets of the world. They have contributed to the spread of a taste for art, and encouraged the genius of artists." (See Brockhaus. *Conversationslexicon*, art. *Ausstellung.*)

medicines of all dispensaries, come from the most distant climes. Even for sulphur and saltpetre for making gunpowder France has to go to search in India and Sicily. The peasantry of most European countries scarcely ever eat meat and very seldom white bread, while the plains of Buenos Ayres teem with cattle, and New Zealand, the United States and Russia abound in corn.—What do all these contrasts mean? That Providence has spread over the whole face of the earth with boundless liberality all that is necessary to the existence and comfort of man. The London exhibition has well shown that there is not a single corner of the world, however despised it may be, that has not its useful tribute to offer. our task is to exchange from pole to pole the bounties of nature. The home of the Esquimaux sends furs, the Sahara furnishes dates and ostrich feathers, some islets lost in the Pacific off the coast of Peru are covered with guano, used as a fertilizer of the reluctant soil of our northern hemisphere. The banks of Newfoundland have their cod, the coasts of Japan their whales When olive oil and colza fail us, the East offers us sesame and Africa the earth-nut; the opium of India pays for the tea of China, and so on of the rest.—This is the moral of exhibitions: an inexpressible need of peace, reciprocal dependence of nations, abundance of all goods under the rule of liberty, and comparative dearth under the rule of restriction—what the great exhibition of London, the glorious daughter of all preceding and the mother of all subsequent ones, has revealed. We believe that exhibitions have greatly aided the cause of humanity. J. A. BLANQUI.

EX POST FACTO LAWS. An *ex post facto* law is one which operates by after-enactment. These words are usually applied to any law, civil or criminal, which is enacted with a retrospective effect, and with the object in view of producing that effect. In its true application, however, as employed in American law, it relates only to crimes, and signifies a law which retroacts by way of criminal punishment upon that which was not a crime before its enactment; or which raises the grade of an offense or renders an act punishable in a more severe manner than it was when the crime was committed; or that alters the legal rules of evidence and receives less or different testimony than the law required at the time of the commission of the offense, in order to convict the offender. Such laws are held to be contrary to the fundamental principles of a free government, and the restrictions of the constitution that the legislatures of the several states shall not pass such laws, secures the person of the subject from injury or punishment in consequence of such law. Every law that takes away or impairs vested rights agreeable to existing law, is retrospective and in most cases oppressive. Still there are laws which are just and for the common benefit, relating to a period of time antedating their commencement, such as statutes of oblivion and pardon. It is, however, the general rule that no law which mitigates the rigor of the criminal law can be considered an *ex post facto* law within the prohibition All laws which are to operate before their making, or to save time from the statute of limitations, or to exempt unlawful acts before their commission, are retrospective. Still such acts may be just and necessary. A broad difference exists between making an unlaw ful act lawful and an innocent act criminal, and inflicting a punishment for it as a crime —The construction of the constitutional provisions prohibiting *ex post facto* laws as recited in the foregoing comments, has been accepted and adopted by the courts as correct, from an early period in the history of the government. Of the laws which come within the prohibition, it may be said that it is not essential to render them invalid that they should expressly assume the act to which they relate to be criminal or provide for its punishment on that pretext. If a person be subjected to a criminal penalty for the commission of an act, which when committed involved no responsibility, or if it deprived one of any valuable right, such as the pursuit of a lawful business, for the commission of acts which by law were not punishable when committed. the law which so operates will be, in the constitutional sense, *ex post facto*, although it does not expressly provide that the acts to which the penalty is applied are criminal. To what extent, however, a law may alter the penalty for a criminal offense and apply the alteration to past offenses, is very difficult to determine from the decisions of the courts which have been made concerning it As the prohibition was enacted for the protection of the accused against arbitrary and unjust legislation, any alteration of the law which tends toward the mitigation of the punishment does not enter within the objection (Strong *vs.* State, 1 Blackf., 193; Keen *vs.* State, 3 Chandler, 109) The question, however, to determine is, what is to be construed as in mitigation of punishment. Upon this point Cooley on Const Lim. says, "If the law makes a fine less in amount or imprisonment shorter in point of duration, or relieves it from some oppressive incident, or if it dispenses with some severable portion of the legal penalty, no embarrassment would be experienced in reaching a conclusion that the law was favorable to the accused, and therefore not *ex post facto*. But who shall say, when the nature of the punishment is altogether changed, and a fine is substituted for the pillory, or imprisonment for whipping, or imprisonment at hard labor for life for the death penalty, that the punishment is diminished, or at best not increased by the change made? In State *vs.* Arlin, the respondent was charged with a robbery which under the law as it existed at the time it was committed was subject to be punished by solitary imprisonment not exceeding six months, and confinement for life at hard labor in the state prison. By the same law he was entitled to have counsel assigned him by the government, to process to

compel the attendance of witnesses, to a copy of his indictment and a list of jurors who were to try him. Before he was brought to trial the punishment of the offense had been reduced to six months solitary imprisonment, and confinement at hard labor in the state prison for not less than seven nor more than thirty years. Under the terms of the new act, *if the courts thought proper* they were to assign counsel and furnish him with process to compel the attendance of witnesses in his behalf. The court assigned the respondent counsel, but declined to do more; the respondent insisted that he was entitled to all the privileges which the old law granted before its change. The court held the claim to be unfounded in law. * * * That the position was wholly untenable, the privileges the respondent claimed having been created solely as incidents of the severe punishment to which his offense formerly subjected him, and not as incidents of the offense. That when the punishment was abolished, its incidents fell with it, and that he might as well claim the right to be punished under the former law as to be entitled to the privileges connected with a trial under it." But in commenting on this opinion, Cooley asks if it may not be suggested whether this case "does not overlook the important circumstance that the new law by taking from the accused that absolute right to defense by counsel, and to the other privileges by which the old law surrounded the trial—all of which were designed as securities against unjust conviction — was directly calculated to increase the party's peril, and was in consequence brought within the reason of the rule which holds a law *ex post facto* which changes the rules of evidence after the fact, so as to make a less amount or degree sufficient. Could a law be void as *ex post facto* which made a party liable to conviction for perjury in a previous oath on the testimony of a single witness, and another law unobjectionable on this score which deprived a party when put on trial for a previous act, of all the usual opportunities of exhibiting the facts and establishing his innocence? Undoubtedly if the party accused was always guilty, and certain to be convicted, the new law must be regarded as mitigating the offense; but assuming every man to be innocent until he is proved to be guilty, could such a law be looked upon as 'mollifying the rigor' of the prior law or as favorable to the accused, when its mollifying circumstance is more than counterbalanced by others of a contrary character?"—In Strong *vs.* State, the plaintiff in error was indicted and convicted of perjury, which act at the time of its commission was punished by the infliction of not exceeding one hundred stripes. Before the trial the punishment was changed to imprisonment in the penitentiary not exceeding seven years. The court held this amendment "not to be in the nature of *ex post facto* law, as applied to the case, as it did not punish that which was innocent when done, or add to the punishment of that which was criminal, or increase the malignity of a crime, or retrench the rules of evidence so as to make convictions more easy" (1 Blackf., 193.)—With respect to the character of punishment inflicted, in the case of Herber *vs.* State, 7 Texas, 69, the court held that "among all nations of civilized man from the earliest ages the infliction of stripes has been considered more degrading than death itself." On the contrary, in South Carolina, (State *vs.* Williams, 2 Rich., 418), a case of forgery, the penalty being death, was changed before final judgment to fine, whipping and imprisonment, and the new law was applied to the case by the court in passing sentence. It thus seems impossible to establish a rule by which the legal mind will abide in determining the question as to what truly constitutes mitigation of punishment where the character of the penalty is changed. And this arises from the diversity of opinion as to the severity and disgrace of punishments as a class.—With respect to the decision of the court in the case of Hartling *vs.* People, 22 New York, 105, Cooley (329 Const. Lim.) says: "The law providing for the infliction of capital punishment had been so changed as to require the party liable to this penalty to be sentenced to confinement at hard labor in the state prison until the punishment of death should be inflicted; and it further provided that such punishment should not be inflicted under one year, nor until the governor should issue his warrant for the purpose. The act was evidently designed for the benefit of parties convicted, and among other things, to enable advantage to be taken, for their benefit, of any circumstances subsequently coming to light, which might show the injustice of the judgment or throw any more favorable light on the action of the accused. Nevertheless the court held this act imperative as to offenses before committed. In delivering the opinion the court said: 'It would be perfectly competent for the legislature by a general law to remit any separable portion of the prescribed punishment. For instance, if the punishment were fine and imprisonment, a law which should dispense with either the fine or the imprisonment might be lawfully applied to existing offenses; and so the time of imprisonment might be reduced or the number of stripes diminished in cases punishable in that manner. Anything which if applied to an individual sentence would fairly fall within the idea of a remission of a part of the sentence, would not be liable to objection. And any change which should be referable to prison discipline or penal administration as its primary object, might also be made to take effect upon past as well as future offenses, as changes in the manner or kind of employment of convicts sentenced to hard labor, the system of supervision, the means of restraint, or the like. Changes of this sort might operate to increase or mitigate the severity of the punishment of the convict, but would not raise any question under the constitutional provision. The

change wrought by the act in the punishment of existing offenses of murder, does not fall within either of these exceptions. If the governor is vested with the discretion to determine whether the criminal should be executed or remain a perpetual prisoner at hard labor, this would only be equivalent to what he might do under the authority to commute a sentence. The act in question places the convict at the mercy of the governor in office at the expiration of one year from the time of the conviction, and of all his successors during the lifetime of the convict. The sword is indefinitely suspended over his head, ready to fall at any time. * * * It is enough to bring the law within the condemnation of the constitution, that it changes the punishment after the commission of the offense by substituting for the prescribed penalty a different one. * * * The law, moreover, prescribes one year's imprisonment at hard labor in the state prison in addition to the punishment of death. As the convict under the law is exposed to the double infliction, it is, within both the definitions which have been mentioned, an *ex post facto* law. It changes the punishment and inflicts a greater punishment than that which the law annexed to the crime when committed.' This decision is now regarded as the settled law of the state of New York, that a law changing the punishment for offenses committed before its passage, is *ex post facto* and void under the constitution, unless the change consists in the remission of some separable part of the punishment before prescribed, or is referable to prison discipline or penal administration as its primary object." Cooley holds this rule to be sound and sensible, with the single qualification, that the substitution of any other punishment for that of death, must be regarded as a mitigation of the penalty.—With respect to mere modes of procedure, a criminal has no more right to insist that his offense shall be disposed of under the law in force at the time it is charged to have been committed, than a party in a civil action has the right to demand the application of the same rule in a civil case.—The constitution of a state confers upon its legislature the control of legal remedies, and the law-making power exercises that prerogative in adopting and changing legal remedies and penalties for the punishment of crime, according to the demands which appear to arise in the wants and necessities of the public. These changes continuously occur, and therefore all legal proceedings would be thrown in wide confusion if each case should imperatively be conducted in accordance with the rules of practice and before those courts which were in existence when its facts arise. By legislative enactments old courts are abolished and new ones spring into existence. Judicial forms vanish; legal remedies dissolve, while others appear in their stead; new rules of evidence and practice are admitted, and older ones are blotted out; and penalties for crimes committed change frequently in the vast domain of the Union. Nevertheless amid all these changes, under the shield and protection of the national and state constitutions the personal rights of the citizens remain secure, and no act can become a law in fact which dispenses with any of the safeguards with which existing law surrounds the person accused of crime.—Now with regard to *ex post facto* laws, it may be remarked that there have been statutes sustained giving the government additional challenges, (Warren *vs* Commonwealth, 37 Penn. St., 45), and others which empowered the amendment of indictments and applied them to past transactions the same as any similar statute intended merely to improve the remedy, and working no injustice to the defendant, and depriving him of no substantial right. Other than these exceptions the decisions are uniform in upholding the principle that an *ex post facto* law is imperative when relating to a criminal prosecution.—With respect to the principle that a trial can not be had under the law in force at the time it is charged that the crime was committed, when a change has been subsequently made, the court, in State *vs.* Williams, 2 Rich., 418, held that the defendant in any case must be proceeded against and punished under the law in force when the proceeding is had. Commonwealth *vs.* Hall, 97 Mass., 570, held that a law is not unconstitutional which precludes a defendant in a criminal case from taking advantage of variances which do not prejudice him. In the case of Lasure *vs.* State, 19 Ohio N. S., 43, it was held that a law was not unconstitutional which reduces the prisoner's peremptory challenges. Gut *vs.* State, 9 Wall., 35, held the act constitutional which though passed after the commission of the offense, authorizes a change of venue to another county of the judicial district State *vs* Leamand, 47 Me., 426, held the act constitutional which merely modifies, simplifies and reduces the essential allegations in criminal indictments, retaining the charge of a distinct offense. Blair *vs.* Ridgely, 41 Mo., 63, held an act to be constitutional which required an oath of past loyalty of voters.—*Ex post facto* laws are not objectionable, as such, which take into consideration a criminal's past conduct while framing a punishment for future offenses, and graduate the punishment accordingly. The law very frequently provides heavier punishment for a second or third offense than for a first; and in providing such heavier penalties it has been determined as not unreasonable that the previous conviction to be taken into account may have taken place before the law was passed. In all such cases it is not the first offense that is punished, but the one subsequently committed. The statute itself would be void if the offense to be punished had been committed before it had gone into effect, although it may have been committed after its passage.—With respect to providing heavier penalties for subsequent offenses, Bishop on Criminal Law says: "The rule, however, which forbids an increase of the penalty

after the act is performed, does not render void a statute providing a heavier punishment for the second commission of the offense than for the first, though the first took place before its passage, yet when both had occurred before, the consequence is otherwise." JNO. W. CLAMPITT.

EXPULSION. (See PARLIAMENTARY LAW.)

EXTERRITORIALITY. By this word is understood the right which representatives of foreign powers have of living in the countries to which they are accredited under the laws of the nation which they represent. Foreign sovereigns in person, ambassadors, ministers plenipotentiary, in short, all diplomatic persons who represent their sovereign, or the state whose envoys they are near a foreign government, enjoy the privilege of exterritoriality. A sovereign, though he be temporarily on the territory of another power, is nevertheless considered, by a fiction of the modern law of the nations of Europe, to be always on his own territory, and he enjoys all the prerogatives inherent in sovereignty. This privilege does not extend to the princes and princesses of reigning houses. — Exterritoriality is extended to ambassadors, and certain diplomatic agents, because they represent, to a certain extent, the person of the sovereign whose agents they are: they are considered, during the whole time of their mission, as not having left the state whose envoys they are, and as filling their offices outside of the territory of the power to which they are accredited. This fiction extends also to the families of the ambassador and diplomatic agent, to the members of their suite, and even to their *movable* property. —One of the most important prerogatives of exterritoriality is inviolability. It commences the moment the minister puts his foot on the territory of the sovereign to whom he is sent, and makes known his official character. Inviolability brings with it exemption from the jurisdiction of the country in which he resides, and this exemption is founded, not simply on propriety or decorum, but on necessity. Indeed, if ambassadors and diplomatic agents were not protected by the principle of inviolability, their dignity, even their independence, might be compromised; we must not, however, infer impunity from inviolability. "In the practice of nations," says Martens, "in case of crime committed or attempted by a foreign minister, the government generally limits itself to asking his recall; if the danger is urgent, it allows itself to seize the person of the minister till the danger is past; if not, it is satisfied with asking for his recall or removal." According to circumstances, when there is violence, or conspiracy against the safety of the state, the sovereign of the country threatened may take any measure required by the necessity of legitimate defense. —During the exercise of his functions abroad the ambassador or minister does not cease to belong to his country; he preserves his domicile in it as if he were present. —In France, before 1789, the prerogatives of ambassadors and foreign ministers had not been sanctioned by any written law, but were recognized by custom. The constituent assembly in France, by a decree of Dec. 11, 1789, issued in consequence of a demand addressed by the diplomatic corps to the minister of foreign affairs, declared that it desired in no case to attack by its decrees any immunity of ambassadors and foreign ministers. A decree of the convention declared subsequently that all complaints which might be made against foreign ambassadors should be brought to the committee of public safety; at present, complaints of this kind in France must be addressed to the minister of foreign affairs —Certain foreign codes have express provisions on this matter. The code of civil procedure in Bavaria provides that all who enjoy the right of ambassador are exempt from ordinary jurisdiction. The general code of Prussia contains also various regulations on this subject. The civil code of Austria provides that ambassadors, chargés d'affaires and persons in their employ, enjoy all the privileges established by the law of nations and public treaties. According to No. 2, chap. x., of the civil laws of Russia, no judgment can be executed in the residences of ambassadors and diplomatic envoys unless by the agency of these ministers Most of the codes of the other countries of Europe contain similar provisions. — BIBLIOGRAPHY. Bynkershoek, *De foro legatorum*, Lugd. Batav. 1730; Miruss, *Europ. Gesandtschaftsrecht*, 1847; Berner, *Wirkungskreis des Strafges*, 1853, pp. 206, etc.; von Bar, *Das internationale Priv. und Straf R.*; "*das Recht der Exterritorialen*"; Marquardsen, see words *Exterritorialität* in Rotteck's *Staatslexikon* and *Kallenborn* in Bluntschli's *Staatswörterbuch*; Oppenheim, *Handbuch d Konsulate aller Länder*, 1854, chaps xiv. and xv., Jochmus, *Handbuch fur Konsuln*, 1852, pp. 111, etc. RITTIEZ.

EXTRADITION, the delivering up to justice of fugitive criminals by the authorities of one country or state to those of another. The term is modern, for Billot says that it was never used in France in a public act before the decree of Feb. 19, 1791; and Lawrence is unable to find it in the English version of any British treaty or in any law before the extradition act of 1870. The principles on which extradition is based are also of very recent origin. They are not found in the *civil law*, because they do not apply to the transfer of an accused person from one state to another having a common supreme government, and under the Roman empire there was but one supreme ruler, and the authority, whether at the place where the accused was found, or where the crime had been committed, was the same, namely, the paramount authority of the emperor. Nor does the surrender by a country of its citizens, or even of foreigners who have sought a refuge in it, relying on the right of asylum, find a place in the *common law*. In the collection of treaties of

Barbeyrac, which extends from 1496 B. C. to Charlemagne, treaties of surrender are met with, but they relate to political matters as affecting the safety of the state, and involve high treason and sometimes other felonious crimes; but no treaties for the administration of ordinary criminal jurisprudence are mentioned. Persons who were obnoxious, or banished, or outlawed, could be surrendered under these treaties, and even up to a very recent period offenses of a political nature formed the grounds for demanding the surrender of fugitives. Treaties for the surrender of the regicides were entered into by Charles II. with Denmark (1661) and the States General (1662); and as late as 1849 the refusal on the part of Turkey to deliver up to Russia and Austria, Poles and Hungarians who had escaped into the sultan's territory, broke off all diplomatic intercourse between the porte and those nations. At the present day extradition is an instrument of justice, and not only renders punishment of crime more certain by depriving criminals of a right of asylum in a foreign country and under a different government, but indirectly prevents the commission of crime. "The necessity for extradition grows out of the fact that, except in cases specially provided for by treaty, the penal laws of one country can not operate within the jurisdiction of another," and the advantage of such arrangements is the greater and closer are the relations between two countries. Thus the policy of extradition becomes more apparent when applied to contiguous territories, such as Canada and the United States, than when applied to the United States and Turkey. — As applied to the United States, extradition may be examined, 1, as between the different states of the Union, and 2, as between the United States and foreign nations. —Extradition, as provided for in the constitution, is a transaction between separate and independent states, for these states are sovereign within their respective boundaries, save that portion of power which they have granted to the federal government, and are foreign to each other for all but federal purposes (Rhode Island *vs.* Massachusetts, 12 Pet., 657) The constitution says (Art. IV., § 2), "A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime;" and a statute passed by congress in 1793 imposes the duty of surrender upon the executive of the state in which the accused is found, and prescribes the form in which demand shall be made for such fugitive. In the interpretation of the constitutional provision, question has arisen on the exact meaning of the words "treason, felony, or other crime." Some jurists hold that such acts only are meant as were criminal either at common law, or by the common consent of civilized nations, at the time the constitution went into effect; others include only offenses of a serious nature; while still a third view extends its operation so as to include any offense against the laws of the state or territory making the demand; and this last view is supported by the weight of judicial decisions (See citations in Spear, Law of Extrad., p. 267) "Felonies and misdemeanors, offenses by statute and at common law, are alike within the constitutional provision, and the obligation to surrender the fugitive for an act which is made criminal by the law of the demanding state, but which is not criminal in the state upon which the demand is made, is the same as if the alleged act was a crime by the laws of both." (People *vs.* Brady, 56 N. Y. Rep., 182, 187.) Some notable cases arose over the interpretation of this section while slavery was still in existence. Mr. Seward, when governor of New York, against the precedents of the state, refused to surrender persons charged with having stolen slaves, on the ground that the offense charged was not one recognized by common law, by the common consent of civilized nations, or by the laws of the state of New York. Nor has this difficulty passed away with the abolition of slavery; for a large proportion of the cases in which requisition for the surrender of fugitives is made, are cases of statutory offenses, and it is always possible that public opinion in one state may lead to statutes providing for crimes that would not be so regarded in another state. — Should any doubt arise on this matter the practice of the courts differ In some states it has been decided that it should be left to the courts of the state making the demand, and a case is cited in Delaware in which a fugitive was surrendered although the courts declared that the offense was only a civil trespass. (State *vs.* Schlemm, 4 Harrington's Rep., 577.) In New York the courts have passed upon the sufficiency of demands made upon the executive by other states, without regard to the laws of those states. But in either case such proceedings are subject to the final action of the executive, by whom alone surrender can be made — Another mooted question is, whether the executive upon whom demand is made may obey it or refuse to obey it, whether his power is discretionary or imperative. In Kentucky the federal courts have decided that the governor has no discretion in the matter, and this would seem to be the general legal opinion. In one case, however, an exception is presented. If the person demanded is in confinement or under prosecution for a breach of the laws of the state to which he has gone, the state may satisfy the demands of her own laws first. Should the executive, under any other conditions, refuse for any reason to issue a warrant for the arrest of a fugitive, there is no power that can compel him to do it. — The necessary forms to secure the surrender of fugitive criminals are prescribed in the act of 1793. The accused must be indicted in the state in which the crime was committed, or a charge must be brought against him before a magistrate, who, if satisfied that the charge is true, issues a warrant for the arrest of the crimi-

nal. A copy of the indictment or affidavit is forwarded to the executive of the state, and he issues to the executive of the state to which the fugitive has gone, a requisition for his surrender. If the executive upon whom requisition is made is satisfied that the papers are regular and the proof of crime sufficient, he is required to issue a warrant for the arrest and delivery of the accused to the agent of the state making the demand. But this action of the executive is not final, for judicial proceedings may be instituted under a writ of *habeas corpus*, for the purpose of obtaining the discharge of the accused. "The judicial duty to release any person unlawfully arrested, on proper application made for that purpose, is imperative, no matter by what direction or command the arrest was made." The expense attending the surrender of fugitives is borne by the state making the demand. — *International Extradition* If a person has committed a crime and escaped to another country, what is the duty of that country? Should the person be tried by the laws of the country to which he has come, or should he be delivered up to the country whose laws he has broken? The question of the *right* to demand the surrender of a fugitive criminal has never been definitely determined. Grotius considered that a state is bound to make such surrender; but, on the other hand, Lord Coke contended strongly against the exercise of such power. He shows that the feeling both in England and on the continent at the time he wrote his Institutes, was that "all kingdoms were free to fugitives, and that it was the duty of kings to defend every one of the liberties of their own kingdoms, and therefore to protect them." But the greater number of jurists do not consider it as a matter of *right*, but prefer to base it on the ground of comity or convenience, and the universal practice now is to surrender fugitive criminals only where there is some special treaty which demands it between the two nations; and in this country power to make such a surrender is conferred upon the executive only where the United States are bound by treaty, and have a reciprocal right to claim similar surrender from the other power But one exception to this practice has occurred in this country. In 1864, although there was no extradition treaty with Spain, Arguelles, a governor of Cuba, was delivered up to the Spanish minister under authority assumed by Mr. Seward, then secretary of state. — In practice extradition treaties present two difficulties. Among different nations with different environment and temperaments, there will be found very different conceptions as to what constitutes a crime; and what is regarded as a crime under the laws of one country may not be so regarded by the laws of another. Thus, in Mohammedan countries, up to within recent times, to kill a Christian was no crime; and in Spain to distribute the Bible was until recently a capital offense. Owing to this difference in the morals and consequent legislation among nations, it is usual to enumerate in the treaty the crimes for which extradition may be demanded, and as such offenses must be recognized as crimes by the laws of both contracting nations, the enumeration differs somewhat in different treaties. In general it is *mala in se* and not merely *mala prohibita* that are so included, and extradition should apply only to every act which it is the interest of every nation to prevent or punish, and should not be extended to offenses of a local or political character. And while in practice it is customary to follow strictly such an enumeration of crimes as is contained in the treaty, and to limit extradition only to such as are named, it will be seen that some very important questions have arisen over the interpretation of such treaties. The following crimes are mentioned in the treaties between the United States and other nations: arson, assassination, assault with intent to commit murder, burglary, circulation or fabrication of counterfeit moneys, counterfeiting public bonds, stamps, marks of state and administrative authority, etc., embezzlement of the public money, embezzlement by public officers, embezzlement by persons hired or salaried, utterances of forged paper, forgery, infanticide, kidnapping, larceny of cattle or other goods and chattels of the value of twenty-five dollars (found only in the treaty with Mexico), mutiny, murder, mutilation, parricide, piracy, poisoning, rape and robbery. To this list the treaty with Peru adds bigamy, fraudulent bankruptcy, fraudulent barratry, and severe injuries intentionally caused on railroads, to telegraph lines, or to persons by means of explosions of mines or steam boilers.—A second practical difficulty is, that the extraditing power is open to abuse, and an accused person may be wanted to answer, not for a real crime, which might be made the pretext for his surrender, but for another offense, such as one of a political nature, which the laws of the country on which demand is made may not recognize as a crime. It is a generally recognized principle among civilized nations that there can be no extradition for a political crime, though very few treaties contain an express prohibition of such a surrender. And as opinions differ in different countries on what constitutes a political crime, the surrendering nation is very properly made the judge of this question. Of the extradition treaties entered into by the United States, nineteen guard by express provision against their application to political crimes, five are silent on the matter, and one, that with the Two Sicilies, provides that "it shall not apply to offenses of a political character, unless the political offender shall also have been guilty of one of the crimes enumerated in Art. 22;" a very remarkable provision, and, says Mr. Lawrence, one the existence of which with such a state as the Two Sicilies was at that time (1855), is a sufficient condemnation of the whole system of extradition. If, then, extradition may not be had for a political offense, it would stand to reason that to prevent any abuse of the extraditing power, the accused person can be tried only on the charge on which

he was surrendered, and on no other. To suppose that he can be tried for any other crime than that for which he was extradited, is to render nugatory all the provisions which confine the treaty, by naming them, to specified offenses; for under any other interpretation one government could claim a prisoner of another, for an extradition crime, and having once obtained possession of him, might try him for an offense of a political nature, for which he could not have been in the first instance extradited. It has been clearly recognized in France that any such proceedings would render extradition an instrument of injustice, and would make it operate against the general law of nations, which does not place political offenses in the category of crimes. And since 1830, a Frenchman guilty of an ordinary crime and also of a political offense, and surrendered by a foreign power, can be tried only for the ordinary crime. But if, after a reasonable length of time after acquittal, or the expiration of the penalty, he is found in the territory, he may then be brought to answer for the political offense. "As acts of extradition are not only personal to the individual who is surrendered, but state besides the fact which gives occasion to the extradition, the individual who is surrendered can be tried only on this fact. If, while the examination for the crime for which the surrender is asked is going on, proofs of a new crime for which extradition might equally be accorded appear, it is necessary that a new demand should be made." Billot, in his *Traité de l'Extradition*, the best work on the subject, says of this principle: "Here is a rule established as firmly as possible. It is incontestable that the tribunals can try the accused only on the facts for which the extradition has been accorded. This rule is an immediate corollary from the principle, which imposes on the judiciary power an obligation to apply the treaties of extradition—a principle which itself is a direct consequence of the higher principle of the separation of powers. The rule and the principle belong to the very organization of political societies, and must have precedence over every internal law. It is, besides, a necessary condition of the very principle of extradition. Moreover this rule and this principle have always been observed in France." (P. 308) In no American treaty, however, is it expressly provided that the extradited individual shall not be tried for any offense other than that on which he was extradited. This omission may be due to the fact that it was supposed to be covered by the law of nations, or the dictates of common sense; or, as Mr. Lawrence suggests, because a cession of one privilege does not carry with it universal jurisdiction, nor require that such jurisdiction be expressly negatived as to everything else. But in some treaties, as we have seen, political crimes are excluded, while others declare that the accused shall not be held to answer for acts committed anterior to that for which extradition has been granted, and these provisions act as an indirect check to any abuse under the treaties. It may be added that the principle that an extradited criminal can be tried only for the crime for which he is surrendered, has been generally recognized among the states, and there have occurred cases in which the executive of a state has refused such surrender, on the ground that the crime charged was only a pretext to obtain possession of the accused, who would really be held to answer for another offense not covered by the general rules governing the surrender of fugitives. The English act of extradition (1870) has an article to the same effect.—In case any complications arise under extradition treaties there can be no question as to what authority is to decide. The federal government alone is the judge of the validity of an extradition treaty, for no state has any treaty power, or any authority to enact or execute laws for the delivery of fugitive criminals to foreign governments. Treaties are international arrangements, and are subject to diplomatic or political and not judicial interpretation; and the provisions in the constitution which declare that treaties have the force of law, and which bring them within judicial cognizance, can only apply to their internal operation and can not affect foreign powers. Congress is, however, competent to make from time to time new provisions for the execution of a treaty, (acts of June 30, 1860, March 3, 1869, and June 19, 1876), and both the United States and Great Britain have been in the habit of passing laws to carry international compacts into effect; but no act of congress or of parliament could with impunity alter the terms or conditions of a treaty that had been entered into in good faith by two sovereign states. Only so far as it operates as a municipal law can it be so altered, or even repealed, as in 1798 our treaties with France were abrogated by congress. Still, the judicial function in executing the conditions of an extradition treaty are important, and act as a check upon the executive department of the government. The executive can not make a delivery until the proper magistrate has considered and acted upon the case, and over these judicial functions the president has no control. On the other hand, the judiciary can not surrender the accused, for that lies within the power of the president alone. Nor can the judiciary bind the action of the president by its judgment. In the famous Vogt case, the president disregarded the decision of the courts, and refused to surrender the prisoner; and his refusal was based upon a construction of the treaty showing that the extent to which extradition treaties apply is a question to be settled by the political department of the government. (12 Blatchford's C. C. Rep., 516.) The judge acts only for individual protection, while the executive passes judgment on the international obligation.—Some other points of interest must be passed over. Such are the surrender by a nation of its own citizens; what subsequent legislation is required to make effective an extradition treaty that is not self-executing; the surrender of

fugitives already convicted of crime, etc. The means of executing extradition, as prescribed by the act of 1848, require a brief notice. Application for arrest may be made before any of the justices of the supreme court, judges of the district courts of the United States, the judges of the several state courts, and the commissioners authorized to act by any of the courts of the United States. Testimony is taken before such judge or commissioner, and, if sufficient, a certified copy is sent to the secretary of state, so that a warrant may issue on the requisition of the proper authorities of the foreign government according to the stipulations of the treaty. But this evidence, to be sufficient, must be such as, according to the laws of the place where the fugitive is found, would have justified his apprehension and commitment had the offense been committed there. — *History.* There are traces of extradition measures among the colonial governments (Winthrop's Hist. of Mass., II., 121, 126), and an extradition article was embodied in the articles of confederation, but the law of 1798 finally provided for inter state extradition, and placed the responsibility of executing it upon the executives of the states. In 1792 Mr. Jefferson, in drawing up a project to regulate the relations between the United States and the adjoining English and Spanish possessions, limited extradition to cases of murder only. This project was, however, never carried out, and two years later, in 1794, by the Jay treaty contracted between the United States and Great Britain, persons charged with murder or forgery, at that time capital crimes, might be extradited. (Art. XXVII.) But this article, besides being limited to twelve years, so as to expire in 1806, was not self-executing, and required an act of congress to be effective — which was never passed. But one case arose under that treaty, that of Jonathan Robbins, *alias* Nash, who was in 1799 delivered up to the English on a charge of murder, on a requisition issued by the president while the judicial proceedings were in progress (Wharton's State Trials, pp. 392–457.) The justice of such a surrender has never been conceded. But apart from some treaties providing for the surrender of deserters from foreign vessels in our ports, the United States was a party to no extradition treaty previous to that with Great Britain in 1843. In this treaty the United States and Great Britain, for the furtherance of justice and the repression of crime, agreed mutually to deliver up to each other, on proper demand and evidence, persons charged with murder or attempt to murder, piracy, arson, robbery, or forgery, committed within the jurisdiction of either, and who, having sought an asylum, may be found within the territory of the other. From 1842 to 1875 the administration of this treaty between the two countries worked smoothly. In 1874–5 it was ascertained, however, that one Lawrence, by himself and others—one of the others having been a United States official, occupying a most responsible position—had been engaged in smuggling silks on a large scale (tempted thereto, undoubtedly, by the enormous duty imposed on the importation of such merchandise); and apprehending detection and punishment, had fled the country and taken refuge in Great Britain. A deep interest was taken in this matter by certain revenue officials of the government, who had previously and disreputably been connected with certain cases of alleged violation of the revenue laws of the country, and which, under certain provisions of the so-called "moiety laws" passed in 1863 and 1867, had brought to them in the form of shares of fines and forfeitures, very considerable profits. With appetites whetted, therefore, by what they had already received, and with the expectation that, as the case developed, a sufficient number of merchant importers worth plundering would be found implicated, extraordinary efforts were instituted to arrest and convict the alleged offenders. The first steps in the furtherance of these objects were to arrest Lawrence as principal and to indict the merchants supposed to be implicated. The latter was easy, and indictments were found against some of the largest and most respectable New York merchants; but the arrest of the principal, who had fled to England, was not so easy; inasmuch as smuggling was not mentioned in the extradition treaty between Great Britain and the United States as an extraditable offense; and furthermore, as a violation of American law, it is not an offense at common law or by statute in any other or foreign country. His extradition was therefore demanded on the charge of forgery—forgery of a custom house bond and affidavit—although, as was afterward proved in court, there was no forgery, in the usual sense of the term, actually committed, the names signed being the names of purely fictitious persons. Nevertheless the pretense fully served the purpose, and Lawrence was delivered up by the British officials, who clearly had not a suspicion that anything other than forgery was involved in the demand for extradition. The whole proceeding was, however, in the nature of a trick, and as such was mean and dishonorable; for it was not forgery for which Lawrence was wanted, or for which there was originally any intent of punishing him, but for smuggling, for which he would not have been extradited by any country. Accordingly, the moment that Lawrence came into the custody of the United States authorities at New York, the United States district attorney in that city, dropping any further pretense about forgery, proposed to put him at once on trial for smuggling; or, more correctly, to proceed against him in a civil action for the recovery of $1,386,400, alleged to be unpaid duties on goods imported. Up to this point, and for months subsequent, the proceedings in reference to this extradited person do not seem to have been made the occasion of any diplomatic consideration; but on May 21, 1875, the president of the United States ordered a reference of the case to the solicitor general for

examination, and, pending his report, a stay of all proceedings "except upon the charges" (*i. e.*, forgery) "upon which the said Lawrence was extradited," was ordered. On the 16th of June following, the solicitor general submitted a report to the effect that there was nothing in the extradition treaty of 1842 which inhibited the United States from proceeding against Lawrence for offenses other than for what he had been demanded and surrendered.—The next step in these proceedings was the arraignment of Lawrence by the United States district attorney of New York, before the United States circuit court, on charges of forgery, not specified in the extradition papers, and also in effect for smuggling The counsel of Lawrence made answer for him substantially that he was not legally before the court for any such offense, inasmuch as he was not arraigned for the offense for which he had been extradited, and that an extradited offender could not be tried for an offense other than the one for which he was surrendered The court (Benedict), however, ruled, that this question was not before it; and that it had already been made the subject of an adverse decision; and that even if such a decision had not been made, the court was not precluded from trying Lawrence for any offenses preferred by proper officers against him. "An offender," it said, "can acquire no rights by defrauding justice." "No rights accrue to the offender by flight; he remains at all times and everywhere liable to answer to the law, provided he comes within the reach of its arm."—There is also another incident worth noticing in this connection. In the account of the decision transmitted by cable to the London press by the New York news agents, the court, referring to the question of its right to try Lawrence for an offense other than that for which he was extradited, is reported as saying: "The court can not regard the order of the president to the contrary, or take notice of any agreement between the English and American governments to that effect;" and this language Lord Derby, in his dispatch of April 11, 1876, quotes, as if he regarded it as authoritative. In the extradition papers pertaining to this matter, subsequently transmitted by the executive to the house of representatives, extracts only were given from the decision of Judge Benedict, and therefore the public had not the opportunity of judging whether the language above referred to and which the British government evidently accepted, was or was not used, as reported. The circumstance, however, that the state department did not transmit to congress the entire document is somewhat suggestive, and naturally prompts to an inquiry whether the then secretary of state (Mr. Fish) did not regard the publication of certain portions of Judge Benedict's opinion as a matter of doubtful expediency, and not calculated to strengthen the position of the Washington cabinet either before the country or the British government.—The case here rested for nearly a year, when the United States demanded the extradition from Great Britain of one Ezra D. Winslow, a fugitive from the United States, charged with extensive forgeries and the utterance of forged paper. In answer to this demand, Lord Derby, then the British foreign secretary, in turn asked of the United States a simple guarantee, as a prerequisite to a surrender of the fugitive, that he should not, when surrendered, be tried for any offense other than the one specified in the extradition request, and for which extradition was granted; at the same time taking occasion to point out that he was restrained from making the surrender except under such conditions, in virtue of an act of parliament passed August, 1870, of which the following is the substance. "A fugitive criminal shall not be surrendered to a foreign state, unless provision is made by the law of that state, or by arrangement, that the fugitive criminal, until he has been restored, or had an opportunity of returning to her majesty's dominions, shall not be detained or tried in that foreign state for any offense committed prior to his surrender, other than the extradition crime proved by the facts on which the surrender is grounded." To this answer of Lord Derby to the American demand for the extradition of Winslow, the American secretary of state replied, that there was nothing in the original treaty which precluded the United States from trying a criminal once surrendered "for any offense other than the particular offense for which he was extradited;" but that, on the contrary, the right to do so under the treaty was fully sustained "by judicial decisions, by the practice of both governments, and by the understanding of persons most familiar with proceedings in such cases;" and finally, that Great Britain, by the act of 1870, had changed the spirit and terms of the original treaty of 1842, and without the assent of the United States had attached to it new conditions. The right to thus modify the treaty, he added, the president can not recognize.—Although much correspondence on this subject subsequently passed between the two governments (see message of the president of the United States, June 10, 1876, Ex. Doc. No. 173, 1st session 44th congress), no further progress was made; neither party receding from its position. Winslow was not delivered up by the British government, and escaped prosecution, and Lawrence, after having been released on bail, was never again arraigned for prosecution. But as fugitives from justice from the United States have since been delivered up to the latter by Great Britain, and as the British law of extradition stipulates that a criminal surrendered on demand of a foreign state shall not be tried for any other than the extradition crime proved by the facts on which the surrender is granted, the inference is that the claims made by the United States in 1875–6 growing out of the Lawrence case, have been quietly abandoned as untenable.—The following are the extradition treaties and stipulations entered into by the United States and

in force in 1879: Great Britain, Aug. 9, 1842; France, Nov 9, 1843, with a supplementary article Feb. 24, 1845, and another article, Feb. 10, 1858; Hawaiian islands, Dec. 20, 1849; Swiss confederation, Nov. 25, 1850; Prussia and other states, June 16, 1852; Bremen, Sept. 6, 1853; Bavaria, Sept. 12, 1853; Wurtemberg, Oct. 13, 1853; Mecklenburg-Schwerin, Nov. 26, 1853; Mecklenburg-Strelitz, Dec. 2, 1853; Oldenburg, Dec. 30, 1853; Schaumburg Lippe, June 7, 1854; Hanover, Jan. 18, 1855; Two Sicilies, Oct. 1, 1855, Austria, July 3, 1856; Baden, Jan. 30, 1857; Sweden and Norway, March 21, 1860; Venezuela, Aug. 27, 1860; Mexico, Dec. 11, 1861; Hayti, Nov. 3, 1864; Dominican republic, Feb. 8, 1867; Italy, March 23, 1868, with an additional article, Jan. 21, 1869; Nicaragua, June 25, 1870; Orange Free States, Dec. 22, 1871; and Ecuador, June 28, 1872. In addition there are extradition stipulations with the republic of Salvador, May 23, 1870; Peru, Sept. 12, 1870; Belgium, March 19, 1874; Ottoman empire, Aug. 11, 1874; and Spain, Jan. 5, 1877. — *English Extradition.* In England extradition is regulated by treaties which are made by an order in council under the extradition act of 1870. The chief provisions of this act are: 1. That a fugitive criminal shall not be surrendered for a political offense, or if he prove that his surrender has in fact been required with a view of trying him for a political offense; 2. Provision must be made that a surrendered criminal shall not be tried for any but the extradition crime, 3. Criminals accused or convicted of offenses in England shall not be surrendered in extradition until they are discharged; 4. There must be an interval of fifteen days between the committal to prison and the surrender. — AUTHORITIES Spear, *Law of Extradition*, treats mainly of the American law on the subject; Clarke, *Law of Extradition* is English; Billot, *Traité de l'Extradition*, *Fiore, L'Extradizione*. See Lawrence's *Wheaton*, and his letters in the Albany Law Journal, 1878. A parliamentary committee made a report on extradition in 1879.

DAVID A. WELLS, and
WORTHINGTON C. FORD.

F

FACTION. This word has, unfortunately, formed a part of the political vocabulary in every period of history. Taken in its most rigorous sense it is merely a synonym of *party*, and reminds us of the groups of competitors who, in the games of the Roman circus, arrayed themselves in different colors and contended with one another for the prize in running, or in trials of strength. But the word also calls to mind the great parties which have agitated political society ever since its foundation. — At Rome people adopted the color of the victor in the circus; in the combats of public life they soon adopt the passions of the hardiest combatant. And just as the games had their streamers, so also personal ambitions have their standards. It was thus that the first faction was formed under the leadership of Cæsar, which, overcoming its weakness in point of numbers by the boldness of its enterprises, soon became the powerful party which was one day to overrun and rule the empire. — In the present condition of society can factions, properly so called, be formed? We would like to believe they could not: something extremely odious attaches to-day to the secret machinations which disturb the common peace, and place in power a minority of energetic men whose boldness surpasses their intelligence and knowledge. Public opinion may still perhaps excuse, in history, the bold attempts of the duke de Guise and of Cardinal de Retz; it can make allowance for circumstances in the conflicts of the past, when the leaders of the minority prepared the way for the formation of their parties by a hazardous *coup de main*. But they now highly disapprove of this substitution of force for reason, of violence for persuasion, even in extreme cases. — Such, then, is a faction in its generally accepted sense; it is in politics what pirates are to seafaring men. It has been correctly enough defined grammatically as "an opposing league made up of conspirators"; while of parties, on the contrary, we may say that they are groups whose members seek, by the diffusion of their ideas and the success of their doctrines, a triumph which factions demand through their personal audacity or the terror of their victims. In a word, real statesmen are the leaders of parties; factions are made up only of conspirators. In our time this word ought to be expunged, and together with it the idea which it represents. No matter how imperfect our political education may be, and no matter how divided society may appear to be, enduring success, now as in the past, can be achieved only by men of thought. When by reason of the character and temperament of the people of any country authority seems more or less exposed to the attacks of impatient minorities, the victories obtained by factions are always ephemeral. The reaction will be as sudden as the triumph; and opinion, which has too often and too quickly honored these *coups de main* with the name of "revolution," will inflict upon their authors the penalty of general reprobation. — A word about "sovereign factions." Power itself may possess the allurements and weaknesses of ambitious minorities. If it feel its strength diminishing, it endeavors with all its powers to

affect what by a license of speech has been called a *coup d'état* — But factious revolutions of either kind should be tolerated, approved or allowed to bear fruit no longer, neither because of the prestige which power gives, nor because of the popularity which courage and talent enjoy.

ERNEST DRÉOLLE

FACTORY LAWS. The doctrine so long current in political economy and expressed in the motto, *laissez faire, laissez passer*, has been thoroughly exploded by the logic of circumstances. No better proof of this could be desired than the factory laws of modern industrial nations, laws which have been of late warmly defended by economists of every school. The reaction begun by Adam Smith against the paternal theory and practice of contemporary governments resulted in an illogical and untenable theory of the state and its functions. "Free competition" was the panacea for all economical ills of society. Every one was to be free to sell his own labor and that of his family where he could obtain most for it, and free to make such contracts as he would or could. As England was the first great industrial state of modern times, so in England the results of such a policy first showed themselves in all their nakedness. The most merciless exploitation of the weaker elements of society by the stronger became the rule. The manufacturers, in their thirst for wealth, paid as little attention to the health of their operatives as they chose. The laborers, in their necessity, were compelled to accept what terms were offered The labor of the father soon became insufficient to support the family. The mother had to go into the coal mine or factory. It was not enough; the children were sent into the mines and factories. They were compelled to work ten or fifteen hours a day for seven days in the week, in narrow, illy ventilated and dirty factory rooms or in still more unhealthful mines. The result of such work was, of course, the moral and physical deterioration of the children and a steady degeneration of the laborers from decade to decade. The conditions prevailing in Great Britain during the latter part of the last century and the early part of the present century would be entirely incredible were they not well attested by the testimony of unimpeachable witnesses. So crying did the evil become that in 1802 an act was passed "for the preservation of the health and morals of apprentices and others employed in cotton and other mills, and cotton and other factories." This bill owed its passage to the ravages of epidemic diseases in the factory districts of Manchester. The illy fed and over-worked children in the factories formed the very best field for the development and spread of epidemic and contagious diseases. Pauper children were sent in crowds from the agricultural districts of the southern counties to the manufacturing regions of the northern counties. They were apprenticed to the mill owners and mercilessly over-worked and under-fed. The act mentioned subjected all mills employing three or more apprentices or twenty other persons to its provisions. The walls were to be whitewashed, windows enough were to be provided, and the apprentices were always to have two suits of clothing, one to be new each year. Twelve hours were declared to be a day's work, and work was altogether prohibited from 9 P M. to 6 A. M. These provisions applied only to apprentices, and not to the work of children residing in the neighborhood of the factories. In 1819 children before the age of nine were excluded from the cotton mills, and those from nine to sixteen were not to be employed more than twelve hours a day. In 1825 a bill was passed providing for a partial holiday on Saturday. In 1831 night work in the cotton factories was prohibited for persons between nine and twenty-one years of age; the working day for persons under eighteen was to be twelve hours, and on Saturday nine In 1833 these provisions were extended to various other kinds of factories. These acts diminished the number of children employed in factories very materially In 1835 (before the factory acts went into full operation) there were 56,455 children employed in 3,164 factories; in 1838, 29,283 were employed in 4,217 factories, *i. e.*, from an average of over seventeen per factory to less than seven. The movement did not stop here. A mining act was passed which prohibited underground work to children under ten, and to women. In 1844 a new act was passed, providing that children between eight and thirteen should not be employed in textile industries for more than six and a half hours per day. In 1847 ten hours was declared a working day for women and "young persons," *i. e.*, persons between thirteen and eighteen, and they were allowed to work only between 6 A. M. and 6 P M., one hour and a half to be allowed for meal time. No protected person was to work on Saturday after 2 P. M. Subsequent laws extended these provisions, with some modifications, to nearly every branch of manufacturing industry. In 1874 the minimum age of children was raised to ten years. — In 1878 a consolidating act was passed, which included in one bill the substance of all previous laws. We can not illustrate the present state of the subject in any better way than by giving this bill in outline. Part I. contains the general law relating to factories and workshops, under the following heads: 1, Sanitary provisions; 2, Safety; 3, Employment and meal hours; 4, Holidays; 5, Education; 6, Certificates of fitness for employment, 7, Accidents. 1. Under the first head, the buildings must be kept in a clean state, and free from effluvia arising from any drain, privy or other nuisance. 2. The second contains provisions for the fencing of dangerous machinery, and restrictions on the employment of children and young persons in cleaning, etc., machinery in motion. 3. A child, young person or woman shall not be employed except during the period of employment fixed as

follows: 1st. In textile factories. For young persons and women the period shall be from 6 A. M. to 6 P. M or 7 A. M. to 7 P. M.: on Saturdays, from 6 A. M. till 1 P M. for manufacturing processes, and 1.30 for all employment, if one hour is allowed for meals; otherwise at 12.30 and 1. Or if the work begins at 7 A. M., it shall end on Saturdays at 1 30 and 2 P. M. respectively. For meal times two hours at least on week days, and on Saturdays half an hour, must be allowed. Continuous employment without a meal time of at least half an hour not to exceed four and a half hours. For children: employment to be for half time only (in morning or afternoon sets, or alternate days). The work day is the same as above A child must not be employed for two successive periods of seven days in the same set, whether morning or afternoon, nor on two successive Saturdays, nor on Saturday in any week if he has already on one day been employed more than five and a half hours. Nor shall a child be employed on two successive days, nor on the same day in two successive weeks. 2d. In non-textile factories. For young persons and women: period of employment same as before, ending at 2 P. M. on Saturdays; meal times not less than an hour and a half, and on Saturdays half an hour; continuous employment without a meal not to exceed five hours. These regulations also apply to young persons in workshops. For children: half-time arrangements generally the same as before; continuous employment without a meal not to exceed five hours. Women in workshops are subject to the same regulations as young persons, if young persons or children are employed; if not, the period of employment for a woman in a workshop shall be from 6 A. M. to 9 P. M. (on Saturday, 4 P. M). Absent time for meals, etc., must be allowed to the extent of four and a half hours (on Saturdays two and a half hours). The employment of young persons or children at home, when the work is the same as in a factory or workshop, but no machine power is used, is also regulated, the day being fixed at 6 A. M. to 9 P. M.; for children, 6 A. M. to 1 P. M.; or 1 P. M. to 8 P. M. Meal times in factories or workshops must be simultaneous, and employment during such meal times is forbidden. The occupier of a factory or workshop must issue a notice of the times of employment, etc. No children under ten shall be employed. 4. The following holidays shall be allowed to all protected persons: Christmas day, Good Friday (or the next public holiday), and eight half-holidays, two of which may be commuted for one entire holiday. 5. Occupiers must obtain a weekly certificate of school attendance for every child in their employment 6. Medical certificates of fitness for employment are required in the case of children and young persons under sixteen. When a child becomes a young person a fresh certificate is necessary. 7. Notice of accidents causing loss of life or bodily injury must be sent to the inspector and certifying surgeon of the district.—Part II. contains special provisions for particular classes of factories and workshops, such as bake houses, print works, bleaching and dyeing works. The third schedule to the act contains a list of special exceptions too numerous to be given in detail.—Part III. provides for the administration of the law. Two classes of officers are to be appointed by the secretary of state, viz.: 1, inspectors, charged with the duty of inspecting and examining factories and workshops at all reasonable times, and of exercising such other powers as may be necessary to the carrying out of the act; and 2, certifying surgeons, to grant certificates of fitness under the act. Numerous other sections relate to penalties and legal proceedings.—Part IV. defines the principal terms used in the act. "Child" means a person under fourteen years of age, a "young person" is between fourteen and eighteen; a "woman" means a woman over eighteen. Other sections apply the act to Scotland and Ireland, with a temporary saving for the employment of children under ten and children over thirteen (lawfully employed at the time of the passage of the act). Previous enactments are repealed —It will be seen that the government has taken under its protection the whole class of women, children and youth employed in manufacturing industries England has not progressed very far in protecting male laborers over twenty-one years of age, although the general provisions relating to the situation, cleaning, ventilation, etc., of factories, and the legal definition of a day's labor, should be considered as the first steps in such a policy. The liberty of combination allowed the laborers is also to be regarded as a negative protection at least.—Other countries have followed the example of England in protecting the interests of wage laborers. Switzerland, Germany, Austria-Hungary, Spain, Sweden, Norway, Denmark, and several states of the American Union, have more or less developed systems of factory laws. The federal law of Switzerland provides that children under fifteen years of age shall not be employed in factories, and those under seventeen shall not be so employed as to hinder their school and religious instruction. Sunday and night labor is forbidden to persons under eighteen years of age. Pennsylvania fixes the legal day's labor at eight hours in the absence of a special contract, and prohibits the employment of children under thirteen years of age in factories. Minors between the ages of thirteen and sixteen shall not be employed in factories for more than nine months in any one year, nor shall any minors between said ages be employed who have not attended school for at least three consecutive months within the same year. Operatives under twenty-one years of age shall not be employed for more than sixty hours in any one week. Detailed provisions are also contained in the law as to the means of safety to be provided in all branches of industry where they are needed. Massachusetts prohibits the employment of children under ten years of age in manufacturing,

mechanical or mercantile establishments. No child under fourteen years of age shall be so employed, except during the vacations of the public schools, unless during the year next preceding such employment he has for at least twenty weeks attended some public or private day school under teachers approved according to law, nor shall such employment continue, unless such child in each and every year attends school for twenty weeks, which time may be divided into two terms of ten consecutive weeks each. Nor shall any child under fourteen years of age who can not read and write be employed in such establishments while the public schools of the town are in session. Minors under eighteen and women may not be employed in factories for more than ten hours per day, nor sixty hours per week. A law, approved April 12, 1882, provides that every person or corporation employing females in any manufacturing, mechanical or mercantile establishment shall provide suitable seats for the use of the females so employed, and shall permit the use of such seats by them when they are not necessarily engaged in the active duties for which they are employed. The provisions in reference to ventilation, cleaning, etc., of factories are similar to those in the English law. It will be seen that Massachusetts has gone farther than any other commonwealth in the classes of protected persons. In addition to factories, mercantile and mechanical establishments are included in the law. Other states allow also many more exceptions than Massachusetts does.—It is evident from the preceding sketch that the meaning of the term "factory legislation" can not be ascertained by a mere putting together of the meanings of the two words which compose it, but can be understood only by a study of its history (Cohn.) The origin and development of factory legislation point to a limited field which is very far from being coincident with legislation concerning factories. This limited field has in general as its object the protection of wage laborers from those injurious influences which they can not themselves ward off, and, in a narrower sense, from those agencies which most deeply affect the existence of the laborer, especially the protection of those persons who stand most in need of protection, particularly of children; and finally, protection in those branches of industry in which such influences have revealed themselves in the most palpable way. It is characteristic of the empirical course of such legislation that, where it was anything more than a mere pretense, it began in the narrowest sense of the term and approached its logical consequences only after the lapse of generations. Out of the protection of apprentices in cotton factories grew the protection of all children in those factories; out of this grew their protection in other kinds of factories, and out of this last their protection in all mercantile and mechanical establishments as well. (Mass.) The protection of children developed into a protection for women and even for adult men. Protection against the danger of excessive duration of labor developed into a detailed oversight directed not only to the limitation and division of the day, but also to the kind of wages and to provisions against mechanical and chemical dangers of the factories.—The discussion as to the wisdom of such legislation has been long and excited Factory laws have been opposed at every stage as being an unwarranted case of interference with the liberty of the individual. Many pol tical economists have protested that the principles of economics forbid any such interference with the freedom of contract. Manufacturers objected that the cost of manufactured goods would be so increased that they could not compete in foreign markets. The laboring classes themselves were opposed to the movement, maintaining that, so far from raising their standard of life, it tended to lower it. Nor can it be denied that each and all these objections have a certain force. Laws which prescribe the age at which labor may be begun, the duration of labor, the conditions under which labor may be carried on, and compulsory attendance at school, need special justification. They interfere with the liberty of the individual, which seems to be contrary to the course of modern political development. In their endeavor to protect him they limit his power over the very agency by which he becomes independent, viz., his own labor, and so they seem to come in conflict with the principles of a sound economy In their attempt to raise the standard of comfort of the laboring classes they deprive them of certain sources of income, and so their first result is a lowering of the standard of comfort, and they are felt to be oppressive. They interfere, in a word, immediately in the life of the laboring classes, and undertake to counteract by force their tendency to degeneration. And yet they do nothing more than simply apply this force, letting the results take care of themselves. However weighty these arguments are allowed to be, they are overcome by other considerations. In the first place, so far as those provisions relating to the labor of children are concerned, it may be maintained even by those who would limit the functions of the state to the simple one of protection, that such legislation is nothing more than a much needed interference of the state in behalf of the most helpless and oppressed portion of the community. If fathers and mothers become so deadened to every feeling of the obligation of parents to their offspring, as to place their children under such conditions as make their normal development as human beings impossible, if they deprive them of all opportunities for mental, moral and physical education; if they employ them habitually in such branches of industry as lead to their mental, moral and physical deterioration and ruin; surely no more sacred duty rests upon the state than to interfere to protect these children—to protect them not only against their employers, but against their parents as well. The

state, then, may undertake to protect minors from the abuse of their parents or guardians. But the principle which justifies interference to protect one helpless and exploited class, justifies interference to protect all helpless and exploited classes. For a long time women were minors in the eyes of the law, and are in reality so yet in all the great manufacturing centres of the world. Their labor was and is exploited as mercilessly by their husbands and lovers as ever that of children was by their parents. Legislation has interfered to protect them from this abuse, fixing the maximum period of labor within any one day and any one week. Such measures can be justified on essentially the same principles as those in behalf of children. The case of adult men is somewhat different. To those, however, who maintain that factory laws interfere to an unwarrantable extent with the right of contract, and that adult men and women know what is to their interest better than any set of lawgivers, it may be rejoined that it makes no difference how clearly a man knows what is for his interest if circumstances compel him to close with any contract offered him, which is the case of the ordinary laborer in our modern industry. A laborer in search of work, and needing it in order to earn his next meal, is in no position to require his employer to see that the workshop is healthy or safe, or to dictate any other terms on which he will or will not work. The employer is economically the stronger, and he can exploit the laborer at his will. Here is still another case, then, where the simple theory of protection demands the interference of the state. The conditions of modern industry tend constantly to make the laboring class as a whole more dependent and helpless, and every added year of industrial development makes protection of this class more necessary.— Factory legislation may be justified not only as a fair response to a demand for protection on the part of helpless classes of the community, but as an essential movement in the interests of society as a whole. Looked at from this standpoint, we may formulate the object of factory laws somewhat as follows: the establishment or restoration of normal conditions of life for the laboring classes, in opposition to those destructive influences by which modern industry especially, although that by no means alone, has destroyed the unity of family, home and education. (Cohn.) It goes without the saying that in a state of society in which the children from the age of five or six years are sent into the mines and factories from daylight till dark, in which the mothers from the time of delivery work all day and half the night in the same places, in which the fathers either do the same or idle away their time living on the proceeds of the labor of their wives and children—it goes without the saying, we repeat, that in such a society there can be no home life, no care and nurture of children, no education, no morality, no health; in a word, none of the conditions necessary to the development of intelligent citizens and to the welfare of free states. Practical statesmen and philanthropists of two generations ago saw clearly that something must be done to counteract the agencies which were sapping rapidly and surely the foundations of family life, reversing the relations of parent and child, of husband and wife, and reducing whole classes of the population to a condition but little, if any, removed from barbarism. They began the work, and it has made good progress. But it is clear that much remains to be done. The next step to be taken is to prohibit the employment of mothers of young children in the factories. Exactly what legislation on this point is practicable does not appear as yet by any means clear, though that something must be done in this direction, and that right early, no one can doubt who knows anything of the conditions prevailing in the great manufacturing centres of the world. In such cases we interfere with the liberty of the laboring classes against their will in the interests of society as a whole. And their objection that their income is thus abridged and their standard of comfort thus lowered, although undoubtedly true of the immediate results, will probably lose its force in course of time, and even if it does not, it ought not to avail against the interest of the commonwealth as a whole — In answer to the manufacturers who urge that such legislation, by raising the price of labor, makes a country unable to compete in the world market with nations which have no such laws, three points may be made: First, it can not be shown, either in theory or practice, that those nations with the lowest wages are best able to compete in international industry. On the contrary, as America has the highest rate of agricultural wages in the world and is yet able to underbid all the world with her agricultural productions, and as England has the highest rate of wages of all the nations which manufacture largely for foreign countries and yet underbids all her competitors with her manufactures, it would seem that supremacy in the world's market and the highest rate of wages are perfectly compatible. Second, the endeavor of the laborers is now directed toward securing an international factory legislation which will place all nations on the same footing in this respect. The federal legislature of the Swiss republic took the first official step toward securing an international system in 1881. Foreign governments were invited to unite with Switzerland in such an attempt. No decisive result has as yet been attained by this step, but it is significant of the progress of events, and marks a decided advance in this subject. Third, a state has other and nobler ends to follow than the accumulation of mere material wealth. The advance of its citizens in intelligence and happiness, in all that distinguishes civilization from barbarism, is of far more importance than supremacy in the world market. Moderate wealth and happy homes are better than a degraded proletary and ability to under-

bid all competitors in the industrial world.— Whatever one may think of the arguments on either side, it is certain that factory legislation will not rest where it is, but will advance to new fields and new restrictions. The laborers themselves have taken the matter into their own hands, and by their local, national and international combinations are exercising, whether for weal or woe, a marked influence on the legislation of all civilized nations. — LITERATURE. Among the sources of information on this topic we may mention: *Artisans and Machinery*, by P. Gaskell, London, 1836; *Die Lage der arbeitenden Klassen in England*, by Engel, Leipzig, 1848; *Ansichten der Volkswirthschaft aus dem geschicht. Standpunkte*, by Wilhelm Roscher; *Moral and Physical Condition of the Working Classes*, by Dr. Kay, 1832; various *Reports of Commissioners* appointed to inquire into the working of the factory act by the British parliament; various *Reports of English Factory Inspectors;* various *Reports of Children Employment's Commission* to Parliament; yearly *Reports of Statistical Bureaus* of all civilized nations; *Ueber internationale Fabrikgesetzgebung*, by Gustav Cohn, in Conrad's *Jahrbücher für Nationalokonomie*, vol. xxxvii., p. 313, to which reference is made in the body of the above article; *Le travail des femmes au xix. siècle*, by Paul Leroy-Beaulieu, Paris, 1873; *La législation sur le travail des enfants dans les manufactures*, by Tallou-Maurice, Paris, 1875.

E. J. JAMES.

FAIR TRADE. During the remarkable period of industrial and commercial depression and disturbance that prevailed in Europe and the United States from 1873 to 1878–9, the idea became somewhat popular in England that the special economic troubles which Great Britain then experienced, *i. e.*, a diminution of exports and a consequent depression of her manufacturing industries, were due mainly to the *unfair* conditions which characterized British international exchanges; or to the lack of anything like reciprocal fairness and liberality, on the part of foreign nations, in respect to matters of trade and commerce in dealing with Great Britain. Thus, it was affirmed, and without the possibility of contradiction, that while Great Britain permitted the free importation into her own ports of *nearly* all the products of all foreign nations, these same nations at the same time not only imposed heavy and often prohibitory duties on the importation into their territories of the products of British industry, but also, in some instances—as in the case of the beet-root sugar of France—subsidized competition, and even made the underselling of British products in their home market possible by the granting of bounties on exports. It was, therefore, claimed that while the policy of commercial liberality in free trade adopted by Great Britain had been magnanimous, it had proved disastrous, because it was one-sided, and not reciprocated, and that the commercially wise and proper course for Great Britain to take, under such circumstances, was to institute and enforce "fair trade," by applying to each foreign country a tariff of duties which would correspond as nearly as possible to the tariff which such country enforced against its imports of British products. The programme of the so-called "fair traders," so far as it was definitely formulated, appears to have embodied the following as its principal features 1. Raw materials of manufacture to be admitted free. 2. Food to be taxed when coming from foreign countries; to be admitted free when coming from British colonies: this taxation to be maintained for a considerable term, in order to give the colonies time to develop their products. 3. Tea, coffee, fruit, tobacco, wines and spirits to be taxed 10 per cent. higher when coming from foreign countries than from British colonies. 4 Duties to be levied upon the importation into Great Britain of the manufactures of such foreign countries as impose prohibitory or protective duties on British manufactures; such duties to be removed or abated in the case of any nation which might agree to remove or abate its restrictions on British imports.— Nothing, however, resulted from the presentation of these ideas and propositions, except discussion, and this in fact was all that was needed: for discussion soon satisfied the British people generally, that while commercial reciprocity on the part of foreign nations would undoubtedly greatly augment their international exchanges, and while ample warrant and occasion existed for the enactment of such retaliatory tariffs as the "fair traders" proposed, yet such enactments would be far from expedient, and not likely to result in any substantial benefit to British trade, industry or commerce. It was shown, in the *first* place, that a retaliatory commercial policy on the part of Great Britain against foreign nations, would be more likely to induce further retaliation on the part of the latter, rather than greater commercial liberality; as it was the genial warmth of the sun rather than the piercing blasts of the wind that induced the traveler to take off his coat. *Second.* That it would not be easy to draw the line between raw material and manufactures, and that any, even indirect, enhancement of the raw materials of British industries, would work to their detriment. *Third.* That to enhance the cost of food by imposing discriminating duties on food imports, would tend to reduce the size of the loaf to the British workman, and, by increasing the expenses of his living, practically reduce his wages. *Fourth.* That the so-called luxuries, tea, coffee, tobacco, wines and spirits, were already taxed for purposes of revenue in Great Britain to as great a degree as was expedient *Fifth.* That government can not create trade, and can not divert it without diminishing it. "When people talk of its being the duty of the government to find markets for their people, what they mean is, that the government shall deprive

their people of the markets which they find for themselves." One argument put forth by the "fair traders" in support of their policy, which at first sight appeared rather more plausible than most of the others advanced by them, was, that British manufacturers should be in some way compensated for "restricted hours of labor and for exceptional taxation" imposed upon them by home legislation; and that if the legislature choose to place disabilities on particular industries, the country at large should bear the cost, and not the particular industries. To this it was replied, that any such disabilities as cited were not imposed intentionally by the legislature; that the assumption has always been that cheap labor is not necessarily efficient labor; and that any system which tends to the degradation of the working classes, and prevents them from attaining a certain moral, intellectual and physical standard, directly impairs their physical energy. Hence legislation repressive of such systems was, on the whole, beneficial. But if it could be shown that any statute restrictions on labor or any special disabilities really diminish the efficiency of the industries they affect, it should be the object of reformers to address themselves to the legitimate task of obtaining relief from unwise or unjust laws, and not to extend their operation.—But the most efficient of all arguments, preferred against the views of the "fair traders," was the record of the progress of Great Britain since it began to relax and finally abandon the protective system. Thus in 1829, soon after the removals of restrictions on commerce instituted by Mr. Hankinson and Poulett Thomson, the declared value of British and Irish exports was $179,000,000; in 1839 it was $266,000,000; in 1849, just after the repeal of the corn laws, it was $317,000,000; in 1859, the year before the French commercial treaty, it was $652,000,000, in 1869, after nine years of the treaty and before the Franco-German war, it was $949,000,000; and in 1880, $1,115,000,000. It was also shown that during the periods when the liberal commercial policy of Great Britain was claimed to have specially acted to her great disadvantage, or from 1870 to 1880, the per capita consumption of staple articles of food—the best barometer of the condition of the people—had greatly increased: tea, from 3.18 lb. to 4.59; butter, from 4.15 to 7.52; bacon, from 1.98 to 15.96; sugar, from 41.4 to 59; and tobacco, from 1.30 to 1.49 Pauperism and convictions for crime had also during the same period materially decreased, and the deposits in the savings banks materially increased. The theory and plans of the fair traders accordingly made little permanent impression on the British public; the government gave no attention to them; and with the revival of domestic industries and foreign trade, the whole subject has ceased to attract interest in Great Britain, or be regarded as of any practical importance.—Among the more important publications which have appeared in Great Britain on this subject, reference may be made to the following. In favor of fair trade: *A Plea for Limited Protection or Reciprocity*, by Lord Bateman, pamphlet; an article by Richard Wallace, in the *Contemporary Review*, March, 1879; an article by Farrer Ecroyd, in the *Nineteenth Century*, for October, 1880. In opposition to or in refutation of the theory of fair trade reciprocity: *A Letter by Sir Louis Mallet to Mr. Thos. Bayley Potter, of the Cobden Club*, 1879; *Free Trade* versus *Fair Trade*, by T H. Farrer, 1882; and *The Recent Depression of Trade, its causes, and the remedies that have been suggested for it*, by Walter E Smith, Oxford, Cobden prize essay, 1879.

DAVID A. WELLS.

FAITS ACCOMPLIS. These words have become a usual phrase in political language, and require no explanation. By *faits accomplis* are meant questions decided by events, and which are or may or should be considered as ended. There is nothing so indestructible, nothing so immutable, as the past. But when it is said that a thing is a *fait accompli*, it is ordinarily meant that it is of such a character as to be accepted or submitted to, and that the idea is abandoned of doing away with its immediate results, or effacing its most direct consequences. It is believed that the expression began to have this precise sense in practice, after having been employed by Odilon Barrot in a circumstance of considerable importance in the parliamentary history of the French monarchy of 1830. In the session of March 24, 1836, the cabinet formed by Molé, the month before, having announced a policy of conciliation, Barrot said: "I was glad to make note of the words of the new ministry, which invited us to take thought only for the future of the country without wrangling over the past. We have accepted *faits accomplis*, that is to say, that, without renouncing our convictions, without abandoning our political religion, in the presence of a majority whose honor and whose dignity itself were pledged to the measures which have been adopted, we consented not to renew in vain, and at the great risk of endangering the peace of the country, questions for which we could not expect, at present, a solution in accordance with our convictions." These words have become the commentary which on almost any occasion may be given on the doctrine of *faits accomplis*. Since that time the expression has passed into use to describe facts the discussion of which is abandoned, at least temporarily, and concerning which it is considered sufficient to appeal to history or the future. We see that the idea expressed by these two words is analogous in politics to what is known in law as prescription. Both suppose that time, by its influence alone, legalizes certain acts or certain results to such a degree that it may become allowable, wise or prudent to admit them as beyond question, whatever, in other regards, be the judgment which should be passed on them. This is sometimes a con-

cession demanded by necessity, and sometimes a sacrifice made in the interest of the public good. —Is it possible to determine, in a general manner, the cases and conditions in which *the doctrine of faits accomplis* is legitimately applicable? The solution of this question depends on the circumstances. This doctrine is indeed appealed to, according to circumstances, either to sanction obedience to necessity, the surrender of one's claims in the interest of all, or the yielding to force and coming to terms with tyranny. It may serve as an argument to reason or as a pretext to weakness. Like prescription in law it may either support a right or shield its violation. It may be the expression of a clever policy which distinguishes in time the possible from the impossible, or a cowardly egotism which prostrates itself before fortune. Sometimes destined to bring peace to a divided nation, it may authorize it to grant what Tacitus calls *grande potentiæ documentum*. It may in turn be the shame or the salvation of a country.—In times when the frequent recurrence of revolutions tests the energy and faithfulness of men's characters too severely, the doctrine of *faits accomplis* should be held rather in distrust than made an habitual rule of conduct. At these times the power of events is such that acquiescence is more common and more to be feared than resistance. Men are but too ready to accept the irrevocable, and this even when there are no calculations of personal interest; the indifference and scepticism, produced by the frequent destruction of hopes, opinions and systems, induce us only too frequently to accept the despotism of facts, that is to say, the idolatry of success. Therefore it is perhaps from the nature of the sentiments which determine us to bend before facts, rather than from the nature of the facts themselves, that we must judge whether we are right or wrong in submitting to them. Conscience is more capable of distinguishing whether we yield through weakness of heart or mind than is reason to pronounce whether the results of events are finally decisive or not; and it is easier to recognize what is worthier than what is more certain. It is nevertheless true that a proper appreciation of circumstances, no matter how difficult it may be, is necessary in order wisely to apply the doctrine of *faits accomplis* in practice. It can not even be laid down as a principle that the mistakes of the past should never be sanctioned, and that all rights are forever imprescriptible. It is an absolute rule that no injustice should be committed, no right violated. But when the evil is really irreparable, the impossible should not be attempted. There should be no struggle against necessity, when one is intrusted with public interests. The simplest and clearest example is that of war; if victory has pronounced against the right in a just war, it is heroic to resist to the death; but it is not criminal in the conquered to acknowledge his own helplessness, and conclude a peace with the conqueror which will secure the triumph of iniquity. There are circumstances under which the state and the country can not be sacrificed even to right. The last resort of a Brutus and a Cato is no more permitted to nations than to individuals. But civilized nations, devoted to the enjoyments of art and industry, have to guard themselves rather against the inclination to tolerate than the desire to repress injustice. We see, therefore, that the question of the possible and the impossible is always involved in such affairs with the question of right, and that before undertaking to act against injustice itself we must know certainly whether it can be repaired. And still it may be beautiful to ignore this. It is the glory of Poland never to have accepted *faits accomplis*.—Of principles of which certain facts may be the violation, examination will unable us to decide which are really sacred, since they are eternal, and which are not essentially inviolable, since they are conventional, and concerning which compromise may be admitted. Thus the persons called legitimists in France consider that in a monarchy the right of the dynasty is of such a character that it should be exempt from the attack of events and remain unmoved in the midst of revolutions. Nevertheless if the countess of Albany had not died without posterity, would there still be a Jacobite party? Without any doubt, the rights of the Stuarts would be buried in oblivion, and no one would dream of reacting against the event of 1688. The right of dynasties, therefore, is not proof against time. Suppose, on the other hand, that the edict which revoked the edict of Nantes was still in force in France with the legislation consequent on it, no prescription would have been sufficient to shield this attack on the liberty of conscience, and it would be the duty of citizens to force governments to decree the abolition of these laws condemned by an eternal truth. In such a case submission to the *faits accomplis* would be a continual complicity.—When Great Britain, under the influence of a celebrated ministry, abolished the corn laws in 1845 and at the same time effected a great economic revolution, one of its best guarantees against all political revolutions, the cabinet which was the author of these important measures was not able to stand long. Its successors, who followed the same course, soon saw the end of their power; the parliamentary movement restored the enemies of reform to office in 1852. The ministry formed by Lord Derby announced, soon after, the dissolution of parliament. It had not ceased to oppose the recent changes in all commercial legislation, and this question continued to be agitated during the elections. But after the votes of the nation had decided it once more, the reforms being thus definitely sanctioned by public opinion, the ministry and its party submitted; they looked on the reforms as *faits accomplis*, and said no more about them. And while they profited by this, their adversaries had no idea of reproaching them for it. It was reasonable and politic to abandon a cause lost beyond recovery, and which was not one of

those which deserved an eternal protest. — Of all *faits accomplis*, the most important, and those which give rise to the most difficult questions of this century, are the changes of government. Setting aside the merits of a new government, the forms which it receives, and the principles which it professes, it appears that its existence, when the national consent is not refused to it, is a fact forced on good citizens, and that they have not the right to separate themselves from their country and deny what it recognizes. The more frequent the changes of government are, the more the identity and perpetuity of the state and the country become the only objects of civic duty, and alone command an unchanging fidelity. But this doctrine of a government *de facto* which is very similar to that of *faits accomplis*, although justified by the interests of public peace, is not very favorable to the dignity either of nations or of individuals. It aids and encourages too much that readiness to honor the conqueror, to serve the stronger, who hides under the mask of patriotic duty slavish calculations of cupidity or ambition. Hence the evident necessity for those who wish to escape the degrading effects of frequent revolutions, to remind governments that they should bring into esteem the forms and the principles which belong to them. Never have these principles and forms had such need of being present to the mind of an honorable man, as in times which called them in question every moment. Whoever has formed fixed principles, and has identified them with certain constitutional and legal forms, has found that immovable point of support for politics, that *inconcussum quid* which Descartes looked for for philosophy; he will pass judgment on *faits accomplis*, even when he shall feel his powerlessness to modify or oppose them, and in the condemnation of that which he is forced to endure he will save his independence of character and dignity of mind. The firmness of individuals is never of higher value than amidst the instability of institutions. Happy are the nations which are only composed of citizens capable of controlling facts by principles.

CHARLES DE RÉMUSAT.

FAMILY. The state, at its inception, had to do not with individuals only, as the baseless hypothesis of certain philosophers would have us believe, but it found itself in presence of the family, a primitive agglomeration of individuals with its own moral and material unity. Such are the entirely natural limits which are presented to the all-powerful action of politics. If the individual exists of himself, if he has a destiny and duties to fulfill, what social authority can without crime do away with that free and responsible personality, hinder the pursuit of this end, or place obstacles in the way of the accomplishment of these duties? How can it claim to be master of the thoughts, the religion, the labor, the savings of the individual? Are not these things which belong to his own individual domain, which are connected with the human person, and which can not be withdrawn from his control by the state without the most odious of all confiscations? And now if the family is necessary to the preservation and development of the individual, if it takes care of his earliest infancy, protects him and gives him moral nutriment, no less necessary than the support of the body; if it constitutes a sacred whole formed by the wants, the sympathies, even the liberty of those whom it develops, how can policy dream of abolishing the family or offering violence to it? — It is astonishing that a man of genius like Plato, exclusively preoccupied with the unity of the state, could have believed that the abolition of the family would increase the love of country. But he confined to the class of warriors the unnatural régime which abolished the family in his famous ideal republic and replaced it by a gross promiscuousness. By confining the country itself within very narrow limits both as to population and territory, he may, misled by the example of Lacedemonia — an exceptional case and one which was moreover of short duration — have thought, that all the affection of the citizens would be concentrated upon the city. But is this illusion possible for publicists who draw their plans of society in the midst of our vast and powerful agglomerations of individuals, in the midst of modern nations, and for Christian peoples? The more the country extends, the more the love of humanity takes the place of a sensitive and cruel spirit of nationality, the more must this broad sentiment, threatened with extinction or coolness on account of its very extent, be rekindled at the hearth of family affection. Under the kindly action of maternal instruction, under the influence of common joys and sorrows, of participation in happiness and misfortune, is formed the faculty of loving with the greatest tenderness, delicacy and strength; the habit of devotion, inspired by mutual affection and by the power of example; and that idea of solidarity, which, commencing with an attachment to the honor of the family name, rises to an heroic pride in the honor of the common country, and is willing to sacrifice all for it. The sentiment of *fraternity*, which some men have wished to turn against the family in order to extend it to all the members of the human race, acquires a precise meaning and has its origin only in the bosom of the family itself. Is not the quality of father, husband, orphan, mother or widow that which interests and touches us in others, so that we feel disposed to give them real affection and efficient aid? Are not the most accessible avenues to our heart on that side?—Almost all communistic sects have sketched for us a picture charged with the evils which spring from the family. The family, they say, renders one egotistical, selfish, and enervates him who yields to its influence. The family renders one egotistical! It would be more just to recognize that it frees man from his isolated self, and his solitary brutality. Is it not true, that, even in countries of the highest civilization,

which offer the loftiest objects for affection and the noblest employments for the activity of man, bachelors are considered, and too often justly, as forming the most egotistical part of the nation? The family renders one selfish! There is some truth in this allegation, but let us take the trouble to see if it does not rather redound to the credit than to the blame of the family. Is it not better to work for one's own than for one's self or not to work at all? All society derives profit from these increased efforts and this foresight. Is not the capital necessary for its support and development formed and accumulated in this way? Who, with the exception of a few dreamers, can believe that there could be manifested by the individual, for the sake of his country and humanity alone, the virtue which consists in depriving one's self of all enjoyments, in order to save, and the courage to devote one's self with zeal to thankless and obscure labor? The family enervates, it is said; say, rather, that it softens hearts and that it polishes manners. We are thankful that with the sentiments it nourishes there is no danger of seeing again either the first or the last of the Brutuses, or Peter the Great, sacrificing his son to political necessity. Is it very certain that this is so great a misfortune? Doubtless there exist weak men who are enervated by the pleasures of the family more than they are strengthened by its trials; but should the legitimate repose and happiness be condemned, which we, worn out in the struggles of life, seek under the beloved shelter of the domestic roof?—The family is the first germ of society, the first school of the sentiments and of duty. The rare attempts at abolishing the family, which the world has witnessed, have strikingly proved that these attempts, always ephemeral, destined in the mind of their originators to strengthen the social bond, turned against society itself. The absence of the family, pitilessly sacrificed, at Lacedemonia, plunged the citizens into the most shameful vices, destroyed arts and literature, and changed a free city into a sort of military convent. A right no less sacred than individual liberty is the property derived from it through the application of its labor, and as an extension of the faculties which constitute the person. No civilization without guaranteed property. Granted; but no property worthy of that name without the family. What would the family be, if it possessed nothing of its own? Hence it is seldom that these two bases of society are not attacked at the same time. It is because the family, with the institution of property which it necessitates, involves a certain inequality of conditions, that it is blamed and its destruction wished for. It is for this very reason that we praise it in the name of political science, and that we wish to maintain it. Inequalities which are founded upon monopoly and privilege are most frequently harmful. Those which arise from the respect given to the variety of aptitudes, of merits and the free development of the best sentiments of the human heart, are the very life of society.—By protecting the family as well as the individual in its essential rights against the attacks of legislative omnipotence, we do not intend to claim that politics and legislation have no legitimate power over the family. Families have relations with the state, which it belongs to the state to regulate. Thus neither marriage, nor the right of bequeathing property, nor paternal authority itself, is a thing entirely given up to the arbitrary will of individuals. The family has been successively modified and improved. Although this is chiefly due to morals, the action of the law has not been without its effect. Law, governed by a purer morality and the precepts of Christianity, has abolished legal concubinage and punished adultery Law has limited the arbitrary and absolute power of the father of the family, and taken under its protection the life of the child, as it defends its mind against the perverse instruction which, under cloak of the family, might seek to lead it astray and corrupt it. The action of law, purified by religion and by philosophy, has sanctified the rights of woman, her dignity, her equality as a moral person, and protects her against the caprices, the bad treatment or the desertion of her husband. It is the law, finally, which, together with the influence of morals, manners and customs, relegated into the depths of the past the oriental family, with its debasing polygamy; and the Greek family, in which, it is true, the head of the family no longer bought women, and had but one legitimate wife by her own consent and that of her parents, but which permitted a plurality of concubines, and in certain cases authorized the marriage of brother and sister. The law substituted a superior form in place of the Roman family, which made the husband absolute master of the person and property of his wife, gave him the right to condemn her to death, and did not raise the legitimate wife, after she had become a mother, above her own children. The law also greatly modified the feudal family, with its harsh traits and shocking inequalities.—Politics have also had an effect upon the constitution of the family, and it would not be difficult to render this truth even more obvious by the aid of history. Monarchical power was pleased to borrow its most natural and touching symbol from paternal power, and paternal power itself has played the rôle of absolute monarch. Feudal society and the feudal family were made in the image of each other. The more society is subjected to the artificial arrangements of violence and conquest, the more the animating spirit of the family and the laws which govern it assume a hard and pitiless character. The prohibition of marriages between plebeians and the patrician race at Rome, the absolute subordination of woman and the rights of males in the family of the middle ages, and the almost forced inheritance of professions, afford additional proofs to those already given. The efforts of Christianity and of modern times seem to have been directed toward replacing the family upon its most natural bases.

The less politics interferes with the family and the less it believes itself permitted to interfere, the more in general both the nation and the family gain. The principal task of politics is to respect this material and moral condition of the existence and improvement of individuals—the family—and to cause it to be respected. A free nation is composed of free families, and the tyranny of laws introduced into the family only bears witness to the tyranny which reigns in society and the state. HENRI BAUDRILLART.

FAREWELL ADDRESSES (IN U. S. HISTORY). (I.) In 1792, Madison, at Washington's request, furnished him a draft of an address to the American people on his expected retirement in 1799. Having been prevailed upon to accept a second term of office, Washington again took up, in 1796, the idea of a farewell address to the American people. It was dated Sept. 17, 1796, and though containing portions of Madison's former draft, was mainly the work of Hamilton and Washington. Its most important paragraph was its recommendation of abstention from any interference with European affairs, a principle which has since generally characterized the policy of all American statesmen and given most of its success to American diplomacy. It was further extended in 1823 to include abstention by European powers from interference in American affairs. (See MONROE DOCTRINE.) — (II.) At the end of his second term of office, President Jackson issued a farewell address to the American people, dated March 3, 1837. It is a fair summary of the principles on which he had centered the party of which he was the leader. See DEMOCRATIC REPUBLICAN PARTY, IV.) — See (I.) 1 *Statesman's Manual* (ed. 1858), 69; 4 Hildreth's *United States*, 685; 1 Schouler's *United States*, 331; 12 Washington's *Writings*, 382; 2 Marshall's *Life of Washington* (ed. 1831), 396; (II.) 2 *Statesman's Manual* (ed. 1858), 1054; 3 Parton's *Life of Jackson*, 627. A. J.

FARMERS GENERAL. Fermiers généraux was the name given in France under the old monarchy to a company which farmed certain branches of the public revenue, that is to say, contracted with the government to pay into the treasury a fixed yearly sum, taking upon itself the collection of certain taxes as an equivalent. The system of farming the taxes was an old custom of the French monarchy. Under Francis I. the revenue arising from the sale of salt was farmed by private individuals in each town. This was, and is still in France and other countries of Europe, a monopoly of the government. The government reserves to itself the power of providing the people with salt, which it collects in its stores, and sells to the retailers at its own price. This monopoly was first assumed by Philippe de Valois in 1350. Other sources of revenue were likewise farmed by several individuals, most of whom were favorites of the court or of the minister of the day. Sully, the able minister of Henry IV., seeing the dilapidation of the public revenue occasioned by this system, by which, out of one hundred and fifty millions paid by the people, only thirty millions reached the treasury, opened the contracts for farming the taxes to public auction, given them to the highest bidder, according to the ancient Roman practice. By this means he greatly increased the revenue of the state. But the practice of private contracts through favor or bribing was renewed under the following reigns. Colbert, the minister of Louis XIV., called the farmers of the revenue to a severe account, and by an act of power deprived them of their enormous gains. In 1728, under the regency, the various individual leases were united into a ferme générale, which was let to a company, the members of which were henceforth called fermiers généraux. In 1759, Silhouette, minister of Louis XV., quashed the contracts of the farmers general, and levied the taxes by his own agents But the system of contracts revived: for the court, the ministers and favorites were all well disposed to them, as private bargains were made with the farmers general, by which they paid large sums as douceurs. In the time of Necker, the company consisted of forty-four members, who paid a rent of one hundred and eighty-six millions of livres, and Necker calculated their profit at about two millions yearly—no very extraordinary sum, if correct. But independent of this profit there were the expenses of collection, and a host of subalterns to support: the company had its officers and accountants, receivers, collectors, etc., who, having the public force at their disposal, committed numerous acts of injustice toward the people, especially the poorer class, by distraining their goods, selling their chattels, etc. The "gabelle" or sale of salt, among others, was a fruitful source of oppression. Not satisfied with obliging the people to pay for the salt at the price fixed upon it in the name of the king, they actually obliged every individual above eight years of age to buy a certain quantity of salt whether wanted or not. But the rule was not alike all over France; in some provinces, which enjoyed certain privileges, salt was nine livres the one hundred weight, while in others it cost sixteen, and in some sixty-two livres. In some provinces the quantity required to be purchased per head was twenty-five pounds weight, in others it was nine pounds. And yet the provinces, nay the individual families of each province, were prohibited under the severest penalties from accommodating each other's wants, and buying the superfluous salt of their neighbors, but whoever wanted more salt than his obligatory allowance was obliged to resort to the government stores. Besides, every article of provisions that was exported from one province to another was subject to duties called traites. Every apprentice on being bound to a master was bound to pay to the king a certain sum according to the nature of the trade, and

afterward a much larger sum on his admission to practice his trade as a master. These few instances may serve to convey an idea of taxation in France previous to the revolution. A lively but faithful picture of the whole system is given in Breton's *Histoire Financiere de la France*, 2 vols., 8vo, Paris, 1829. The farmers general, as the agents of that system, coming into immediate contact with the people, drew upon themselves a proportionate share of popular hatred. But the revolution swept away the farmers general, and put an end to the system of farming the revenues: it equalized the duties and taxes all over France; but the monopoly of the salt and tobacco has remained, as well as the duties on provisions, cattle and wine brought into Paris and other large towns, called the octroi, and the right of searching by the octroi officers, if they think fit, all carriages and individuals entering the barriers or gates of the same. — The Roman system of levying taxes, at least after the republic had begun to acquire territory out of Italy, was by farming them out. In the later period of the republic the farmers were from the body of the equestrian order. Individuals used to form companies or associations for farming the taxes of a particular district: the taxes were let by the censors for a period of five years They were probably let to those who bid highest. These farmers were called publicani, and by the Greek writers telonae (*τελῶναι*), which is rendered by publicans in the English version of the New Testament, where they are appropriately classed with sinners, for they were accused of being often guilty of great extortion. These tax collectors in the province were, however, only the agents. The principals generally resided at Rome, where the affairs of each association (societas) were managed by a director called a magister. The individual members held shares (partes) in the undertaking. There was also a chief manager in the province or district of which the company farmed the tax, who was called promagister.— There are no means of knowing what proportions of the taxes collected reached the Roman treasury (aerarium). Numerous complaints of the rapacity of the publicani or their agents occur in the classical writers. These publicani were the moneyed men of the late republic and the early empire, and their aid was often required by the state for advances of money when the treasury was empty. Part of the mal-administration probably came from the publicani sub-letting the taxes, which seems to have been done, sometimes at least. BOHN.

FARMING, Large and Small. (See AGRICULTURE.)

FASHIONS, Political Economy of. Fashion exercises considerable influence on a number of industries, particularly on those pertaining to clothing and lodging. Every change in fashion is a source of profit to some persons and of loss to others. A man who invents a new design or a new combination of colors in dry goods, or a new style of furniture or of coat, and who succeeds in bringing his invention into fashion, may derive great advantage from it, especially if his right to it is guaranteed him. On the other hand, the individuals who possess a supply of articles out of fashion, experience a loss It is the same with the manufacturers and workmen who devote themselves to the production of these articles, when the new fashion varies sensibly from the old. "It is well known," said Malthus, "how subject particular manufactures are to fail, from the caprices of taste. The weavers of Spitalfields were plunged into the most severe distress by the fashion of muslins instead of silks; and great numbers of workmen in Sheffield and Birmingham were for a time thrown out of employment, owing to the adoption of shoe strings and covered buttons, instead of buckles and metal buttons" (Principles of Population, chap xiii) Thousands of analogous facts might be cited. — M'Culloch finds in these disturbances occasioned by fashion an argument for the poor-tax. "It may be observed," he says, "that owing to changes of fashion, * * * those engaged in manufacturing employments are necessarily exposed to many vicissitudes And when their number is so very great as in this country [England], it is quite indispensable that a resource should be provided for their support in periods of adversity." (Prin. of Polit. Econ., part iii , chap. iv.) We do not wholly share the opinion of Mr. M'Culloch on this subject. How, in fact, does fashion operate on certain industries and on certain classes of laborers? It acts as a *risk* Now this risk, which may result in losses to the manufacturers and in stoppage of work to the workmen, must necessarily be covered, so that the profits of the one class and the wages of the other may be in just proportion to the average profits and wages in other branches of production. If it were otherwise, if the risk arising from the fluctuations of fashion were not completely covered, capital and labor would soon cease to resort to branches subject to this particular risk. Then, competition diminishing in these branches, profits and wages would not fail to increase until there was compensation for the risk This being granted, suppose a law intervene to guarantee to the workman a minimum of subsistence during the time he is thrown out of employment in consequence of the variations of fashion; what will result? The risk arising from that cause being partially covered or compensated, the result will be that the wages of the workman will be lowered by an amount precisely equal to the risk covered, that is to say, by the amount of the tax. How then can the tax be of advantage to the workman, since it will not in reality have increased the amount of his resources? Doubtless the workman might have squandered his wages and have found himself destitute when the fashion came to change, and the consequences of the risk to fall upon him. The poor-tax is nothing but an obligatory savings

bank, whose funds are levied from his wages, and on which he has the right to draw when out of employment. But must not a bank of this kind, by freeing the workman from the necessity of foreseeing the critical periods and providing for them, perpetuate his intellectual and moral inferiority? Is it not an *insurance* for which he pays too high a premium? — J. B. Say looked at the influence of fashion from a different point of view. According to that eminent economist, frequency of changes in fashion occasions a ruinous waste. "A nation and private individuals will give evidence of wisdom," he says, "if they will seek chiefly articles of slow consumption but in general use. The fashions of such articles will not be very changeable. Fashion has the privilege of spoiling things before they have lost their utility, often even before they have lost their freshness: it increases consumption, and condemns what is still excellent, comfortable and pretty, to being no longer good for anything. Consequently, a rapid succession of fashions impoverishes a state by the consumption it occasions and that which it arrests."—These words of M. Say are evidently most judicious but we need not because of them, or because of the above-quoted observation of Malthus, condemn fashion from an economic point of view; for if fashion causes a certain harm and certain disturbances, especially when its fluctuations are too frequent, in return, it is one of the prime movers of artistic and industrial progress. This will be apparent from a single hypothetical case. Let us suppose that fashion should cease to exercise her influence; that the same taste and the same style should continue to prevail indefinitely, in respect to clothing, furniture and dwellings: will not this permanence of fashion give a mortal blow to artistic and industrial progress? Who, pray, will exercise his ingenuity to invent anything new in the line of clothing, furniture or dwellings, if the consumers have a dread of change, if every modification of the fashion is considered an offense, or even interdicted by law? People, in that case, will always do the same things, and, in all likelihood, will always do them, besides, in the same manner. Let the taste of the consumers, on the other hand, be variable, and the spirit of invention, of improvement, will be powerfully stimulated. Every new combination adapted to please the taste of consumers becoming then a source of profit to the inventor, every one will exercise his ingenuity in devising something new, and the activity thus given to the spirit of invention will be most favorable to the development of industry and the fine arts. It will sometimes happen, doubtless, that ridiculous fashions will be substituted for elegant ones; but under the influence of a desire for change, that butterfly passion, as a Fourierite would call it, which gives birth to fashion, this invasion of bad taste would be transient, and people would continually advance by improvement upon improvement. — On examining the influence which fashion exercises over the development of industry and the fine arts, one becomes convinced that the vivifying impulse which it gives to the spirit of invention and improvement more than compensates for any injury it causes. Besides, fashions have their limits of longevity, whose average may be easily calculated, and which the experience of producers, in lack of a table of mortality prepared *ad hoc*, is apt in estimating. Rarely does an intelligent manufacturer produce more of any design or shade than the consumption can absorb before this design or this shade is out of fashion; and if, perchance, his prevision has proved incorrect, if the fashion passes by sooner than he had foreseen, he easily finds some way of getting rid of the excess of his merchandise among the large class of consumers who are behind the times. A certain kind of dress goods or a certain hat which has become antiquated at Paris, may yet, after two or three years, delight the belles of lower Brittany or of South America. — We have just pointed out the influence fashion has on production. Let us now consider briefly its characteristics and the causes which determine its variations. Fashion is not alone affected by the physical influence of the temperature of a country and the moral influence of the taste and character of the population, it is also largely subject to the influence of the social and economic organization. The institutions of a people are reflected in it as in a mirror. Consequently, in countries where the abuses of privilege and despotism permit a class considered as superior to maintain their idleness at the expense of the rest of the nation, the fashions are commonly ostentatious and complicated. They are ostentatious, because the privileged orders feel the necessity of dazzling the multitude by the splendor of their external appearance, and of thus convincing them that they are made of superior clay—"from porcelain clay of earth," as Dryden said. The fashions are also complicated, because the privileged class have all the leisure necessary to devote a long time to their toilet, the sumptuousness of which serves, as has been said, to inspire in the vulgar an exalted idea of those who wear it. But let the condition of society be changed; let the privileged ones disappear; let the superior classes, henceforth subject to the law of competition, be obliged to employ their faculties in earning their subsistence; we at once see fashions become more simple; and the embroidered coats, short clothes, dresses with trains or with paniers—in a word, all the magnificent and complicated apparel of aristocratic fashion—are seen to disappear, to give place to attire easily adjustable and comfortable to wear. In a pamphlet entitled, "England, Ireland and America, by a Manchester Manufacturer," Richard Cobden pointed out, in 1835, with much acuteness and humor, the necessities which had operated within a half century to bring about this economic change of fashion. Mr. Cobden depicted the old London merchant with his magnificent costume and his formal manners, and showed how a

merciless competition caused the disappearance of this model of the good old times, to substitute for it a modern type, with dress and habits infinitely more economical. "Such of our readers," he says, "as remember the London tradesman of thirty years ago, will be able to call to mind the powdered wig and the queue, the precise shoes and buckles, and the unwrinkled silk hose and tight inexpressibles that characterized the shopkeeper of the old school. Whenever this stately personage walked abroad on matters of trade, however pressing or important, he never forgot for a moment the dignified step of his forefathers, while nothing gratified his self-complacency more than to take his gold-headed cane in hand, and, leaving his own shop all the while, to visit his poorer neighbors, and to show his authority by inquiring into their affairs, settling their disputes, and compelling them to be honest and to manage their establishments according to his plan. His business was conducted throughout upon the formal mode of his ancestors. His clerks, his shopmen and porters, all had their appointed costumes; and their intercourse with each other was disciplined according to established laws of etiquette. Every one had his especial department of duty, and the line of demarcation at the counter was marked out and observed with all the punctilio of neighboring but rival states. The shop of this trader of the old school retained all the peculiarities and inconveniences of former generations; its windows displayed no gaudy wares to lure the vulgar passer-by, and the panes of glass, inserted in ponderous wooden frames, were constructed exactly after the ancestral pattern. * * * The present age produced a new school of traders, whose first innovation was to cast off the wig, and cashier the barber with his pomatum-box, by which step an hour was gained in the daily toilet. Their next change was, to discard the shoes and the tight unmentionables, whose complicated details of buckles and straps and whose close adjustment occupied another half hour, in favor of Wellingtons and pantaloons, which were whipped on in a trice, and gave freedom, though, perhaps, at the expense of dignity, to the personal movements during the day. Thus accoutered, these supple dealers whisked or flew, just as the momentary calls of business became more or less urgent; while so absorbed were they in their own interests that they scarcely knew the names of their nearest neighbors, nor cared whether they lived peaceably or not, so long as they did not come to break their windows. Nor did the spirit of innovation end here; for the shops of this new race of dealers underwent as great a metamorphosis as their owners. While the internal economy of these was reformed with a view to give the utmost facility to the labor of the establishment, by dispensing with forms and tacitly agreeing even to suspend the ordinary deferences due to station, lest their observance might, however slightly, impede the business in hand; externally, the windows, which were constructed of plate glass, with elegant frames extending from the ground to the ceiling, were made to blaze with all the tempting finery of the day. We all know the result that followed from this very unequal rivalry. One by one, the ancient and quiet followers of the habits of their ancestors yielded before the active competition of their more alert neighbors. Some few of the less bigoted disciples of the old school adopted the new-light system; but all who tried to stem the stream were overwhelmed; for with grief we add, that the very last of these very interesting specimens of olden time that survived, (joining the two generations of London tradesmen whose shops used to gladden the soul of every tory pedestrian in Fleet street), with its unreformed windows, has at length disappeared, having lately passed into the Gazette, that schedule of anti reforming traders."—From this ingenious and clever sketch we can clearly see the necessity which determined the simplification of the fashions of the the old régime. This necessity arose from the suppression of the ancient privileges which permitted a member of the corporate body of tradesmen, or a manufacturing mechanic who had attained the rank of master, to pass his time at his toilet or to meddle in the quarrels of his neighbors, instead of giving his attention to his own business: it arose from the extensive growth of competition, which obliged every merchant, every manufacturer, every head of a business enterprise, to take into account the value of time, under penalty of seeing his name finally inscribed under the fatal heading of *bankruptcies*. A régime of competition does not permit the same fashions as a régime of privilege; and fashion is as sensitive to modifications arising from the interior economy of society as it is to changes of temperature. This being so, it is obvious that it is wrong for a government to attempt to influence fashion by obliging, for example, its servants to wear sumptuous and elaborate apparel. In fact, one of two results follow. Either the state of society is such that the dominant classes find it to their advantage to display a certain ostentation in their dress; and in this case it is useless to impose it on them, or even to recommend it to them. Or the state of society is such that people in all ranks of society have something better to do than to spend a long time over their toilet: in this case, what good can result from the intervention of government in matters of fashion? If sumptuousness of attire becomes general, if men accustom themselves to accord to dress a portion of the time demanded by their affairs, will not society suffer harm? If, on the contrary, the example given above is not followed, if the magnificence of the costumes of the court and the ante-chamber is not imitated, will not this display form a shocking dissonance in a busy community? Will it not produce an impression analogous to that one receives from a masquerade? A government should then carefully avoid

interference in this matter. It should follow fashions, not direct them. — To recapitulate: Fashion, looked at from an economic point of view, exercises on the improvement of production an influence whose utility more than compensates for the damage which may result from its fluctuations On the other hand, it is naturally established and modified by various causes, among which economic causes hold an important place. When people do not understand the necessities which determine its changes, they establish artificial fashions, which have the double disadvantage of being anti-economic and ridiculous G DE MOLINARI.

E. J. L., *Tr*

FATHERLAND. Toward the middle of the last century a witty French abbe, who was at the same time a humorist and a philosopher, the abbe Coyer, exclaimed, in one of his fits of petulance, "What is there vulgar or harsh in the word *patrie* (*fatherland*) to drive it from the language? It is seldom or never heard either in the country or in the cities, still less at the court Old men have forgotten it, children have never learned it. I look for its use in that crowd of writers who instruct us in what we know already, and I find it only in a very small number of philosophers. A polished man will not write it. It would be much worse if he pronounced it. I ask this citizen who always bears arms, What is your employment? I serve the king,' he answers. Why not the fatherland? The king himself was made to serve it. I am outspoken, very much so." Our abbe asks afterward when this word fell into such discredit in France. "It was," he says, "under the ministry of Cardinal Richelieu." "Colbert," he adds, "was well fitted to restore it, but he thought that *kingdom* and *fatherland* meant the same thing." This witty and able attack was characteristic of the abbe Coyer, an avowed disciple of Montesquieu, though a Jesuit; an ardent republican, though preceptor of Prince Turenne.—When the French revolution, so long in preparation, was at length effected, the word *fatherland* (*patrie*) regained its popularity. It was enough for a few men clothed with a questionable power to write this word on a flag, and unfurl this flag before the eyes of the multitude, to cause fourteen armies to spring from the earth, so to speak; and these fourteen armies of improvised soldiers defeated the best troops of Europe, the ablest, the best exercised, the most worthy of the confidence of kings. It seemed a miracle. But it came to pass that after having so bravely purged the soil of the fatherland from foreign hosts, and justly punished some of the chiefs of the conspiracy gotten up against French liberty, the conscripts, after they became veterans, forgot the fatherland in their dreams of glory To brilliant successes lamentable reverses succeeded. Should they alone be blamed for these disasters? Before those enterprises were undertaken in search of the vainest of glory, what a weakening of consciences, what scepticism, what a criminal disavowal of the principles in which the France of 1789 had put all its faith! When French soldiers were tainted with the folly of military triumphs, French citizens had once more forgotten the old word *patrie* (*fatherland*), or only pronounced it with a disdainful smile. It has not regained favor in France since. No one says, it is true, as in the time of the abbe Coyer, that he serves the king. That way of speaking has grown antiquated even in France. Men no longer serve the king, but the state. This is assuredly a more noble service, since the notion of the state and that of the fatherland are frequently confounded. Still the two terms are far from being synonymous. Insurrection would never be "the most sacred of duties" as is taught by a celebrated maxim, if the state did not sometimes command what the fatherland forbids.—The state may be defined as a being of the reason, whose matter and form are equally vague and undetermined. Properly speaking, I know the state only under the form of the individuals who govern in its name. I do not therefore owe it absolute submission under all circumstances. Louis XIV. was able to say: "*L'etat c'est moi.*" Every duty, moreover, supposes a moral sanction. I love my God, my family, my country, and I ought to love them. But what kind of worship or love is to be offered to the state? The state is not dear to all noble hearts. This is enough to show that, in political science, as well as in every other science, it is necessary to distrust metaphysics and the mere creatures of the reason. What, on the contrary, is more real than the fatherland; and what more beautiful word is there? The family, in which the father commands, is the most elementary of societies In other words, domestic life is the first degree of social life. There, as Homer says, "each one separately governs his wives and sons, as does a master." Thus, in the most remote ages whose history we can study, the *dii patrii* are the *penates*, the gods of the paternal hearth Later, the fatherland becomes the city. "*Natione Graius an barbarus*," says Cicero, "*patria Atheniensis aut Lacedemonius*" Common interest united different families. Brought together by the necessity of mutual protection, they entered into a pact which made their interests common. From this arose the imperious duty of each one to struggle and if necessary to die for the fatherland of all In what does virtue consist, if not in the scrupulous fulfillment of some duty? The virtue of the patriot of Athens or Rome was to make an entire sacrifice of himself to his own city, and to treat as an enemy whoever lived in a neighboring city. Later, cities inhabited by citizens of the same race come together to repel an invader from distant regions, and, after a successful use of their allied forces, they elect, or submit to a common chief, according to circumstances. Their agreement gives them strength; this strength assures them peace. During peace a daily exchange of services

takes place, and national unity is established. Thenceforth the definition of Cicero is no longer exact; *fatherland* and *nation* no longer designate two different things; they designate the same thing differently considered.—There is no intelligence so rustic that it does not comprehend perfectly the word *fatherland*. According to some, my fatherland is the land, the territory which I inhabit. This is a definition which is revolting "The Gracchi, the Scipios under the tyranny of Caligula," exclaims the abbe Coyer, "could they regard Rome as their fatherland?" The protest of Chevalier de Jaucourt is no less vigorous: "Those who live under an oriental despotism, where no other law is known than the will of the sovereign, no other principle of government than terror, where no fortune, no life is in safety, those, I say, have no fatherland." In other words, where political liberty does not exist, there is a herd of slaves, not a nation of citizens. It is the privilege of citizens, of free men, to have a fatherland. — It is felt at once that this language belongs to the eighteenth century; that it announces a social tempest. It is true that the same indifference in regard to the native soil is found in this fragment of an old poet, cited by Cicero. *Patria est ubicumque est bene.* But this is a mere witticism. I should like to hear from the mouth of an exile that he lived in a foreign land without any desire, without any regret!

B. Hauréau.

FAVORITISM. If favor always rewarded merit, the envious alone would complain; moral ity and the general interest would be satisfied. We know that this is not the case, and it is precisely because favor is so often bestowed on the unworthy that it is generally looked upon with such ill will. — In our time, favor plays but a small part in political society, and exactly as its excesses disappear efforts are made, not without result, to reduce its influence still further. When the reign of favor, or rather of favorites, was at its height, no one dreamed of struggling against it. This was during the good old time of unlimited power, when the caprice of an absolute sovereign might raise on the shield and clothe with omnipotence the first man who knew how to please him. Need it be said that this was to raise the evils of despotism to a higher degree? The least enlightened despot knows that he should not venture too far; but his favorite will not always be so circumspect, for he does not risk his crown. It is true that he exposes his life, and more than once populations which could not reach the sovereign have taken vengeance on his favorite, who thus expiated the faults of his short-sighted protector. — The influence of the favorite is distinguished from that of the camarilla in being manifest, while that of the camarilla is secret. — Parliamentary rule is incompatible with favoritism. A constitutional sovereign has ministers to whom talent is indispensable if they are to maintain themselves. They dispense favors, but as there is an opposition, this opposition brings about the passage of laws which subject officials to conditions of admission and abolish sinecures. To save themselves from public censure, the ministers avoid committing too evident injustice, or dispensing unmerited favors. In politics, Justice is the daughter of Responsibility. M. B.

FEDERAL GOVERNMENT. (See Congress, Executive.)

FEDERALIST, The. Immediately after the publication of the constitution Hamilton issued the first of a series of papers by himself, Madison and Jay, in the "Independent Journal" of New York city, in explanation and defense of the new system of federal government. Gouverneur Morris was also invited to take part, but was prevented by private business. The joint signature was at first *A Citizen of New York*, afterward *Publius*, and over this signature eighty-five essays were published from October, 1787, until March, 1788, when they were collected in book form under the title of *The Federalist*. Jay wrote five essays; sixty-three are claimed for Hamilton by his son, leaving fourteen to Madison and three to their joint effort; but Madison is credited by the Philadelphia edition of 1819, corrected by himself, with twenty-nine essays, leaving fifty-one to Hamilton. The Federalist was widely read, and aided materially in securing the adoption of the constitution. A. J.

FEDERAL PARTY, The (in U. S. History). The origin of the party, in the political segregation of the commercial and business elements from the mass of the people, is given elsewhere. (See Anti-Federal Party.) But though the mass of the party was thus commercial, it had many leaders and an important part of its own body who held very different views. These were most affected by the reflection that the revolution, by taking the United States out of the British empire, had practically taken them out of the family of nations. They desired a place in the civilized world, a recognized rank among nations—nationality — not a league of separate nations. They therefore wished for order, prosperity and an energetic government, not, like the rest of their party, for the sake of commerce and business, but for the sake of the nation. This, the only valuable political element in the federal party, and the precursor of two other and greater parties which were afterward to take part in the seventy-five years' (1790–1865) work of nationalizing the government, was stronger in leaders than in following The country, which had comparatively little real national feeling as yet, was not ready for it, and the commercial party, which had at first supported it, proved in the end a faithless ally. The history of the party falls naturally into two periods, one (1789–1801) in which the alliance between its two elements, and its own hold upon power, grew yearly

weaker, and a second (1801–20) in which it grew less and less influential until it disappeared, its nationalizing principle reviving again with stronger power of assertion in the whig and republican parties. (See those parties; also NATION, UNITED STATES) — I. 1789–1801. The process of the adoption of the constitution was exceedingly complex. The underlying difficulty was in most cases that of overcoming the repulsive force not only of the two sections, north and south, each of which had many elements ready for separate nationality, but also of the thirteen distinct political units which composed those sections. But on the surface other causes were more actively apparent. At first, while the idea of the former congressional structure governed the deliberations of the convention of 1787, the "large states" pressed the national plan earnestly. After the new political factor, the senate, was introduced, the large states became recalcitrant, and finally ratified the constitution with great reluctance. When, however, the confusion of the conflict had cleared away, it was found that the advantages accruing to large and small states were fairly balanced, and that the substantial fruits of victory had been gathered by the commercial classes, including in that term all interests not agricultural, excepting manufactures, which were as yet of no great importance. It was to their behoof that the control over individual citizens, over the army, over the navy, over taxation for national purposes, over commercial regulations, was to be exercised in future by a federal government, not by a jarring congeries of state legislatures; and their activity, intelligence, influence, and hearty support of the constitution secured to them in 1789 a control of the new federal government so complete that it would be difficult to specify a federal office not then held by a federalist, for even Jefferson and Randolph were professedly of that party.. This initial success of the commercial party was due to a fortuitous combination of three assisting circumstances, none of which could fairly be relied upon as permanent. 1. Washington's experience of the confederation during the revolution had predisposed him to favor an energetic republican government, and he therefore became the central figure of the federal party, in spite of his own efforts to stand outside of party. Throughout the northern and middle states the right of suffrage was then very generally restricted to freeholders, the small farmers being the controlling class. With these Washington's name was all powerful, and through its silent influence their support was secured for the ratification of the constitution, and afterward for the federal party. 2. In the south, where Washington's influence was by no means so potent, a weaker but still respectable element, very similar to the last, was brought to the support of the constitution and the federalists by the influence of Madison and others, who were actuated far more by contempt for the extreme weakness of the confederation than by desire for a very energetic government in its place. 3. The opposition (see ANTI-FEDERAL PARTY) was utterly disorganized. Its natural leaders of the Madison class had gone over to the federalists, its only principle of cohesion, opposition to the constitution, had disappeared with the translation of the government to a new form; and those of its members who were chosen to the 1st congress at first followed the prudent course of abstaining from open opposition to federalist measures. We are therefore indebted almost entirely to the federal party, in which, however, the Madison element was as yet included, for all the work of the first session by which the administrative machinery of the government was put into shape as it still remains. The excellent organization of the executive departments, of the federal judiciary, and of the territories, is always with us as a memorial of the administrative ability of the dead and almost forgotten federal party. — The party had at first been satisfied with the obtaining of order and guarantees for commerce, foreign and domestic; but the remarkable and immediate contrast between the national results of the first or extra session of congress (March 4 – Sept. 29, 1789) and the preceding chaos of the confederation had a natural and constant tendency to convert it to nationalizing views. The nationalization of the government had for years been the ruling desire of Alexander Hamilton, Washington's secretary of the treasury, and he now proved his title to the leadership of a party which was but approaching the standard which he had long fixed upon. At the second session of this congress (Jan. 4 – Aug. 12, 1790) he offered to the house of representatives his "plan for the settlement of the public debt," which contained several features certain to obtain the support of the party both in its commercial and in its newer nationalizing aspect. Its first recommendation, the payment of the foreign debt in full, was adopted unanimously. The second recommendation, the funding and payment at par of the domestic or "continental" debt, which had fallen far below par, was opposed by members from agricultural districts as a commercial measure which would only benefit speculators, who were busily buying the evidences of debt from holders ignorant of their value. Madison here diverged from the federalists, and urged payment in full to original holders and the market value to holders by purchase; but Hamilton's recommendation was finally adopted. The third recommendation, the assumption of state debts incurred in the revolution, was opposed as a nationalizing measure, designed to degrade the states, to represent them as delinquent debtors, and to attract the permanent support of the capital of the country to the federal government. It was carried in committee of the whole, March 9, by a vote of 31 to 26; but an anti-federalist reinforcement of seven members from the new state of North Carolina turned the scale, and assumption, having been reconsidered, April 12, was lost

by a majority of two. It was, however, again introduced and carried by a bargain. (See CAPITAL, NATIONAL.) Hamilton's first false step, however triumphant at first view, was in thus springing upon his supporters in congress, without securing the acquiescence of their non-commercial leaders, this sweeping plan of financial reform, which he might easily have made acceptable both to them and to their commercial allies, and a new bond of union between the two. Confident in his own ability and in his own rectitude of intention, he demanded from the Madisonian element a blind support which it would not give, and the result was suspicion and alienation. For the next two years Madison, while supporting many isolated points of Hamilton's policy, is no longer the great federal pillar of debate in the house. — At the third session of this congress (Dec. 6, 1790 - March 3, 1791), two further items in Hamilton's policy were adopted. It is probable that his proposition to assume state debts had been intended to force, by an increase of debt, the prompt exercise of federal powers, and particularly of the power to lay excises, which had hitherto been in the states and was unfamiliar as an appanage of the federal government, though expressly granted by the constitution. (See INTERNAL REVENUE, WHISKY INSURRECTION.) On his recommendation an excise law, laying taxes on distilled spirits, was passed, March 3, 1791, and "The Bank of the United States" was chartered by acts of Feb. 25 and March 2, 1791. This last measure met a strong opposition, led by Madison in the house, and by Jefferson and Randolph in the cabinet. (See BANK CONTROVERSIES, II.) The arguments in its favor show that Ames, Sedgwick and other federalist leaders had now fully assimilated Hamilton's broad construction theory, which defended every attempt to increase the national, as distinguished from the state, power and influence, on the ground of the power granted to congress to pass all laws "necessary and proper for carrying into execution" the enumerated powers. Who was to judge of the necessity and propriety of a doubtful law? Congress itself, said Hamilton and his supporters, governed in the exercise of its discretion by its direct responsibility to the people, and secured from the evil effects of possible error by the conservative influence of the federal judiciary. (See CONSTRUCTION, II.)—Within the limits of a single congress, then, Hamilton had raised his party from the narrow basis of commercial interest to the broader foundations of nationalization, and he had done it almost unaided. He had taught the commercial classes that their safety and prosperity were best secured by close alliance with the federal government, and they in their turn had so reacted on their congressional representatives as to make them Hamilton's eager followers. Before 1790 we find many half-uttered hopes for a more energetic central government than the confederation; Hamilton and his measures first made "the nation" a political force. It was, indeed, but a blind and vague force as yet, and was destined soon to be rejected by the commercial selfishness which was at first its only available conservator; but the principle survived, and American politics has ever since felt the growing impulse which was first directly given by Hamilton's measures. Before the end of the 1st congress, the federal party was fairly committed to a support of his policy, which was in general as follows, though portions of it were never successfully carried out: 1. With a reliance upon agriculture as a basis for exportations and foreign commerce, duties on imports were generally made high, with the view of encouraging infant American manufactures by prohibiting the importation of articles which could be manufactured here, and of drawing a larger revenue from articles whose importation was beyond control. (See PROTECTION.) 2. The power of internal taxation was at once asserted and enforced. 3 The superfluous revenue, after the payment of the debt which had originally compelled the adoption of the first two measures, was to be devoted to the formation of a strong navy which was to protect commerce; and 4, to the increase of the army; and the first opportunity was to be taken to convince ill-disposed states or ill-disposed individuals that both had at last found their master Such was the magnificent structure which the federal party proposed to erect upon a soil which had been, but a few months before, the shifting quicksand of the confederation. It is not wonderful that the more "high flying" federalists often regretted that the national government had not been made still stronger and the states still weaker, and that they felt considerable distrust of their ability to carry out their plans to the end as the government was then constituted. It is certain that their incautious utterances soon enabled their political enemies to charge them with a design of converting the government into a monarchy or an oligarchy, under the guise of a "higher-toned" government.— During the 2d congress (Oct. 24, 1791 - March 2, 1793) the federal party retained its majority in congress and continued its work of organizing a national government The post-office system was completely organized; the army and the tariff were increased; bounties were granted for the encouragement of fisheries; and the president was formally authorized to call out the state militia as a national instrument for enforcing the laws. But before the end of this congress the reaction had begun under the lead of Jefferson, the secretary of state, and his first auxiliaries were drawn from the Madison element which Hamilton had so unluckily estranged. When resolutions censuring Hamilton's official conduct were brought up in the house, late in February, 1793, Madison took an open stand in their favor, and was one of the small minority of seven who finally voted for them. He was now in close and confidential alliance with Jefferson. (See DEMOCRATIC-REPUBLICAN PARTY, II.) His

loss, which was really the beginning of the end, was under-estimated or contemptuously disregarded by Hamilton, who mistakenly relied upon the still federalist states of South Carolina, Maryland and Delaware to counterbalance Virginia and prevent the formation of a controlling southern party. — In the 3d congress (Dec. 2, 1793–March 3, 1795) the federalists controlled the senate by a small majority. By a party vote (14 to 12) the seat of Gallatin, of Pennsylvania, was vacated for ineligibility, and the new federalist legislature chose James Ross in his stead, thus making a reliable majority in the senate. In the house the election of the speaker was contested for the first time, and the federalists were beaten by a majority of ten. In such a divided congress it was sufficient success for the federalists to maintain the ground they had already won, but they succeeded further in supporting the president in his proclamation of neutrality between England and France, in his management of the French ambassador (see GENET, CITIZEN), and in his suppression of the whisky insurrection. — In one important respect the prospect for the party was unpropitious The long conflict between Great Britain and France had begun, in which it was inevitable that the former's most powerful weapon, her navy, would be used to the oppression of American commerce. (See EMBARGO, I.) Here, again, the assumption of the state debts worked for ill, for its increase of the national debt and interest gave the opposition a fair excuse for opposing successfully the formation of a navy which could compel respect, and even embarrassed the federalists very apparently in their attempts to secure this corner stone of a true national policy. This failure to begin a navy in 1794–5 was the real death warrant of the federalists as a political party. Prevented from protecting commerce by force, they were constrained to resort to accommodation with Great Britain (see JAY'S TREATY), and, though this policy of palliation was successful for the time, its inevitable and cumulative effect was to undo Hamilton's work of nationalization, and to degrade the party again to the position of a mere commercial association, dependent on the favor of Great Britain not only for prosperity, but even for existence. This effect was not immediately apparent, however, and the power of the party never seemed greater, even in 1798, than at the close of the year 1796. It had then completely organized the government after its own ideas, had very considerably established the broad construction of the constitution, had compelled even the assurance of a French republican envoy of 1793 to respect the neutrality of the United States, had put down with the strong hand the first symptom of revolt against the federal government, had forced an unwilling house of representatives to carry Jay's treaty with Great Britain into effect, and in the first contested election had seated its candidate, John Adams, in the presidency. (See ELECTORAL VOTES, III.) "Against us," said Jefferson, in his Mazzei letter of April 27, 1796, "are the executive, the judiciary, two out of three branches of the legislature, all the officers of the government, and all who want to be officers." But the party's tenure of power was nevertheless weak. Jefferson had been but three electoral votes behind Adams, thus becoming vice-president; and he alleges that the real vote was 70 to 69, instead of 71 to 68, one republican elector in Pennsylvania having failed to vote, and a federalist having been received in his place. But a far more ominous circumstance was the geographical character of the vote. The federalists had lost South Carolina, and only received two chance votes in the whole south, outside of Delaware and Maryland (see those states), while in the north they had lost all but one of Pennsylvania's votes. Jefferson's ability as a leader and organizer was fast depriving them of the assistance they had at first received from the disorganization of the opposition, and unless some new factor could be found to replace the influence of Washington, his approaching retirement would enable the opposition every year to make fresh inroads further north, and finally to circumscribe the commercial interest within its own geographical limits. — Indications may be found in the debates that some of the federalist leaders, particularly Fisher Ames, saw their proper course in a conjunction of internal improvements and an energetic naval policy; but the latter was barred by the necessity of providing for the interest of the debt, and the former alone would have demanded a wisdom of self-sacrifice to which the commercial party had not attained. Instead of both, they grasped eagerly at the possibility of war with France (see X. Y. Z. MISSION) in 1798, and used it as a make-shift. In the senate they had a clear majority, and in the house the flame of popular anger, roused by the outrageous demands of the French directory, either silenced or converted most of the republicans, and gave the control of that body also to the federalists. If they had now reduced all other expenses to the lowest possible limits, and put every available resource into the increase of the navy, it was not yet too late to change the course of history on two continents. Party passion, however, and the treasured bitterness of past political struggles, hurried them further. A regular army was at once formed under cover of Washington's nominal command, ostensibly to guard against a mythical French invasion; the passage of the alien and sedition laws was almost avowedly an attempt to suppress the few republican newspapers, whose scurrilous attacks had long been a thorn to the dignity of the federalist leaders; and these needless exhibitions of party zeal more than neutralized the increase of the navy to twenty-four vessels. — During the 6th congress (Dec. 2, 1799–March 3, 1801), which had been elected in the very crisis of the war fever of 1798, the federalists had a majority in both houses, and yet the symptoms of disintegration

in the party became steadily more apparent. Its two wings, the commercial and the nationalizing elements, which had been clamped together only by Hamilton's adroit use of Washington's authoritative influence, were already falling apart. Hamilton was now a private citizen of New York, and was governed more by his hatred for President Adams than by political prudence. Adams, who disliked Great Britain and showed no officious subservience to commercial interests, was the embodiment of that nationalizing feeling afterward more strongly developed in the whig and republican parties. He had earned the distrust of the Hamilton faction by his willingness to make peace with France, when he found that nation earnestly anxious for peace (see ADAMS, JOHN), and the party's embarrassment at this loss of its only available stock in politics was made evident by the anxiety of some of the party leaders either to manœuvre Pinckney into the presidency in place of Adams, or to bring Washington back to the political arena and thus compel Adams to retire. "Believing the dearest interests of our country at stake," and "considering Mr. Adams unfit for the office he now holds," Gouverneur Morris had written to Washington, Dec. 9, 1799, begging him to accept a third term; but Washington was dead before the letter reached him, and the only hope of union in the federal party died with him. His death at this time was peculiarly unfortunate for the federalists, for in this congress a strong federalist representation from the south appeared for the first and last time, John Marshall being its most prominent member. They were rather of the Adams than of the Hamilton school, and if the crash could have been postponed for a few years might possibly have become the southern wing of a real national party, very much like the whigs of after years. But their appearance was too late, and after 1801 they soon fell into the all embracing republican party. — This congress represented mainly the war feeling of 1798, and felt little sympathy with the popular discontent at the continued enforcement of the sedition law. The prosecutions under this act were few, but, by a perverse ingenuity, they were chiefly brought in those doubtful middle states which only Washington's influence had ever made secure to federalism. It seems difficult to see anything better than farce in proceedings against a "criminal" in New York, charged with the circulation of petitions against the sedition law, and against another in New Jersey, charged with the expression of a wish that the wadding of a cannon just firing might strike the president behind. But when it is remembered that only the whim of two southern electors in 1796 had saved the federal party from defeat in that year, and that the loss of either New York's or New Jersey's vote would ensure its defeat in 1800, the blindness of the prosecutors seems almost willful. — All this time Burr, who was superior to Jefferson as an organizer, in the modern American sense of that political term (see BURR, AARON), had been actively at work in the "pivotal" state of New York, and the result of his labors was seen in the spring elections, beginning April 28, 1800, for members of the legislature which was to choose electors in the following autumn. A republican majority was elected, and the hardly smothered ill feeling in the federal party at once broke out. Pickering and McHenry, who, while nominally the president's advisers, had kept up a close and confidential correspondence with Hamilton, were contumeliously dismissed from the cabinet, and Adams threw himself openly upon the anti-Hamilton element, taking Marshall into the cabinet. Hamilton endeavored to defeat this movement by printing, for circulation among southern federalists, a very savage pamphlet attack upon the president, which would certainly have come within the terms of the sedition law, if that act had ever been anything better than a party measure. Hamilton's rhetoric was needless, and the president himself was too late. The spark of nationalization, which had only begun to burn in the south after ten years of federalist government, was not destined to come to a flame. The presidential election left the federal party a wreck The middle states, except New Jersey and part of Pennsylvania's votes, joined the solid column of states south of the Potomac and Ohio, and gave the republican candidates a majority. — It can not be said that the party, at least its larger commercial element, surrendered the federal government with dignity. The whole session of congress following the election was spent in efforts to save by intrigue something of what had been lost at the polls. The scheme to make Burr president, in order to establish a claim upon the person who was to dispense the offices, is elsewhere given. (See DISPUTED ELECTIONS, I.) At a time when the supreme court had not sufficient business to fully employ it, twenty-three new judgeships were erected, each with its attendant suite of clerks, marshals and deputies, and filled by the appointment of federalists. (See JUDICIARY.) And, as if to make the object of the law more apparent, the party endeavored, almost successfully, to renew the sedition law, which was to expire by limitation at the end of this session. With all these schemes the non-commercial element of the party, the class represented by Marshall, Bayard and Adams, had very little sympathy or connection, and Adams, while yielding to party demands so far as to appoint federalists to office, seems to have done so with some contempt. After signing judicial appointments until after midnight of his last day of office, whence the angry epithet of "midnight judges," given to his appointees, the president left Washington early in the morning of March 4, 1801, and the control over the national government which it had founded passed from the federal party forever. It still retained control of the judiciary, but the next congress, which was republican, repealed the new judiciary law, in spite of the excited expostula-

tions of the federalists, and in face of the fact that the constitution expressly gave all judges, when once appointed, a life tenure during good behavior. — During this period the three leading minds of the party, after Madison's defection, were Hamilton, John Adams, and John Jay of New York. Hamilton's natural place was in the small nationalizing element, but he had the entire confidence of the commercial class also, and was apt to incline toward it because of his reliance upon it. Jay and Adams were entirely nationalist, and after 1801 ceased to act as party leaders Other leaders of a lower rank were Samuel Livermore, and William Plumer, of New Hampshire; Fisher Ames, Theodore Sedgwick, and Caleb Strong, of Massachusetts, (see also ESSEX JUNTO); Roger Sherman, Oliver Wolcott, Oliver Ellsworth, Uriah Tracy, and Jonathan Trumbull, of Connecticut; Rufus King and Gouverneur Morris, of New York; Thomas Fitz Simons, James Ross, and William Bradford, of Pennsylvania; Jonathan Dayton, and Elias Boudinot, of New Jersey; James A. Bayard, of Delaware; John Marshall, and Richard Henry Lee, of Virginia; Robert G. Harper (afterward of Maryland), Charles Cotesworth Pinckney, and William Smith, of South Carolina. — II. 1801–20. During Jefferson's first term of office the crusade against the federal party was carried on with vigor, ability and success. No general eviction of office holders was resorted to: indeed, such a step would have almost brought the operations of government to a stand, for the administrative skill and experience were mainly federalist. Appointments were made, however, as often as vacancies occurred, with scrupulous attention to republican party interests. Every effort was made to disparage the federalists in the eyes of the people. For this purpose the old charge of monarchical tendencies was still brought against them, but it now showed more exactly the animus which really contro'led it—the idea that federalists generally had no sympathy with or respect for their constituents; that they claimed elective office on the score of their own innate ability, virtue, or assumed superior qualifications, rather than as representatives of those characteristics in their constituents; and that, in short, they "did not trust the people." Against this insidious method of attack the older federalists, whose early training had been colored by the staid and dignified official life of colonial times, were unprepared to make an adequate defense by formulating a party creed for popular examination, and the case against them really went by default. Athens does not stand alone in her employment of ostracism: that penalty may be applied almost as rigorously with the ballot as with the oyster shell, and it was so thoroughly used at this time that only New England tenacity and commercial interest combined could have hindered its entire success. The older federalist politicians were slowly driven out of politics, and younger men were sternly taught that any adoption of federalist ideas would be an absolute bar or a great hindrance to their advancement. — The political action of the party was no wiser than its neglect to put its theory before the people. The opposition of the federalists to the repeal of the judiciary law, above referred to, was generally creditable, but it is almost the last point in their party history to which praise can be awarded. They might have fairly claimed as their own almost every measure introduced by the new administration; they preferred to follow a general course of factious opposition to every proposal to increase the strength of the federal government, thus alienating the little remnant of their nationalizing element, and intensifying the commercial character of the remainder of the party. In 1803 their opposition to the acquisition of Louisiana (see ANNEXATIONS, I.) was not concurred in by several of their own party, such as John Quincy Adams in the senate, and Purviance, of North Carolina, in the house, who were elected as federalists, but who, perhaps for that reason, preferred to increase federal power even for the benefit of their opponents. But the leaders generally confined the federalist side of the debates to a recapitulation of former republican arguments, a course certain to estrange the most valuable elements of their own party, and to convince the popular mind that their present professions were no more based upon political principle than their professions in 1793, by their own present admission, had been. Before the end of Jefferson's first term the fortunes of the federal party had ebbed to the point at which they really always afterward remained, though the accession of temporary elements of opposition to the dominant party occasionally gave them a factitious increase of strength. In the presidential election of 1804, federalist electors were chosen only by Connecticut and Delaware, with two from Maryland. — In February, 1806, the party received an unexpected reinforcement in the person of John Randolph, hitherto the republican leader in the house. He now joined the federalists in opposing the "restrictive system" (see EMBARGO), which weighed heavily upon commerce, but his quarrel was rather with the president than with his former party, and he brought with him but a few personal adherents and no real party strength. From this time the general history of the party is made up of opposition to the embargo and kindred measures, and of efforts, which were now made earnestly, but unfortunately too late, to obtain a strong navy. The opposition to the embargo became so violent as to threaten a disruption of the Union (see SECESSION, I.), but it never was a party opposition; it was a revolt of those engaged in commerce, of their friends, and of their dependents, against the attempts to shackle commerce and make the United States an agricultural country. In the presidential election of 1808 New Hampshire, Massachusetts and Rhode Island, with three electors from North Carolina, were added to the federalist list of 1804. (See ELECTORAL VOTES,

VI.) — During Madison's first term (1809-13) the opposition to the restrictive system continued, and culminated in opposition to the war which followed the abandonment of the restrictive system. By this time the federal party had lost even the pretense of party principle. It had taken refuge in the last resort of a minority, state rights, (see STATE SOVEREIGNTY), and all its arguments were amplifications and exaggerations of the strict construction theory of the republicans. Since its principles were now taken at second-hand, it seemed well that its candidates should be selected in the same way, and accordingly, in 1812, the federalists endeavored to take advantage of New York jealousy of Virginia by supporting De Witt Clinton, of New York, for president, and Jared Ingersoll, a Pennsylvania federalist, for vice-president. The basis of the alliance was opposition to the war with England, though Clinton cautiously abstained from committing himself personally, and after the election took an opportunity to approve the war; but in the presidential election of 1812 the alliance only failed of success because of the growth of the agricultural or backwoods population of the middle states, and particularly of Pennsylvania. To the hitherto federalist list were now added the votes of New York and New Jersey, and three additional votes from Delaware and Maryland; and, though Madison was elected by 128 votes to 89, the 25 votes of Pennsylvania, if that state had followed the lead of New York, would have made Clinton president by a vote of 114 to 103. Even in that event, it is difficult to see of what advantage the result would have been to the federal party. (For the party's further opposition to the war, see CONVENTION, HARTFORD.) — The most prominent of the federalist leaders during this period were C. C. Pinckney and Rufus King, the party's usual candidates for president and vice-president. Of those who were prominent in the first decade, Ames, Hamilton, Bradford and Tracy were, in 1815, dead; Plumer, John Adams, John Quincy Adams and Bayard were either nominally or really in affiliation with the democratic (republican) party; Marshall had retired to the supreme court; and the others began to confine their ambition to the service of their respective states. In the presidential election of 1816 Massachusetts, Connecticut and Delaware were the only states which cast federalist electoral votes; three federalist electors, chosen by the "district system" in Maryland, did not take the trouble to vote. In congress the few federalists did not attempt even to cast a united vote any longer, and in national politics we may consider the party as dead after 1817. In 1820 it cast no electoral votes. In *state* politics it survived, though in a hopeless minority, in Maryland and North Carolina; in Delaware and Connecticut it usually controlled state elections until after 1820; in Massachusetts it controlled state elections until its great defeat of 1823, when the state, and even the county of Essex (see ESSEX JUNTO), were carried by the republicans. — The federalist opposition to the war, which is commonly assigned as the reason for the party's final collapse after 1816, was undoubtedly of great weight; but a deeper influence had long been operating to give the *coup de grace* to the dying party, even in the state elections which were now its only dependence. Until 1808 manufactures were hardly of any importance in American politics, but the "restrictive system," by keeping British manufactures out of the country, at once began the development of a great manufacturing interest in the United States. For seven years this interest was fostered by the embargo, by the non-intercourse law, and at length by open war, until in 1815 it represented a very considerable invested capital and a large influence in the very citadel of federalism, New England. For a continuance of the restrictive system in the form of high tariffs this interest was dependent upon the favor of the republican party, and it was therefore directly antagonistic to the federal party. It is safe to say that the federal party was finally destroyed by an alliance of agriculture and manufactures. This alliance, indeed, was not permanent. Agriculture was faithless to its new ally, and the manufacturing interest, after thirteen years of unavailing effort to obtain a protective tariff, went over to its old antagonist, and, in conjunction with commerce, and on a wiser political basis, founded a new party. (See WHIG PARTY.) As a federalist, Daniel Webster opposed a protective tariff in 1814 and 1824, and hoped that we would never have a Sheffield or a Birmingham in this country; as a whig, he was as earnest in the opposite direction. But, during these thirteen years, federalism tended more and more to become a social rather than a political cult in New England, Delaware, Maryland and North Carolina, until it finally disappeared with the old age of its more persistent devotees. — As the small nationalizing element, which, alone had ever given the federalists a claim to the title of a political party, remained in, but not of, the democratic-republican party until about 1828-30, and then fell back again into the *national* republican (afterward called whig) party, it may be said that the principles of the federal party thus survived it. But the irremediable fault of the original federalist leaders, a fault avoided by their whig and republican successors, was, that they never formulated their cardinal party principles into a creed comprehensible by the mass of voters. He who searches the writings of federalists for such a formulation will search in vain; the party, which was made up of the finest elements of American society, lived upon an instinct, a kind of spiritual recognition, rather than upon defined political principles. Nor can the neglect be properly ascribed to immaturity of political thought; Hamilton was as capable of such a work as Jefferson (see DEMOCRATIC-REPUBLICAN PARTY, II.), if he had cared enough for popular conviction to strive for it. After 1801 the ill effects of this neglect were increasingly apparent, but they

only drew from federalist leaders angry railings at popular stupidity in not comprehending federalist principles, though these had never been comprehensibly placed before the people. In 1814 a clearer insight seems to have come to some federalists, though too late, and an extract from Barent Gardénier's "Examiner," of March 19, 1814, might serve as an epitaph for his party: "See and feel? Aye, multitudes of the people can do much more. And if we would only talk to them more, and scold at them less, than we do, the good effects would very soon be apparent" [The references to commerce and manufactures are historical only; for the comparative economic advisability of PROTECTION and FREE TRADE, see those articles.] — See DEMOCRATIC-REPUBLICAN PARTY; EMBARGO; SECESSION; CONVENTION, HARTFORD; WHIG PARTY; UNITED STATES; and authorities there cited. See also 4, 5, 6 Hildreth's *United States;* 1 von Holst's *United States;* Pitkin's *United States;* Gibbs' *Administrations of Washington and Adams;* J. C. Hamilton's *History of the American Republic; American State Papers;* 1–4 Benton's *Debates of Congress;* Hamilton's *Works;* John Adams' *Works;* Marshall's *Life of Washington;* Washington's *Writings;* Jay's *Life and Writings of John Jay;* Sparks' *Life and Letters of Gouverneur Morris;* Fisher Ames' *Works;* Quincy's *Life of J. Quincy;* Adams' *Documents relating to New England Federalism;* Garland's *Life of Randolph;* Dwight's *Hartford Convention;* Story's *Life and Letters of Joseph Story;* 1 Webster's *Works; Private Correspondence of Daniel Webster;* Hammond's *Political History of New York;* Hosack's *Memoir of De Witt Clinton;* Campbell's *Life and Writings of Clinton;* Gardénier's *Examiner;* Carey's *New Olive Branch;* Van Buren's *Political Parties;* Seybert's *Statistical Annals of the United States,* 1789–1818; Sullivan's *Letters;* Pickering's *Life and Correspondence of Pickering;* 24 Niles' *Register,* 97. ALEXANDER JOHNSTON.

FENIANS. Thus the American members of the revolutionary party, which, during the years 1860–70, agitated the forcible separation of Ireland from England, by means of a wide-spread organization known as the Fenian brotherhood, call themselves. The conspiracy of the Fenians owed its important position in the long line of Irish conspiracies against the English government principally to two causes: its distinctively revolutionary tendency and its origin in America. As a revolutionary effort it was the work of a party which had adopted the name "Young Ireland," and which, in opposition to the conciliatory policy of O'Connell, had organized itself as a party of violence. Its American origin is accounted for by the dreadful Irish famine (1845–7), in consequence of which a large number of poor, discontented Irishmen, who bore a traditional hatred toward England, left their native country and came to America in search of a new home. In the course of time these emigrants grew rapidly in number and public influence, and when the war between the north and south began, quite a large number of naturalized Irishmen enlisted in favor of the Union. During the war different causes were at work to arouse the old animosity between the United States and England to such a degree as to make it not at all unlikely that it would result in open hostility between the two countries. A more favorable state of circumstances in furtherance of the schemes of the young Irish patriots could hardly be imagined, and encouraged in view of the difficulties pending between the British and American governments, the Fenian conspiracy was, toward the close of 1861 and the beginning of the following year, organized and began its active operations. — The name Fenian was taken from the ancient Celtic caste of warriors, the Finna. The organization of the Fenians was, therefore, a society of men who trusted to the force of arms, and the object of the conspiracy is sufficiently indicated by the name. The principal founder of the brotherhood in America was John O'Mahoney, while in Ireland James Stephens took the foremost lead in the movement. It was in America that the organization was first effected, and the United States was from the beginning recognized as the principal base of operations; yet in Ireland secret meetings of Fenians were held as early as the beginning of 1862. In the spring of 1863, John Luby, one of the leaders of the brotherhood, came to America as a sort of emissary, where he, together with O'Mahoney, visited the camp of Gen. Corcoran, the commander of the Irish legion in the army of the Potomac, and where he met with the warmest expressions of sympathy for the cause of Ireland. In the fall of 1863 Fenianism had made such progress in the northern and western states of the Union, that O'Mahoney no longer hesitated to call a Fenian convention, which took place at Chicago. A few weeks later (November, 1863), the first number of the paper "The Irish World," published by Luby and edited by O'Leary, was issued, as the organ of the Fenians in Ireland. Practical measures in aid of the movement were not neglected. Emissaries visited all parts of the country in order to enlist volunteers and to perfect the military organization of the brotherhood; armories were established and the men instructed, though with the utmost secrecy, in the use of arms. The American brethren were likewise very active. In the spring of 1864, the first contributions, from the proceeds of the great fair held in Chicago, toward a military fund, were made; and in the fall of the same year a second Fenian convention was held in Chicago, which was attended by delegates from all the states from New York to California. The sudden close of the civil war in the United States in April, 1865, and the disbanding of the army, in consequence of which not only the commanders of the Irish legion, but a large crowd of adventurers, were open to new engagements, hastened the Fenians to take some

decided action. But in proportion as the Fenians became more demonstrative and active, the vigilance of the British government was increased, and before the Fenians were ready to take a decided step, their hopes of succeeding before long in their revolutionary enterprise were suddenly dashed to pieces. In the night of Sept. 15, 1865, the police took possession of the building of "The Irish People," took charge of the press, put Luby, O'Leary and O'Donovan Rossa, and other Fenian leaders who were stopping at Dublin, under arrest, and at the same time seized upon the private documents of the Fenians, which at once gave the British government a clue to the secret movements of the conspirators. In consequence of the information gotten by means of these private documents, a number of arrests were made in the southern and western districts of Ireland. Stephens himself fell into the hands of the police. Thus deprived of all its leaders, without encouragement in the shape of sympathetic demonstration on the part of the Irish people, the Fenian brotherhood in Ireland fell to pieces.—Yet, notwithstanding all this, the Fenian conspiracy was by no means subdued; for the defeat which the Fenian movement had suffered aroused all the latent energy of the brotherhood in America. In October, 1865, a general convention of Fenians was held at New York, which was to inaugurate the establishment of an independent republic on Irish soil. A constitution was submitted and debated, and O'Mahoney was elected president of the new republic. He appointed a minister of war, of the navy, and of finance, and together with his ministers took up his residence in an elegant mansion in New York city, which had been chosen as the temporary seat of government. The first executive measure was the levy of an income tax, by means of which a considerable amount of money came into the treasury. In accordance with the original plans, and in view of the differences still existing between the United States and England, which the Fenians tried to use as a means whereby the breach between the two countries might be widened, and their governments stirred up to open hostilities, a two-fold plan of action was agreed on, on the basis of which O'Mahoney was to take charge of the operations against Canada in the United States, while Stephens was to direct and manage the invasion and revolutionizing of Ireland.—The winter months were passed in making arrangements for final action. Toward the latter part of February, 1866, the excitement among the people of Ireland again rose very high. The English authorities discovered some traces of the importation of arms and ammunition and the enlistment and drilling of volunteers. During the fore part of March the number of American emissaries who had come to Ireland increased in alarming proportions. Their bearing became daily more threatening, and the symptoms of an impending outbreak were unmistakable. But the English government was on its guard, and once more the energetic measure—the suspension of the writ of *habeas corpus*—was all that was needed to check the revolution in its inception. Suddenly the strangers, who were suspected by the authorities, had disappeared from Ireland. The few who remained were put under arrest without difficulty, thus the rebellion, the leaders gone, again came to a sudden collapse. The Fenian operations against Canada shared no better fate. In the beginning of June, 1866, the Fenian forces began to gather on the Canadian borders, and in the second week in June an army of about 4,000 or 5,000 men invaded Canada along the coast of Lake Erie. The Fenian troops took possession of a few border towns, but were in the end defeated by the Canadian troops in several engagements.—This unsuccessful issue proved not only the fact that the Fenian forces were not equal to carry out the great plans of their leaders, but the more important fact, that the government of the United States was not willing to use the Irish discontent in support of any hostile movement against England, and all subsequent attempts on the part of the Fenians only served to prove the same facts. In Ireland, preparations to that end having been made for some time, on March 5, 1867, the rebellion broke out simultaneously in the vicinity of Dublin, in Drogheda and in Kerry. It was the most powerful effort the Fenians made in defense of their cause; yet it resulted, after a few days' struggle, in a complete defeat. The total number of the Fenian insurgents engaged in this struggle did not exceed 3,000 men, and, aside from the destruction of railroad and telegraph lines, the taking of a quantity of arms, and the firing of a few police stations and guard houses along the coast, the insurrection was of no consequence. There were no battles fought. The English troops, who followed up the insurgents, nowhere found a consolidated body of men opposing them. All that the English troops had to do was to capture the fugitives and take possession of the arms and ammunition belonging to the Fenians, which were scattered about in large quantities. The only attempt which the Fenians again made to establish an Irish republic, came to an end which was even more disgraceful. In April, 1867, about forty or fifty Fenians, who had served in the Union army, left New York, in a steamer fitted out for the purpose, to conquer Ireland In the beginning of June, after sailing about the Irish coast for some time, they landed near Waterford, only to fall, a few hours later, into the hands of the police, without offering any resistance. With this first and only invasion of Ireland the Fenian conspiracy was not of course broken up, but all hopes of again putting the Fenian forces on the offensive were gone. Completely routed in Ireland and America alike, the Fenians finally hit upon the plan of alarming their traditional enemy in his own camp, by arousing the discontent of the Irish laboring classes who were employed in England, especially

in the large commercial and manufacturing cities, and thus to subject England herself to the horrors of a civil war. The Fenian conspiracy had now come to its last and most desperate stage, in which it totally lost its political character; its organization was reduced to a state of anarchy, and the further doings of the Fenian combatants were simply the deeds of murderers and incendiaries.—Two events, characteristic of the further movements of the Fenians, deserve special mention: the forcible liberation, September, 1867, of several Fenian leaders who were under arrest in Manchester, and the attempt to release, December, 1867, two Fenians who had been arrested in London, and were there kept in prison. In Manchester the prisoners succeeded in escaping, but a large number of those who had aided in their liberation were put under arrest, and three of the ringleaders were put to death. In London the Fenians caused an explosion, whereby the outer prison walls and several neighboring houses were blown up, and, though the prisoner was not set free, about fifty persons, who happened to be on the spot, were either killed or wounded. In this case, too, the head of the conspirators was caught and suffered the penalty of death. — These events mark the last public effort of the Fenians in furtherance of their cause. Although the Fenian conspiracy, as a means of forcibly separating Ireland from England, proved unsuccessful, its effects undoubtedly were of great importance in this, that it hastened the adoption of needful reforms for the removal, in a peaceful way, of the crying evils under which Ireland was then suffering. B.

FEUDAL SYSTEM. In treating of this subject we shall endeavor to present a concise and clear view of the principles of what is called the feudal system, to indicate the great stages of its history, especially in England, and to state briefly the leading considerations that should be taken into account in forming an estimate of its influence on the civilization of modern Europe. — The essential constituent and distinguishing characteristic of the species of estate called a feud or fief was from the first, and always continued to be, that it was not an estate of absolute and independent ownership. The property, or *dominium directum*, as it was called, remained in the grantor of the estate. The person to whom it was granted did not become its owner, but only its tenant or holder. There is no direct proof that fiefs were originally resumable at pleasure, and Mr. Hallam, in his "State of Europe during the Middle Ages," has expressed his doubts if this were ever the case; but the position, as he admits, is laid down in almost every writer on the feudal system, and, if not to be made out by any decisive instances, it is at least strongly supported not only by general considerations of probability, but also by some indicative facts. This, however, is not material. It is not denied that the fief was at one time revocable, at least on the death of the grantee. In receiving it, therefore, he had received not an absolute gift, but only a loan, or at most an estate for his own life.— This being established as the true character of a primitive feud or fief, may perhaps throw some light upon the much disputed etymology and true meaning of the word. *Feudum* has been derived by some from a Latin, by others from a Teutonic root. The principal Latin origins proposed are *fœdus* (a treaty) and *fides* (faith). The supposition of the transformation of either of these into feudum seems unsupported by any proof. These derivations, in fact, are hardly better than another resolution of the puzzle that has been gravely offered, namely, that feudum is a word made up of the initial letters of the words *fidelis ero ubique domino vero meo*. The chief Teutonic etymologies proposed have been from the old German *faida*, the Danish *feide*, or the modern German *vehd*, all meaning battle-feud, or dissension; and from *fe* or *fee*, which it is said signifies wages or pay for service, combined with *od* or *odh*, to which the signification of possession or property is assigned. But, as Sir Francis Palgrave has well remarked, "upon all the Teutonic etymologies it is sufficient to observe, that the theories are contradicted by the *practice* of the Teutonic tongues—a *feud*, or fief, is not called by such a name, or by any name approaching thereto, in any Teutonic or Gothic language whatever." (Proofs and Illustrations to Rise and Progress of Eng. Com., p. ccvii.) *Lehn*, or some cognate form, is the only corresponding Teutonic term; *laen* in Anglo-Saxon, *ln* in Danish, *leen* in Swedish, etc. All these words properly signify the same thing that is expressed by our modern English form of the same element, *loan;* a *loan* is the only name for a feud or fief in all the Teutonic tongues. What then is *feud* or *fief?* Palgrave doubts if the word *feudum* ever existed. The true word seems to be *fevdum* (not distinguishable from *feudum* in old writing), or *feftum*. *Fief* or *fief* (Latinized into *fevodium*, which some contracted into *fevdum*, and others, by omitting the *v*, into *feodum*) he conceives to be *fitef*, or *phitef*, and that again to be a colloquial abbreviation of *emphyteusis*, pronounced *emphytefsis*, a well-known term of the Roman imperial law for an estate granted to be held not absolutely, but with the ownership still in the grantor and the usufruct only in the hands of the grantee. It is certain that emphyteusis was used in the middle ages as synonymous with precaria (an estate held on a precarious or uncertain tenure); that precariæ, and also præstitæ or præstariæ, (literally loans), were the same with beneficia; and that beneficia under the emperors were the same, or nearly the same, as fiefs. It may be added that the word *feu* is still in familiar use in Scotland for an estate held only for a term of years. The possessor of such an estate is called a *feuar*. Many of these feus are held for 99 years, some for 999 years. A rent, or feu-duty, as it is called, is always paid, as in the case

of a lease in England; but, although never, we believe, merely nominal, it is often extremely trifling in proportion to the value of the property. In Erskine's "Principles of the Law of Scotland," in the section "On the several kinds of holding" (book ii., tit. 4), we find the following passage respecting feu-holding, which may be taken as curiously illustrating the derivation of fief that has just been quoted from another writer: "It has a strong resemblance to the Roman *emphyteusis*, in the nature of the right, the yearly duty payable by the vassal, the penalty in the case of not punctual payment, and the restraint frequently laid upon vassals not to alien without the superior's consent." As for the English term *fee*, which is generally if not universally assumed to be the same word with fief and feud, (and of which it may be the abbreviated form, as we may infer from the words "feoffor," "infeoff" and "feoffment"), it would be easy enough to show how, supposing that notion to be correct, it may have acquired the meaning which it has in the expression fee simple, fee tail, etc.—The origin of the system of feuds has been a fertile subject of speculation and dispute. If we merely seek for the existence of a kind of landed tenure resembling that of fief in its essential principle, it is probable that such may be discovered in various ages and parts of the world. But feuds alone are not the feudal system. They are only one of the elements out of which that system grew. In its entireness it is certain that the feudal system never subsisted anywhere before it arose in the middle ages, in those parts of Europe in which the Germanic nations settled themselves after the subversion of the Roman empire.—Supposing feud to be the same word with the Roman emphyteusis, it does not follow that the Germanic nations borrowed the notion of this species of tenure from the Romans. It is perhaps more probable that it was the common form of tenure among them before their settlement in the Roman provinces. It is to be observed that the emphyteusis, the precaria, the beneficium, only subsisted under the Roman scheme of polity in particular instances, but they present themselves as the very genius of the Germanic scheme. What was only occasional under the one became general under the other. In other words, if the Romans had feuds, it was their Germanic conquerors who first established a system of feuds. They probably established such a system upon their first settlement in the conquered provinces. The word feudum indeed is not found in any writing of earlier date than the beginning of the eleventh century, although, as Mr. Hallam has remarked, the words *feum* and *fevum*, which are evidently the same with feudum, occur in several charters of the preceding century. But, as we have shown, feudum or feud, in all probability, was not the Teutonic term. "Can it be doubted," asks Mr. Hallam, "that some word of barbarous original must have answered, in the vernacular languages, to the Latin beneficium?" There is reason to believe, as we have seen, that this vernacular word must have been *lehn*, or some cognate form, and that feud was merely a corrupted term of the Roman law which was latterly applied to denote the same thing.—We know so little with certainty respecting the original institutions of the Germanic nations, that it is impossible to say how much they may have brought with them from their northern forests, or how much they may have borrowed from the imperial polity, of the other chief element which enters into the system of feudalism, the connection subsisting between the grantor and the grantee of the fief, the person having the property and the person having the usufruct, or, as they were respectively designated, the suzerain or lord, and the tenant or vassal. Tenant may be considered as the name given to the latter in reference to the particular nature of his right over the land; vassal, that denoting the particular nature of his personal connection with his lord. The former has been already explained; the consideration of the latter introduces a new view. By some writers the feudal vassals have been derived from the *comites*, or officers of the Roman imperial household; by others from the *comites*, or companions, mentioned by Tacitus (*German.*, 13, etc) as attending upon each of the German chiefs in war. The latter opinion is ingeniously maintained by Montesquieu (xxx., 3). One fact appears to be certain, and is of some importance, namely, that the original vassali or vassi were merely noblemen who attached themselves to the court and to attendance upon the prince, without necessarily holding any landed estate or beneficium by royal grant. In this sense the words occur in the early part of the ninth century. Vassal has been derived from the Celtic *gwas* and from the German *gesell*, which are probably the same word, and of both of which the original signification seems to be a helper, or subordinate associate, in labor of any kind.—If the vassal was at first merely the associate of or attendant upon his lord, nothing could be more natural than that, when the lord came to have land to give away, he should most frequently bestow it upon his vassals, both as a reward for their past and a bond by which he might secure their future services. If the peculiar form of tenure constituting the fief or lehn did not exist before, here was the very case which would suggest it. At all events, nothing could be more perfectly adapted to the circumstances. The vassal was entitled to a recompense; at the same time it was not the interest of the lord to sever their connection, and to allow him to become independent; probably that was as little the desire of the vassal himself; he was conveniently and appropriately rewarded, therefore, by a fief, that is, by a loan of land, the profits of which were left to him as entirely as if he had obtained the ownership of the land, but his precarious and revocable tenure of which, at the same time, kept him bound to his lord in the

same dependence as before. — Here then we have the union of the feud and vassalage—two things which remained intimately and inseparably combined so long as the feudal system existed. Nevertheless they would appear, as we have seen, to have been originally quite distinct, and merely to have been thrown into combination by circumstances. At first it is probable that, as there were vassals who were not feudatories, so there were feudatories who were not vassals. But very soon, when the advantage of the association of the two characters came to be perceived, it would be established as essential to the completeness of each. Every vassal would receive a fief, and every person to whom a fief was granted would become a vassal. Thus a vassal and the holder of a fief would come to signify, as they eventually did, one and the same thing. — Fiefs, as already intimated, are generally supposed to have been at first entirely precarious, that is to say, resumable at any time at the pleasure of the grantor. But if this state of things ever existed, it probably did not last long Even from the first it is most probable that many fiefs were granted for a certain term of years or for life. And in those of all kinds a substitute for the original precariousness of the tenure was soon found, which, while it equally secured the rights and interests of the lord, was much more honorable and in every way more advantageous for the vassal. This was the method of attaching him by certain oaths and solemn forms, which, besides their force in a religious point of view, were so contrived as to appeal also to men's moral feelings, and which, therefore, it was accounted not only impious but infamous to violate. The relation binding the vassal to his lord was made to wear all the appearance of a mutual interchange of benefits—of bounty and protection on the one hand, of gratitude and service due on the other; and so strongly did this view of the matter take possession of men's minds, that in the feudal ages even the ties of natural relationship were looked upon as of inferior obligation to the artificial bond of vassalage.— As soon as the position of the vassal had thus been made stable and secure, various changes would gradually introduce themselves. The vassal would begin to have his fixed rights as well as his lord, the oath which he had taken measuring and determining both these rights and his duties. The relation between the two parties would cease to be one wholly of power and dominion on the one hand, and of mere obligation and dependence on the other. If the vassal performed that which he had sworn, nothing more would be required of him. Any attempt of his lord to force him to do more would be considered as an injustice. Their connection would now assume the appearance of a mutual compact, imposing corresponding obligations upon both, and making protection as much a duty in the lord, as gratitude and service in the vassal. — Other important changes would follow this fundamental change, or would take place while it was advancing to completion. After the fief had come to be generally held for life, the next step would be for the eldest son usually to succeed his father. His right so to succeed would next be established by usage. At a later stage fiefs became descendible in the collateral as well as in the direct line. At a still later, they became inheritable by females as well as by males. There is much difference of opinion, however, as to the dates at which these several changes took place. Some writers conceive that fiefs first became hereditary in France under Charlemagne; others, however, with whom Mr. Hallam agrees, maintain that there were hereditary fiefs under the first race of French kings. It is supposed not to have been till the time of the first Capets in the end of the tenth century that the right of the son to succeed the father was established by law in France Conrad II., surnamed the Salic, who became emperor in 1024, is generally believed to have first established the hereditary character of fiefs in Germany. — Throughout the whole of this progressive development of the system, however, the original nature of the fief was never forgotten. The ultimate property was still held to be in the lord; and that fact was very distinctly signified, not only by the expressive language of forms and symbols, but by certain liabilities of the tenure that gave still sharper intimation of its true character. Even after fiefs became descendible to heirs in the most comprehensive sense, and by the most fixed rule, every new occupant of the estate had still to make solemn acknowledgment of his vassalage, and thus to obtain, as it were, a renewal of the grant from the lord. He became bound to discharge all services and other dues as fully as the first grantee had been Above all, in certain circumstances, as, for example, if the tenant committed treason or felony, or if he left no heir, the estate would still return by forfeiture or escheat to the lord, as to its original owner.— Originally fiefs were granted only by sovereign princes; but after estates of this description, by acquiring the hereditary quality, came to be considered as property to all practical intents and purposes, their holders proceeded, on the strength of this completeness of possession, themselves to assume the character and to exercise the rights of lords, by the practice of what was called subinfeudation, that is, the alienation of portions of their fiefs to other parties, who thereupon were placed in the same or a similar relation to them as that in which they stood to the prince. The vassal of the prince became the lord over other vassals; in this latter capacity he was called a mesne (that is, an intermediate) lord; he was a lord and a vassal at the same time. In the same manner the vassal of a mesne lord might become also the lord of other arrere vassals, as those vassals that held of a mesne lord were designated. This process sometimes produced curious results; for a lord might in this way actually become the vassal of his own vassal, and a vassal a lord over his own lord.—From whatever cause it may have hap-

pened (which is matter of dispute), in all the continental provinces of the Roman empire which were conquered and occupied by the Germanic nations, many lands were from the first held, not as fiefs, that is, with the ownership in one party and the usufruct in another, but as allodia, that is, in full and entire ownership. The holder of such an estate, having no lord, was of course free from all the exactions and burdens which were incidental to the vassalage of the holder of a fief. He was also, however, without the powerful protection which the latter enjoyed; and so important was this protection in the turbulent state of society which existed in Europe for some ages after the dissolution of the empire of Charlemagne, that in fact most of the allodialists in course of time exchanged their originally independent condition for the security and subjection of that of the feudatory. "During the tenth and eleventh centuries," says Mr. Hallam, "it appears that allodial lands in France had chiefly become feudal; that is, they had been surrendered by their proprietors, and received back again upon the feudal conditions; or more frequently, perhaps, the owner had been compelled to acknowledge himself the man or vassal of a suzerain, and thus to confess an original grant which had never existed. Changes of the same nature, though not perhaps so extensive or so distinctly to be traced, took place in Italy and Germany. Yet it would be inaccurate to assert that the prevalence of the feudal system has been unlimited; in a great part of France allodial tenures always subsisted, and many estates in the empire were of the same description."—After the conquest of England by the Normans, the *dominium directum*, or property of all the land in the kingdom, appears to have been considered as vested in the crown. "All the lands and tenements in England in the hands of subjects," says Coke, "are holden mediately or immediately of the king; for in the law of England we have not properly allodium." This universality of its application, therefore, may be regarded as the first respect in which the system of feudalism established in England differed from that established in France and other continental countries. There were also various other differences. The Conqueror, for instance, introduced here the practice unknown on the continent of compelling the arrere vassals, as well as the immediate tenants of the crown, to take the oath of fealty to himself. In other countries a vassal only swore fealty to his immediate lord; in England, if he held of a mesne lord, he took two oaths, one to his lord and another to his lord's lord. It may be observed, however, that in those times in which the feudal principle was in its greatest vigor the fealty of a vassal to his immediate lord was usually considered as the higher obligation; when that and his fealty to the crown came into collision, the former was the oath to which he adhered. Some feudists, indeed, held that his allegiance to the crown was always to be understood as reserved in the fealty which a vassal swore to his lord; and the emperor Frederic Barbarossa decreed that in every oath of fealty taken to an inferior lord there should be an express reservation of the vassal's duty to the emperor. But the double oath exacted by the Norman conqueror did not go so far as this. It only gave him, at the most, a concurrent power with the mesne lord over the vassals of the latter, who in France were nearly removed altogether from the control of the royal authority. A more important difference between the English and French feudalism consisted in the greater extension given by the former to the rights of lords generally over their vassals by what were called the incidents of wardship and marriage. The wardship or guardianship of the tenant during minority, which implied both the custody of his person and the appropriation of the profits of the estate, appears to have been enjoyed by the lord in some parts of Germany, but nowhere else except in England and Normandy. "This," observes Mr. Hallam, "was one of the most vexatious parts of our feudal tenures, and was never perhaps more sorely felt than in their last stage under the Tudor and Stuart families." The right of marriage (maritagium) originally implied only the power possessed by the lord of tendering a husband to his female ward while under age: if she rejected the match, she forfeited the value of the marriage; that is, as much as any one would give to the lord for permission to marry her. But the right was afterward extended so as to include male as well as female heirs; and it also appears that although the practice might not be sanctioned by law, some of the Anglo-Norman kings were accustomed to exact penalties from their female vassals of all ages, and even from widows, for either marrying without their consent or refusing such marriages as they proposed. The seignorial prerogative of marriage, like that of wardship, was peculiar to England and Normandy, and to some parts of Germany — It has been very usual to represent military service as the essential peculiarity of a feudal tenure. But the constituent and distinguishing element of that form of tenure was its being a tenancy merely, and not an ownership; the enjoyment of land for certain services to be performed. In the state of society, however, in which the feudal system grew up, it was impossible that military service should not become the chief duty to which the vassal was bound. It was in such a state of society the most important service which he could render to his lord. It was the species of service which the persons to whom fiefs were first granted seem to have been previously accustomed to render, and the continuance of which, accordingly, the grant of the fief was chiefly intended to secure. Yet military service, or knight service as it was called in England, though it was the usual, was by no means the necessary or uniform condition on which fiefs were granted. Any other honorable condition might be imposed which distinctly

recognized the *dominium directum* of the lord. —Another common characteristic of fiefs, which in like manner arose incidentally out of the circumstances of the times in which they originated, was that they usually consisted of land. Land was in those times nearly the only species of wealth that existed; certainly the only form of wealth that had any considerable security or permanency. Yet there are not wanting instances of other things, such as pensions and offices, being granted as fiefs. It was a great question nevertheless, among the feudists, whether a fief could consist of money, or of anything else than land; and perhaps the most eminent authorities have maintained that it could not. The preference thus shown for land by the spirit of the feudal customs has perhaps left deeper traces both upon the law, the political constitution, and the social habits and feelings of England and other feudal countries than any other part of the system. England has thence derived not only the distinction (nearly altogether unknown to the Roman law) by which her law still discriminates certain amounts of interest in lands and tenements under the name of *real* property from property of every other kind, but also the ascendency retained by the former in nearly every respect in which such ascendency can be upheld either by institutions or by opinion.—The grant of land as a fief, especially when it was a grant from the suzerain, or supreme lord, whether called king or duke, or any other name, was, sometimes at least, accompanied with an express grant of jurisdiction. Thus every great tenant exercised a jurisdiction, civil and criminal, over his immediate tenants: he held courts and administered the laws within his lordship like a sovereign prince. It appears that the same jurisdiction was often granted by the crown to the abbeys with their lands. The formation of manors in England appears to have been consequent upon the establishment of feudalism. The existence of manor courts, and so many small jurisdictions within the kingdom, is one of the most permanent features of that polity which the Normans stamped upon the country.—In the infancy of the feudal system it is probable that the vassal was considered bound to attend his lord in war for any length of time during which his services might be required. Afterward, when the situation of the vassal became more independent, the amount of this kind of service was fixed either by law or by usage. In England the whole country was divided into about 60,000 knights' fees; and the tenant of each of these appears to have been obliged to keep the field at his own expense for forty days on every occasion on which his lord chose to call upon him. For smaller quantities of land proportionately shorter terms of service were due; at least such is the common statement; although it seems improbable that the individuals composing a feudal army could thus have the privilege of returning home some at one time, some at another. Women were obliged to send their substitutes; and so were the clergy, certain persons holding public offices, and men past the age of sixty, all of whom were exempted from personal service. The rule or custom, however, both as to the duration of the service, and its extent in other respects, varied greatly in different ages and countries — The other duties of the vassal were rather expressive of the relation of honorable subordination in which he stood to his lord, than services of any real or calculable value. They are thus summed up by Mr. Hallam: "It was a breach of faith to divulge the lord's counsel, to conceal from him the machinations of others, to injure his person or fortune, or to violate the sanctity of his roof and the honor of his family. In battle he was bound to lend his horse to his lord when dismounted; to adhere to his side while fighting, and to go into captivity as a hostage for him when taken. His attendance was due to the lord's courts, sometimes to witness and sometimes to bear a part in the administration of justice."—There were, however, various other substantial advantages derived by the lord. We have already mentioned the rights of wardship and of marriage, which were nearly peculiar to the dominions of the English crown. Besides these, there were the payment, called a relief, made by every new entrant upon the possession of the fief, the escheat of the land to the lord when the tenant left no heir, and its forfeiture to him when the tenant was found guilty either of a breach of his oath of fealty, or of felony. There was, besides, a fine payable to the lord upon the alienation by the tenant of any part of the estate, if that was at all permitted. Finally, there were the various aids, as they were called, payable by the tenant. — The principal ceremonies used in conferring a fief were homage, fealty and investiture. The first two of these can not be more distinctly or more shortly described than in the words of Littleton. "Homage," says the Treatise of Tenures, "is the most honorable service, and most humble service of reverence, that a frank tenant may do to his lord: for when the tenant shall make homage to his lord, he shall be ungirt and his head uncovered, and his lord shall sit and the tenant shall kneel before him on both his knees, and hold his hands jointly together between the hands of his lord, and shall say thus: I become your man, from this day forward, of life and limb, and of earthly worship, and unto you shall be true and faithful, and bear you faith for the tenements that I claim to hold of you, saving the faith that I owe to our sovereign lord the king; and then the lord, so sitting, shall kiss him." Religious persons and women, instead of "I become your man," said, "I do homage unto you." Here, it is to be observed, there was no oath taken; the doing of fealty consisted wholly in taking an oath, without any obeisance. "When a freeholder (frank tenant)," says Littleton, "doth fealty to his lord he shall hold his right hand upon a book, and shall say thus: Know ye this, my lord, that I shall be

faithful and true unto you, and faith to you shall bear for the lands which I claim to hold of you, and that I shall lawfully do to you the customs and services which I ought to do at the terms assigned, so help me God and his saints; and he shall kiss the book. But he shall not kneel when he maketh the fealty, nor shall make such (that is, any such, *tiel*), humble reverence as is aforesaid in homage." The investiture or the conveyance of feudal land is represented by the modern feoffment. — The feudal system may be regarded as having reached its maturity and full development when the Norman conquest of England took place. It appears accordingly to have been established there immediately or very soon after that event in as pure, strict and comprehensive a form as it ever attained in any other country. The whole land of the kingdom, as we have already mentioned, was, without any exception, either in the hands of the crown, or held in fief by the vassals of the crown, or of them by subinfeudation. Those lands which the king kept were called his demesne (the terræ regis of the domesday survey), and thus the crown had a number of immediate tenants, like any other lord, in the various lands reserved in nearly every part of the kingdom. Nowhere else, also, before the restrictions established by the charters, were the rights of the lord over the vassal stretched in practice nearer to their extreme theoretical limits. On the other hand, the vassal had arrived at what we may call his ultimate position in the natural progress of the system; the hereditary quality of the feuds was fully established; his ancient absolute dependence and subjection had passed away; under whatever disadvantages his inferiority of station might place him, he met his lord on the common ground of their mutual rights and obligations; there might be considerable contention about what these rights and obligations on either side were, but it was admitted that on both sides they had the same character of real, legally binding obligations, and legally maintainable rights. — This settlement of the system, however, was anything rather than an assurance of its stability and permanency. It was now held together by a principle altogether of a different kind from that which had originally created and cemented it. That which had been in the beginning the very life of the relation between the lord and the vassal, had now in great part perished. The feeling of gratitude could no more survive than the feeling of dependence on the part of the latter after feuds became hereditary. A species of superstition, indeed, and a sense of honor, which in some degree supplied the place of what was lost, were preserved by oaths and ceremonies, and the influence of habit and old opinion; but these were at the best only extraneous props; the self-sustaining strength of the edifice was gone. Thus it was the tendency of feudalism to decay and fall to pieces under the necessary development of its own principle. — Other causes, called into action by the progress of events, conspired to bring about the same result. The very military spirit which was fostered by the feudal institutions, and the wars, defensive and aggressive, which they were intended to supply the means of carrying on, led in course of time to the release of the vassal from the chief and most distinguishing of his original obligations, and thereby, it may be said, to the rupture of the strongest bond that had attached him to his lord. The feudal military army was at length found so inconvenient a force that soon after the accession of Henry II the personal service of vassals was dispensed with, and a pecuniary payment, under the name of escuage, accepted in its stead. From this time the vassal was no longer really the defender of his lord; he was no longer what he professed to be in his homage and his oath of fealty; and one effect of the change must have been still further to wear down what remained of the old impressiveness of these solemnities, and to reduce them nearer to mere dead forms. The acquisition by the crown of an army of subservient mercenaries, in exchange for its former inefficient and withal turbulent and unmanageable army of vassals, was in fact the discovery of a substitute for the main purpose of the feudal polity. Whatever nourished a new power in the commonwealth, also took sustenance and strength from this ancient power. Such must in especial degree have been the effect of the growth of towns, and of the new species of wealth, and, it may be added, the new manners and modes of thinking, created by trade and commerce. — The progress of subinfeudation has sometimes been represented as having upon the whole tended to weaken and loosen the fabric of feudalism. It "demolished," observes Blackstone (ii., 4), "the ancient simplicity of feuds; and an inroad being once made upon their constitution, it subjected them in a course of time to great varieties and innovations. Feuds began to be bought and sold, and deviations were made from the old fundamental rules of tenure and succession, which were held no longer sacred when the feuds themselves no longer continued to be purely military." But the practice of subinfeudation would rather seem to have been calculated to carry out the feudal principle, and to place the whole system on a broader and firmer basis. It would be more correct to ascribe the effects here spoken of to the prohibition against subinfeudation. The effect of this practice, it is true, was to deprive the lord of his forfeitures and escheats and the other advantages of his seigniory, and various attempts, therefore, were at length made to check or altogether prevent it, in which the crown and the tenants in chief, whose interests were most affected, may be supposed to have joined. One of the clauses of the great charter of Henry III. (the thirty-second) appears to be intended to restrict subinfeudation (although the meaning is not quite clear), and is expressly forbidden by the statute of Quia Emptores (the 18 Edw. I., c. 1). Subinfeudation was originally the only way in

which the holder of a fief could alienate any part of his estate without the consent of his lord; and it therefore now became necessary to provide some other mode of effecting that object, for it seems to have been felt that after alienation had been allowed so long to go on under the guise of subinfeudation, to restrain it altogether would be no longer possible. The consequence was, that as a compensation for the prohibition of subinfeudation, the old prohibition against alienation was removed; lands were allowed to be alienated, but the purchaser or grantee did not hold them of the vendor or grantor, but held them exactly as the grantor did; and such is still the legal effect in England when a man parts with his entire interest in his lands. This change was effected by the statute of Quia Emptores with regard to all persons except immediate tenants of the crown, who were permitted to alienate on paying a fine to the king by the statute 1 Edw. III., c. 12. Thus at the same time that a practice strictly accordant to the spirit of feudalism, and eminently favorable to its conservation and extension, was stopped, another practice, altogether adverse to its fundamental principles, was introduced and established, that of allowing *voluntary* alienation by persons during their lifetime.—It was a consequence of feudal principles, that a man's lands could not be subjected to the claims of his creditors. This restraint upon what may be called *involuntary* alienation has been in a great degree removed by the successive enactments which have had for their object to make a man's lands liable for his debts; although, after a lapse of near six hundred years since the statute of Acton Burnell, the lands of a debtor are not yet completely subjected to the just demands of his creditors. This statute of Acton Burnell, passed 11 Edw. I. (1283), made the devisable burgages, or burgh tenements, of a debtor salable in discharge of his debts. By the statute of Merchant, passed 13 Edw. I. (1285), called statute 3, a debitor's lands might be delivered to his merchant creditor till his debt was wholly paid out of the profits. By the 18th chapter of the statute of Westminster the second, passed the same year, a moiety of a debtor's land (not copyhold) was subjected to execution for debts or damages recovered by judgment. But the lands are not sold: the moiety of them is delivered by the sheriff to him who has recovered by judgment, to occupy them till his debt or damages are satisfied. Finally, by the several modern statutes of bankruptcy, the whole of a bankrupt debtor's lands have become absolutely salable for the payment of his debts. Further, by a recent act (3 and 4 Wm. IV., c. 104), all a deceased person's estate in land, of whatever kind, not charged by his will with the payment of his debts, whether he was a trader within the bankrupt laws or not, constitutes assets, to be administered in equity, for the payment of debts, both those on specialty and those on simple contract. — An attempt had early been made to restore in part the old restraints upon *voluntary* alienation by the statute 13 Edw. I., c. 1, entitled "De Donis Conditionalibus," which had for its object to enable any owner of an estate, by his own disposition, to secure its descent in perpetuity in a particular line. So far as the statute went, it was an effort to strengthen the declining power of feudalism. The effect was to create what were called estates tail, and to free the tenant in tail from many liabilities of his ancestor to which he would be subject if he were seized of the same lands in fee simple. The power which was thus conferred upon landholders of preventing the alienation of their lands remained in full force for nearly two centuries, till at last, in the reign of Edward IV., by the decision of the courts (A. D. 1472), the practice of barring estates tail by a common recovery was completely established.—The practice of conveying estates by fine, which was of great antiquity in England, and the origin of which is by some referred to the time of Stephen or Henry II., was regulated by various statutes (among others, particularly by the 4 Henry VII.), and contributed materially to facilitate the transfer of lands in general, but more particularly (as regulated by the statute just mentioned) to bar estates tail. By a statute passed in the 32 Henry VIII., c. 28, tenants in tail were enabled to make leases for three lives or twenty-one years, which should bind their issue. The 26 Hen. VIII., c. 13, also had declared all estates of inheritance, in use or possession, to be forfeited to the king upon conviction of high treason, and thus destroyed one of the strongest inducements to the tying up of estates in tail, which hitherto had only been forfeitable for treason during the life of the tenant in tail — Another mode by which the feudal restraints upon *voluntary* alienation came at length to be extensively evaded, was the practice introduced, probably about the end of the reign of Edward III., of granting lands to persons to *uses*, as it was termed; that is the new owner of the land received it not for his own use, but on the understanding and confidence that he would hold the land for such persons and for such purposes as the grantor then named or might at any time afterward name. Thus an estate in land became divided into two parts, one of which was the legal ownership, and the other the right to the profits or the *use;* and this use could be transferred by a man's last *will* at a time when the land itself, being still bound in the fetters of feudal restraint, could not be transferred by will, except where it was devisable, as in Kent and some other parts of England, by special custom. The person who thus obtained the use or profits of the estate—the *cestui que use*, as he is called in law—was finally converted into the actual owner of the land to the same amount of interest as he had in the use (A. D. 1535) by the statute of Uses (the 27 Hen. VIII., c. 10), and thus the power of devising land which had been enjoyed by the mode of uses was taken away. But this important element in the feudal system, the restraint on the disposition of lands by will, could no longer be maintained con-

sistently with the habits and opinions then established, and accordingly, by stat. 23 Hen. VIII. (which was afterward explained by the stat. 34 Hen. VIII.), all persons were allowed to dispose of their freehold lands held in fee simple by a will in writing, subject to certain restrictions as to lands held by knight service either of the king or any other, which restrictions were removed by the stat. 12 Chas. II., c. 24, which abolished military tenures. — Notwithstanding these successive assaults upon certain parts of the ancient feudalism, the main body of the edifice still remained almost entire. It is said that the subject of the abolition of military tenures was brought before the parliament in the 18th of James I., on the king's recommendation, but at that time nothing was done in the matter. When the civil war broke out in 1641, the profits of marriage, wardship, and of most of the other old feudal prerogatives of the crown, were for some time still collected by the parliament, as they had formerly been by the king. The fabric of the feudal system in England, however, was eventually shattered by the storm of the great rebellion. The court of wards was in effect discontinued from 1645. The restoration of the king could not restore what had thus been in practice swept away. By the above mentioned statute, 12 Car. II., c. 24, it was accordingly enacted that from the year 1645 the court of wards and liveries, and all wardships, liveries, primer-seizins, values, forfeitures of marriage, etc., by reason of any tenure of the king's majesty, or of any other by knights' tenures, should be taken away and discharged, together with all fines for alienations, tenure by homage, escuage, aids pur filz marrier and pur fair fitz chevalier, etc.; and all tenures of any honors, manors, lands, tenements or hereditaments, or any estate of inheritance at the common law, held either by the king or of any other person or persons, bodies politic or corporate, were turned into free and common soccage, to all intents and purposes. By the same statute every father was empowered by deed or will, executed in the presence of two witnesses, to appoint persons to have the guardianship of his infant and unmarried children, and to have the custody and management of their property. It was not till after the lapse of nearly another century that the tenures and other institutions of feudalism were put an end to in Scotland by the statutes, passed after the rebellion, of the 20 Geo. II., c. 43, entitled "An act for abolishing heritable jurisdictions;" and the 20 Geo. II., c. 50, entitled "An act for taking away the tenure of ward-holding in Scotland, for giving to heirs and successors a summary process against superiors, and for ascertaining the services of all tenants, etc." Nor have estates tail in Scotland yet been relieved from the strictest fetters of a destination in perpetuity, either by the invention of common recoveries, or by levying a fine, or by any legislative enactment. —We have enumerated the principal statutes which may be considered as having broken in upon the integrity of the feudal system, considered in reference to the power which the *tenant* of land can now exercise over it, and the right which others can enforce against him in respect of his property in it. But the system of tenures still exists. The statute of Charles II. only abolished military tenures and such parts of the feudal system as had become generally intolerable; but all lands in the kingdom are still held either by soccage tenure, into which military tenures were changed, or else by the respective tenures of frankalmoigne, grand serjeanty and copyhold, which were not affected by the statute. — Some of the consequences of tenures, as they at present subsist, can not be more simply exemplified than by the rules as to the forfeiture and escheat of lands, both of which, however, have undergone modifications since the statute of Charles II.— To attain a comprehensive and exact view of the present tenures of landed property in England and their incidents and consequences, it would be necessary for the reader to enter upon a course of study more laborious and extensive than is consistent with pursuits not strictly legal. — The notions of loyalty, of honor, of nobility, and of the importance, socially and politically, of landed over other property, are the most striking of the feelings which may be considered to have taken their birth from the feudal system. These notions are opposed to the tendency of the commercial and manufacturing spirit, which has been the great moving power of the world since the decline of strict feudalism; but that power has not yet been able to destroy, or perhaps even very materially to weaken, the opinions above mentioned in the minds of the mass.—We are not, however, to pass judgment upon feudalism, as the originating and shaping principle of a particular form into which human society has run, simply according to our estimate of the value of these its relics at the present day. The true question is, if this particular organization had not been given to European society after the dissolution of the ancient civilization, what other order of things would in all likelihood have arisen, a better or a worse than that which did result? — As for the state of society during the actual prevalence of the feudal system, it was, without doubt, in many respects exceedingly defective and barbarous. But the system, with all its imperfections, still combined the two essential qualities of being both a system of stability and a system of progression. It did not fall to pieces, neither did it stand still. Notwithstanding all its rudeness, it was, what every right system of polity is, at once conservative and productive. And perhaps it is to be most fairly appreciated by being considered, not in what it actually was, but in what it preserved from destruction, and in what it has produced. — The earliest published compilation of feudal law was a collection of rules and opinions supposed to have been made by two lawyers of Lombardy, Obertus of Otto and Gerardus Niger, by order of the emperor Frederic Barbarossa. It

appeared at Milan about the year 1170, and immediately became the great text-book of this branch of the law in all the schools and universities, and even a sort of authority in the courts. It is divided in some editions into three, in others into five books, and is commonly entitled the "Libri Feudorum"; the old writers, however, are wont to quote it simply as the Textus, or Text. But the great sources of the feudal law are the ancient codes of the several Germanic nations; the capitularies or collections of edicts of Charlemagne and his successors; and the various coutumiers or collections of the old customs of the different provinces of France. The laws of the Visigoths, of the Burgundians, the Salic law, the laws of the Alemanni, of the Baiuvarii, of the Ripuarii, of the Saxons, of the Anglii, of the Werini, of the Frisians, of the Lombards, etc., have been published by Lindenbrogius in his *Codex Legum Antiquarum*, fol. Francof., 1613. The best editions of the capitularies are that by Baluze, in 2 vols. fol., Paris, 1677, and that by Chiniac, of which, however, we believe only the first two volumes have appeared, Paris, fol., 1780. Richebourg's *Nouveau Coutumier Général*, 4 vols. fol., Paris, 1724, is a complete collection of the coutumiers, all of which, however, have also been published separately. All these old laws and codes, as well as the Milan text-book, have been made the subject of voluminous commentaries.

BOHN.

FICTIONS, in Law and in Political Economy. The part which fictions have played in the history of human society and of political science and thought, is one of the most instructive phenomena that sociology can investigate. They have had a large share in determining not only the political ideas, but the political and legal rights of mankind. It is needless to say we do not refer to fictions in the common meaning of the word as denoting mere fabrications in the sense of falsehoods, nor yet to the fictitious creations of the novelist's imagination. The fictions we have in view may be classed as legal, political and philosophical; some of them, in different aspects, coming under all three heads. Sir Henry Maine, in his work on Ancient Law, has drawn attention to the vast influence which fictions have exercised over the development of society, as affording a means of introducing change and reform into law, without breaking with the past and its traditions and solemn forms. But for one of these fictions, one older than positive law in the strict sense of the word, but which fills a conspicuous place in the most famous of all legal systems, few early communities could have survived. The disasters and perils surrounding them—war, pillage, famine, fire, disease—were such that families were often left without male heirs, clans without chiefs of the true blood. The sons were slain in battle, or perished early from the hardships to which childhood was exposed, or were taken captive and passed into slavery, or fell victims to the maladies which ravaged the human race in its infancy. Households were thus left without their natural protectors, and, what was deemed a graver evil, without successors to perform the rites of ancestry worship, and to leave male heirs in their turn to perpetuate it. The fiction of adoption, whereby a stranger was admitted to the place of a son, with all his rights and obligations, gave the family a defender and head, and preserved its name and honor among the living. As society advanced, the forms of adoption were applied to other ends, as, for instance, to effect the alienation of land by gift and sale. The ancient testament was at first a species of adoption, or of the nomination of a successor to the headship of the family and the administration of its patrimony; and at length was made use of to effect the disinheritance of the natural heir. The civil law of Rome, and the common law of England, were for centuries developed mainly by means of the fiction of a religious adherence to the letter and form of the law, while in substance it was radically changed by novel interpretations. The state of thought which this mode of law reform indicates is especially remarkable. There is the most scrupulous adherence to the outward forms and literal text of the law, while there is no scruple in subverting it in spirit. There can be little doubt that the explanation is to be looked for in the original connection of law with religion, and the consequent sacredness of legal ceremonies and formulas as religious rites and observances. Herbert Spencer says that government and law, were originally, nothing but ceremony. A third term is however necessary to explain their connection. Law was originally religion; religion consisted in forms, obeisances and ceremonies; and law, accordingly, was in the main a mass of ceremonial observances. The idea of the sacred and inviolate character of the form and letter survived after its origin in religion had been forgotten. No change in the ancient order of procedure was permitted, but whatever it could be interpreted to cover was lawful and right. There is no reason to suppose that either the Roman jurisconsults or the English judges were exempt from a reverential regard for the regular procedure and literal terms of the old law, when superseding it in substance, and even when triumphing in the ingenuity by which the change was effected. — No more curious instance of the length to which legal fictions have been pushed can be cited, than that of the collusive action, called a common recovery, whereby in the reign of Edward IV. the owner for life of an entailed estate was enabled to set aside the statute *De Donis*, and to alienate the land from the heir. Many reasons concurred to make the barring of entails appear expedient at that epoch. The crown and its lawyers were desirous of making the inheritance, and not the life estate only, forfeitable for treason. The ancient principles of the common law, derived by the early judges in a great measure

from the Roman jurists, inclined the courts to favor the free disposition of landed property. The courts of law, moreover, were engaged in a fierce struggle with the court of chancery for jurisdiction, and were seeking to extend their powers and remedies, and to attract suitors by fictions, such as the actions of ejectment and common recovery. The expenses attending the war of the roses, and their own extravagant habits, had embarrassed many landed proprietors, and made them anxious to sell; while a middle class in both town and country had become wealthy and were anxious to buy. The judges and great lawyers were themselves great buyers of land, and liked to see it brought into the market. But along with all these reasons for sanctioning the fictitious process whereby lands were disentailed, there was a survival in the breasts of the judges of a feeling of the efficiency of the ancient form and letter of the law. For while the transaction would have been held invalid, had a single ceremony or formula been omitted or changed, a close adherence to ancient precedent in outward procedure was allowed to subvert a fundamental enactment respecting inheritance. But a time was sure to come, when a fiction such as that of the common recovery would be intolerable both to public opinion and to that of the legal profession, even for the most expedient and beneficial reform. The intellect of an advanced age revolts against a solemn judicial juggle, as an indecent abuse and usurpation of legislative power. — Among legal fictions, though of a different kind from the foregoing, may be classed the forged compilations of law of which the middle ages were so fertile. A remarkable instance is that of Andrew Horn's *Miroir des Justices*, which was lauded by Lord Coke, and is still not unfrequently cited by English legal writers, as a valuable and trustworthy repertory of Anglo-Saxon law. Horn was no lawyer, being a fishmonger by occupation, and a chamberlain to the city of London, who lived in the reigns of the three Edwards, and whose compilation is a crude mixture of tradition, fable, and the laws of his own time. Hallam's just sentence on the Mirror for its fictions and forgeries has not deprived it, down to the present day, of authority in the estimation of authors of some reputation even in Germany. — Among both political and legal fictions we must class the venerable British constitution, which is still in many respects, in outward form, a pure monarchy, while in fact it is a republic, and rapidly becoming a very democratic one. The royal sanction is still given to a statute in terms which sound like the maxim of imperial law, *Quod principi placuit legis habet vigorem*, though the British sovereign has really a less voice in legislation than the humblest elector. — Of the mixed philosophical and political fiction, the doctrine of the social compact, as the foundation of the authority of government and law, affords an example, which was made especially memorable when the two houses of the English parliament put it forward as the ground of the deposition of James II. The commons resolved that King James, having endeavored to subvert the constitution by breaking the original compact between king and people, and having withdrawn himself out of the kingdom, had abdicated the government, and that the throne was thereby vacant. The house of lords, for their part, also framed a resolution that there was an original contract between the king and the people. It may well seem to modern ideas that no such fiction was necessary to justify the deposition of such a sovereign, yet Hallam's comment on the resolution is, that it involved "a proposition necessary at that time as denying the divine origin of monarchy, from which its claim to absolute indefeasible authority had been plausibly derived." — A still more famous fiction, and one that may claim to be termed at once legal, political and philosophical, is that of a law of nature, from which flow a number of both political and legal rights. This fiction, the origin of which has been traced by Sir Henry Maine to a mixed Greek and Roman source, contributed much to bring about the French revolution, and the ideas of natural liberty and equality which then spread through the world. It is curious that it has lent its support to opposite conceptions of rights in different countries. In France children are supposed to have a natural right to equal shares in their parents' property. In England an unrestricted testamentary power, whereby the succession of any or all of the children may be defeated, is supposed to be a natural right, and has been so denominated by learned writers on jurisprudence. The whole class of so-called natural rights, for example, to life, liberty, property, reputation, exist only by the sanction of the state and positive law; and they are set aside by the state without scruple when public policy demands it, as, for instance, when it becomes necessary to make citizens fight for their country. As democracy advances, less and less regard is now paid to individual "rights" of this sort. It is to an aristocratic legislature that rights of property and independence seem most sacred and founded in natural justice, instead of in simple expediency. Yet the conception that they have a foundation in a law of nature, fictitious as such a basis is, will probably long continue to give effective aid to the opponents of socialism. — Political economy undoubtedly owed not only its first successes but much of its form in a great measure to the popularity of the doctrine of a code of natural law. Adam Smith drew from it the doctrines in the Wealth of Nations of the "natural system of liberty" by which the province of the state was bounded, of the beneficent tendency of the "natural effort of every man to better his condition," of "the natural order of opulence," and of "natural wages, profit, prices and rent." — It would not be too much to say that the domain of fiction in human philosophy once far exceeded that of truth, based on inductive investigation and posi-

tive evidence. At the same time it would be rash to assert that fiction has not played in several departments of thought a beneficent part. The doctrine of natural rights has without doubt done much for the prosperity and happiness of mankind. — But the sphere of fiction must steadily diminish as that of inductive and positive science advances and as man's mind itself becomes stronger, clearer and more discerning. Dr. Whewell, in tracing the slow progress of former ages in the physical sciences to the indistinctness and inappropriateness of human ideas on such subjects, laid himself open to the retort that this imperfection of human thought in matters of science was the very thing to be accounted for. Yet there is a sense in which the disciple of Herbert Spencer may accept Dr. Whewell's proposition. In the infancy of the human race the brain of man is small and soft and feeble. It grows larger and more vigorous by exercise, and its increased powers are transmitted to each successive generation to receive further enlargement. Truth advances, and the clouds of fiction recede, not merely because discoveries are made and errors refuted, but because man's cerebral vigor and activity grow, and the faculties by means of which science and philosophy make progress gain strength, in a manner which will become clear to any one who compares the brain of a savage with that of a civilized and educated man.

T. E. CLIFFE LESLIE.

FILIBUSTERS (IN U. S. HISTORY), a name borrowed from the West Indian freebooters of the sixteenth and seventeenth centuries, the "buccaneers," or "filibusters." In its modern sense it was applied to associations originating in the United States for the ostensible purpose of freeing Cuba and other West Indian or Central American districts from European control or from military dictatorship, but with the ultimate object of annexing them to the United States. Such unauthorized private interventions in the affairs of a foreign state have been common in the history of other nations, and have frequently been followed by the public force of the state, when the private intervention had truly represented public sentiment: instances may be found in abundance in the dealings of Great Britain with Spain, the South American republics, Greece, and Italy, of France with the revolted British colonies in North America, and of Russia with Turkey. The peculiar stigma upon the American filibustering expeditions was, that they were undertaken not for the public welfare, or from generous motives, but for the extension of the area of slavery.— The acquisition of Texas (see ANNEXATIONS, III.) was really a great and most successful filibustering expedition. Its success stimulated similar efforts in other directions. In December, 1850, Lopez, a Cuban, with a number of associates, including Gov. Quitman, of Mississippi, was arrested for a violation of the neutrality law of 1818; but nothing could be proved against them, and they were released. Early in August, 1851, with 500 men, Lopez sailed from New Orleans and landed in Cuba; but the Spanish authorities routed his forces, executed the leaders Aug. 16, and imprisoned the rest. It was evident that Spain was too strongly entrenched in Cuba to be disturbed by private effort, and subsequent movements in its direction were mainly confined to governmental action. (See OSTEND MANIFESTO.) Nevertheless private preparations did not wholly cease, though they never again came strongly to the surface; but President Pierce probably ended them by his proclamation of May 31, 1854, warning all good citizens against taking any part in them.— Mexico and Cuba being too strong, and other West Indian islands of too small value to make filibustering profitable, there remained only the states of Central America. May 4, 1855, Gen. William Walker (the "gray-eyed man of destiny"), with a Californian company, sailed on a filibustering expedition to Central America. In the latter part of August he effected a landing at San Juan del Sur, on the Pacific coast of Nicaragua. He defeated the government troops, captured Granada, the capital, in October, and tried by court martial and condemned to death his principal opponents. He was elected president, but withdrew in favor of Rivas, a native Nicaraguan; and the new government was recognized by the American minister. It proceeded to re-establish slavery and invite immigration from the southern states, but Walker quarreled with his native associates, the other Central American states combined against him, and in April, 1857, he surrendered to an American naval officer, and was conveyed to the United States. He immediately organized another expedition at New Orleans, landed at Punta Arenas, Nov. 25, and was seized and brought to New York by Com. Paulding, of the United States navy. He was released, and fitted out a new expedition from New Orleans, Oct. 7, 1858, but was stopped by the federal authorities. Again released, he organized his fourth and last expedition, and landed at Truxillo, in Honduras, June 27, 1860. The president of Honduras, with an overwhelming force, routed and captured him, Sept. 3, tried him by court martial and shot him. His death, and still more the civil war in the United States which began soon afterward, ended filibustering.— See 5 Stryker's *American Register*, 179; 14 *Whig Review*, 353; 2 Wilson's *Rise and Fall of the Slave Power*, 608; 1 Greeley's *American Conflict*, 270. 276; 3 Spencer's *United States*, 516; *President's Message*, Jan. 7, 1858; *Atlantic Monthly*, 1859–60 (Art. "With Walker in Nicaragua")

ALEXANDER JOHNSTON.

FILIBUSTERING. (See PARLIAMENTARY LAW.)

FILLMORE, Millard, president of the United States 1850–3, was born in Cayuga county, N. Y., Jan. 7, 1800, and died at Buffalo, N. Y., March

8, 1874. He was admitted to the bar in 1823, was a whig representative from New York 1833–5 and 1837–43, was elected vice-president in 1848, and became president on the death of Taylor. In 1856 he was nominated for the presidency by the American party ("know nothings"), but was defeated. (See ANTI-MASONRY, I.; WHIG PARTY; AMERICAN PARTY.)—See Barre's *Life of Fillmore;* Savage's *Representative Men*, 260; Abbott's *Lives of the Presidents.* A. J.

FINANCE, American. The history of American finance is not less unique than the other sides of American history. The subject may be divided into four periods: the colonial; the revolutionary; the first seventy years of peace under the present constitution, extending from 1789 to 1860; and the period of the civil war, ending with the refunding operations of 1881. — THE COLONIAL PERIOD. The financial history of this period is very instructive, for it is replete with financial experiments. Each of the thirteen colonies directed its own affairs; though often one colony followed the methods of another. Massachusetts took the lead in paper-money experiments and banking, and her example in the former regard was followed by all the others. — Trade or exchange was needful in the very beginning of colonial existence, and this was accomplished by barter. In New England the aborigines used a money made of shells, called wampum, peag, or wampumpeag, which the colonists adopted and employed among themselves and with the Indians. After a time it became over-abundant, depreciated, and was abolished about 1650. Silver was also used, though usually it was very scarce, and for a long time exchanges were most frequently made in peltry, especially the beaver, in the northern colonies, and tobacco and rice in the southern. It must be noted, however, that exchanges were often made in other products, while the wampum, though more generally employed in the New England colonies than elsewhere, was not wholly confined to them. The specie in the colonies came from Europe along with the immigrants, and from trade with the West Indies. To the latter ports the colonists first shipped peltry, fish and lumber, and afterward pipe-staves, hoops, beef, pork, peas, fat cattle, horses, etc., and brought back, besides silver and bills of exchange, manufactured goods, sugar, molasses, cotton wool and rum. At a later period the specie thus flowing into the country was sent to England to pay for importations from that quarter. — In each colony taxation was necessary to support the government therein existing. These were laid and collected in various ways. For many years after the colonial governments were founded, there was not enough gold or silver to be found in them to pay the taxes. It was necessary, therefore, to use other things. In the northern colonies beaver skins, wheat, rye, oats, Indian corn, peas, flax, wool, beef, pork, live stock, bullets, codfish and other articles were taken. In the southern, most of these were also accepted, besides tobacco, rice, beeswax and tallow. Storehouses were maintained in which the tax gatherers deposited the public property until it should be wanted or could be sold or exchanged. Taxes were paid in this mode until the issue of paper money; and in some instances afterward, when the supply of paper money became scarce. — The prices of the articles thus taken were fixed from time to time by the courts or colonial assemblies; and were usually rated much higher than they were worth. By thus fixing the prices of the selected commodities above their true value, they became, so far as this could be done by governmental action, the exclusive currency, and threw out of use the little coin there was in the country. In other words, they destroyed the market for it, and drove it to other lands. Badly as the colonists needed specie, they adopted the worst policy possible to get it; or to retain even what they had. — The systems of taxation varied greatly in the colonies. In South Carolina, for example, all the revenue that was needed for a considerable period was raised by a tax on imports, in most of the colonies, however, real and personal estate was taxed, and a poll tax also was levied. In Maryland, in 1639, a tax was levied wholly on "personal estates," which was applied in defraying the expense of an expedition against the Indians. In Virginia at one time the colonial resources consisted first of parish levies, "commonly managed by sly cheating fellows, that combine to cheat the public." Secondly, public levies raised by act of the assembly, both derived from tithables or working hands. The cost of collecting this part of the revenue was estimated at not less than 20 per cent. Thirdly, a tax on exported tobacco, together with tonnage duties. Maryland, too, levied a tax on the export of tobacco, pork, pitch and flax, which the colonists had to pay. The system of taxation adopted by that colony was perhaps the least politic and wise of any of the colonial systems. Immigration was taxed when no need was greater than that of settlers. English rum was admitted free, but that from Pennsylvania was taxed nine pence per gallon. — Like older nations, the colonies could not escape contracting debts beyond their immediate ability to pay. These were created in consequence of the wars with the French and Indians. To meet the expenses thus incurred, paper money was issued. Massachusetts invented the system in 1690. She had just come out of war with Canada, which had proved as disastrous to her arms as to her treasury. The troops returned unexpectedly to Boston, and the colony had no money to pay them. There was no time to collect it by tax, and it could not be borrowed. The colony had made no provision for paying them, expecting that the enterprise would be successful, and that the soldiers would get their reward by plunder. In this emergency the general court, "desirous," as they say, "to prove themselves just and honest," and consid-

ering the "scarcity of money and the want of an adequate measure of commerce," authorized a committee to issue, forthwith, in the name of the colony, £7,000, in bills of credit, from two shillings to five pounds each. The following is a copy of one of the bills:

No. (916) 20 s

This indented Bill of Twenty Shillings due from the Massachusetts Colony to the Possessor shall be in value equal to money, and shall be accordingly accepted by the Treasurer and Receivers subordinate to him in all Public payts, and for any stock at any time in the Treasury. Boston, in New England, February the third, 1690. By order of the General Court.

[L. s.] Elisha Hutchinson, John Walley, Tim Thornton, } *Committee.*

The bills were, in truth, treasury notes, payable by a tax, and receivable for treasury dues. At the outset they were not favorably received, and would command neither money nor goods at money prices. The soldiers lost heavily, for they were not able to sell these notes for more than twelve or fourteen shillings in the pound But two years afterward an order was issued declaring that they should pass current within the province in all payments equivalent to money, and in all public payments at 5 per cent. advance. Thus they were made a lawful tender, for their face, in private transactions, and were received by the treasurer, in whatever payment, at 5 per cent. premium They were to be redeemed in a year. The object of this action was to prevent their depreciation; and for twenty years it had this effect. The demand for the bills, when the tax became due, made them worth more than hard money, because a 5 per cent. bonus was attached to them. An order was passed that no more than £40,000 should be emitted, but, like most limitations of the kind since established, the order was disregarded. The "scarcity of money" was a constant cry, and every additional issue whetted the appetite for more. The whole amount emitted during the first twelve years, including the re-emissions, exceeded £110,000. At the end of that time Hutchinson says that they were as good as silver, and not until 1710 did they much depreciate. — Of all the colonies South Carolina tested the magical power of paper money the most thoroughly. It was first issued there after the unsuccessful expedition against St. Augustine in 1703, "following the example of many great and rich countries, who have helpt themselves in their exigencies with funds of credit, which have fully answered the ends of money." The amount put forth was £6,000, which bore 12 per cent. interest. To offer them in payment was a legal tender, and if the creditor refused to receive them he lost his debt. "But such refusal never occurred, for the paper was hoarded for the sake of the interest." Several thousand pounds more were subsequently stamped, not bearing interest, and were exchanged for the "old currency," in order to get the bills into circulation and to remove the heavy burden of interest. "Notwithstanding this change, the bills remained at par, until the subsequent issue of very large amounts caused their depreciation." — Nine years later, in 1712, South Carolina tried another experiment in issuing paper money. This was the establishment of a public bank, which issued £48,000, called bank bills, to meet the requirements of commerce and of the government. This was lent on landed or personal security for a year, the colony promising to pay gradually (£4,000 annually) until the entire amount was redeemed. By this method the government gained the interest, and the community the benefit of the circulation. The plan was very successfully executed in Pennsylvania, but not equally so in any other colony. — In Georgia the trustees who managed the colony sent over considerable sums of silver and minor coins to form a currency. Yet the dearth of money was so great, notwithstanding the inflow of the paper circulation of South Carolina, that the trustees sent "sola bills," or bills of exchange, which were promptly paid when they fell due, and their credit was maintained to the end. — The mode of redeeming paper money was the same in all the colonies, namely, by taxation. In some of them it was redeemed more punctually than in others; too often they were very slow in laying taxes for that purpose. In South Carolina especially, the debtor class, having discovered the advantages of debasing the circulation and swelling prices, loudly clamored for further issues of paper money as the easiest method of discharging their debts. Sooner or later it depreciated everywhere, and heavy losses were sustained. The following distich, though not remarkable for poetic excellence, tells a true tale of the time:

"The country maids with sauce to market come,
And carry loads of tattered money home."

Whenever it was not issued in such amounts as to create a disinclination to pay it, or belief that it would not be paid, paper money retained its face value, although there was no specie in the treasury for redeeming it. It is also true that when the colonies issued so much that distrust of the public obligation to pay it sprung up, it depreciated. — Measures were taken by the English government to prevent the issuing of so much paper money, because it was harmful to the colonies and to trade with Great Britain. But these measures were often suspended, or winked at, and so nearly all the colonies continued to employ it until they ceased to be such, and indeed for several years afterward. — With so much paper money afloat, of varying kinds and values; with the limitation of prices by law which were rarely correct; with the payment of taxes in kind, and with the use of tobacco, rice, skins and other things as money, besides silver imported from England, the West Indies and other places, one will easily perceive in what uncertainty and confusion was this entire subject of money, how difficult was trade, how great the risk of making contracts payable at a future day both for the debtor

and the creditor. To remedy the evil somewhat, a proclamation was issued by Queen Anne in 1704, fixing the value of the various kinds of silver coins then circulating in the colonies. This furnished some relief, but could not remove all the evils attending the use of such a heterogeneous currency, so singularly ill regulated by law and custom. — In respect to the banking institutions of this period these have been considered elsewhere, and therefore but little need be said here. (See BANKING IN THE UNITED STATES.) It may be added, however, that nearly thirty years before the establishment of Colman's bank, "our fathers," so says a rare tract published in 1714, "entered into a partnership to circulate their notes, founded on land security, stamped on a paper, as our Province bills, which gave no offense to the government then and at that time, when the prerogative of the Crown was extended further than ever has been since."— Only one other topic remains to complete our account of the colonial finances—that of the coinage. Two mints were established, one in Massachusetts in 1651, and the other in Maryland nine years afterward. The Virginia colonists, finding that glass beads were a better article of traffic with the natives than either dollars or guineas, in 1621 had erected a manufactory for them, "as a mint for the coinage of a current medium of commerce with the Indians." The Massachusetts "mint house" was established in Boston, and though illegal, it existed for more than thirty years. To conceal its business, all the coins were dated 1652. The mint master, John Hull, coined by contract, and grew very rich from the business! The charge for coining was 5 per cent. The coins reached Connecticut and the other New England colonies, but did not circulate beyond them as money. — In Maryland the silver money was struck nine pence to a shilling, and the year after the mint began operations, in 1662, "the people were ordered to buy ten shillings per poll of this sophisticated coin and pay for it in good casked tobacco, at two shillings per pound." This was a hard measure truly, and was repealed in 1676; but it was only the first of a long series of arbitrary acts relating to the monetary circulation, "one of the most fruitful sources," says Maryland's latest historian, "in every people, of discontent, extravagance and crime."— THE REVOLUTIONARY PERIOD. When the colonies determined to become their own masters, the step seemed bolder from the lack of pecuniary means than from the want of soldiers and munitions of war. At the time this daring determination was reached, perhaps there were not more than $6,000,000 in hard money in all the colonies. Of course no estimate can be exact, but this is the belief of those who have studied the matter well. The colonies had just concluded an exhaustive war on the northern frontier, and were poorly prepared for the conflict with Great Britain. — The first, and indeed only, source of revenue to carry on the war for a considerable period was paper money. All the colonies, as we have seen, at some time or other of their existence had issued it, and were well acquainted with its virtues and its defects. It has been maintained that this was a very poor way for the continental congress to raise money; but it may be asked, what other expedient could have been adopted? In the first place, the congress which had declared the independence of the colonies was composed of delegates having no clearly defined authority. Each colony had sent two or more delegates with instructions which they had no right to exceed or disregard. Congress, therefore, had no inherent authority, and the powers of the delegates were not uniform. It is singular that a body possessing so little power, and deriving that little in such a peculiar way, should have achieved so much. It is true that the action of congress was often weak and vacillating; but no chart existed, the members were obliged to feel their way, and to take good care never to run too strongly against the will of the people. The lack of inherent power prevented that body from legislating more wisely than they did on more than one occasion They dared not tax the people in the beginning to raise means for waging war, fearing that they would denounce the act as a usurpation of power. Moreover such a step would have cooled the war fever. Nothing ever chills the desire to spend money, especially for the benefit of the public, so quickly as an immediate demand for it. Taxation, therefore, was highly inexpedient. As for borrowing, who would loan money to a dozen rebellious colonies? If they failed to achieve their independence, surely the borrower would get nothing; if they succeeded, they would probably be too exhausted to pay. In either event, payment to lenders seemed hopeless. The issue of paper money, whether a wise expedient or not, was the only one which our fathers thought they could adopt. They saw no other resource.— Yet it must be admitted that the people and congress too, quite generally, were in favor of issuing paper money. Said a delegate during one of the debates on this subject: "Do you think, gentlemen, that I will consent to load my constituents with taxes, when we can send to our printer, and get a wagon-load of money, one quire of which will pay for the whole?" Other members shared in this view. They all knew that a certain amount of paper money had been issued and circulated by every colony without causing a depreciation in its value; and they believed that congress could do the same thing. They had no intention, at first, of going beyond the safety line.— The first issue was for $2,000,000, and shortly afterward there was another issue of one-half that amount. Without long delay a third issue appeared, of $3,000,000 more. In about a year from the time the first issue was authorized, the bills began to depreciate. Some who had favored these issues were opposed to further ones, and urged congress to try the experiment of borrowing the money which was now afloat.

But the need of funds was so great and no other way of getting them immediately seeming to be open, congress issued more.— The war was now raging with great earnestness. Independence had been declared, and all hope or desire of making an accommodation with Great Britain had faded away. Congress having become accustomed to issuing paper money, though seeing the evils, or some of them at least, which accompanied the issue of it, proceeded to increase the quantity. Congress could now do whatever was possible in the way of taxing the colonies, but again appeared the fatal weakness of that body. Congress had not the slightest shadow of power to tax anything. All that the members could do was to apportion taxes among the states, and recommend their payment. If the states had responded to this recommendation, the history of the issue of continental paper money would have been very different from what it was. But the truth is, the states had resisted British taxation so successfully that they were not much more inclined to pay taxes to congress than to the king. Paying taxes has never been done very cheerfully, and the colonists could not altogether understand why, if the object of the war was to escape the payment of them to Great Britain, they should be imposed by a different power. This view may seem to betoken ignorance, but it was entertained by not a few persons in those days. The states throughout the war responded very feebly to the call of congress for money. Some of them paid more than others, but rarely did any state pay the full amount requested. One excuse was, because the quotas assigned were unequal. The quotas were based on population, and not on property, and the numbering of the people had been nothing more than a crude estimate. New Hampshire complained that she had only 82,000 inhabitants instead of the higher estimate made by congress, and accordingly asked that the quota assigned to her be reduced. But the reply of congress was as unexpected as it was unanswerable. It was declared that the population of the other states might be as much smaller in proportion as that of New Hampshire, consequently it did not appear that any injustice had been done to her. Congress promised, too, that in the end the exact population of the states should be ascertained, and that justice should be rendered to all. Unhappily this promise was not very faithfully kept. Congress continued to push out paper money until more than $200,000,000 were afloat, and then, having completely exhausted the fountain, other measures were devised. The exact amount issued has never been ascertained. Congress told the people that the amount should not exceed $200,000,000, but a much larger sum was forced out —With such an enormous quantity afloat, nothing could keep it buoyant. But there were several causes which weighed it down. One of these was counterfeiting. The bills were executed in such a rough way, that counterfeiting was easy. The British government engaged in this ignoble business in order to destroy the value of the money. At one time a ship load of counterfeit paper money was sent over from England, but the vessel was lost on the way. A great many counterfeits were made in New York and other places in possession of the enemy, and pushed into the frightfully swollen stream of circulation. The severest laws were enacted against counterfeiting, but these proved ineffectual. The British ministry never imagined that, if by counterfeiting and other vile arts they should succeed in destroying paper money, the government would be better off, yet this was the case. When it sank out of sight, the government was relieved from redeeming it. — Another cause contributing to the same end was the issue of paper money by the states. That put forth by congress would have fallen quickly enough had the states not issued any, but their action accelerated the downfall of the entire mass. Congress saw this and besought the states to stop issuing it, but this recommendation was not heeded much better than those for the payment of taxes. — One of the expedients recommended by congress for maintaining the value of paper money, was the enactment of laws by the states limiting or fixing the prices of commodities. This was an old expedient which had been attempted in the early history of the colonies. The price of labor was one of the first things which fell under legal regulation in the history of the Plymouth colony. This idea was now seized by congress and recommended to the states for their adoption. It was one of the many recommendations of that body with which the states cheerfully and promptly complied. The New England states met several times and fixed the prices of commodities, and passed the severest laws against those who should violate the limitations prescribed; but this attempt to regulate prices utterly failed; indeed, there was many a pure-minded but intelligent patriot who declared that the movement would prove useless before any legal action was taken.— The continental money was a legal tender, and the miseries suffered by the people in consequence of endowing it with this attribute form one of the saddest and most touching chapters in the history of this period. Thousands were reduced from affluence to poverty by receiving payment in depreciated or worthless paper What was still worse, the national and individual conscience hardened; and the moral loss was far greater than that which could be reckoned by a money standard.— Nothing, however, is more certain than that if a paper money be issued and forced on the people they must pay the full price for it; depreciation is a loss which somebody must bear, from which there is no possible escape. The people of the revolution found this out in due time. Depreciation was a tax, and an enormous one, which they were obliged to pay. Every class of creditors was compelled to receive the bills; every person who took them lost while they were in his hands; however much the mer-

chant might charge for his goods to cover prospective depreciation, he was often caught in taking money which he could not pay out except at a heavier discount than he had expected to pay; and thus everywhere, and among all classes, depreciation was a heavy and uncertain tax which all were compelled to bear. It was one of the most pernicious taxes to trade and morals that could have been devised.—When the continental issues became worthless, congress tried one other experiment with it deserving of brief mention A new issue was put forth based on the credit of the states at a discount of forty dollars of the old emission for one of the new. In this way congress hoped to retire the former issues. Only a small amount of these new bills were put afloat. The people had grown tired of this kind of money and wanted no more in any form — When the printing press was stopped, congress resorted to demands for specific supplies from the states. They were asked to contribute food, clothing, munitions of war, etc , and to bring these supplies to certain places. The states were to be credited at prices fixed by persons appointed for that purpose. When this plan failed, the system of seizure was begun. Certificates were given to those from whom things were taken, specifying what they were. Thus congress and the officers of the government who were so careful about exercising power in 1775 had gone almost as far as it was possible to go in 1780.— Some funds were obtained by loans both at home and abroad, and these will now be described. The money borrowed at home consisted of the bills issued by congress and the states. At an early period of the war, loan offices were established in all the states, and funds were solicited. But at the very outset congress made the great mistake of offering only 4 per cent. interest. The interest was to be paid on one kind of loans in specie, obtained from France; and on the other kind in paper money. The former loans were the most popular, and for a time the interest was duly paid in hard money. Nevertheless the total amount obtained in this way was not very large, and did not afford all the relief that congress desired. — The loans obtained from foreign countries, however, were of the greatest value. At first, France sent money and munitions of war secretly, not wishing to arouse the anger of Great Britain. The negotiations were conducted with Beaumarchais, who pretended to be a lover of our country and interested in furnishing us aid. Tobacco was to be sent in payment of the supplies furnished. Spain also advanced money secretly at the same time. When the alliance was formed with France in 1778, she no longer concealed her designs. Turgot stoutly opposed the policy of exciting the British lion, but Vergennes, the minister of state, disagreed with him, and the king was inclined to listen to the latter. Both the king and Vergeunes were desirous of humiliating Great Britain, but Turgot was not willing to do this, especially at the heavy price which France must pay. Several loans were granted from time to time; France also guaranteed the payment of another to lenders in Holland. Other loans were obtained in the latter country chiefly through the influence of John Adams. Those in France were negotiated principally by Franklin. Spain was the best promiser and poorest performer of any of the European countries that furnished us assistance. "The Diplomatic Correspondence of the Revolution," published by Jared Sparks, contains a large number of letters giving a history of these foreign negotiations, and the trials of those who were sent to Spain to get funds from that country were very great. After all the abundant promises made by the Spanish government, but little more than $150,000 were borrowed — Having now described how the means were raised to carry the country through the revolution, we must describe the financial machinery invented for administering the finances. Soon after the assembling of congress a "board of treasury" was formed, composed of five delegates, but afterward increased to fifteen, to whom was entrusted the transaction of the financial business of congress. A treasurer was appointed, who was not a delegate, and Michael Hillegas of Philadelphia served for several years in that capacity. An auditor and comptroller were appointed. Afterward two chambers of accounts were created, each chamber consisting of three commissioners besides the necessary clerks. The board was reconstructed several times. Two features were adopted in 1779; one of them was the abolition of the comptroller's office, and the other was the addition of three commissioners who were not members of congress.— At every period of its history the board proved to be very inefficient. Letters received requiring prompt attention were often neglected, whereby the public interests suffered. The accounts generally were very poorly kept. There was no head to the body; the majority of members were delegates to congress, and having duties to perform in that capacity, too often neglected the weightier matters relating to the financial administration of the country.— Finally, the work of the board was so poorly done that congress determined to entrust the administration of the finances to Robert Morris. He insisted, however, that full power should be given to him to remove all whom he thought unfit for their positions in the treasury office. Some delegates objected to clothing him with so much power. But the times were dark, and they finally yielded. Morris knew that the treasury offices were filled with incompetent servants. He knew that a reorganization must be made and without delay. Congress, however well inclined, would perform the task too slowly. Morris desired power not for the mere sake of having it, but in order to administer the finances with greater success.—While Morris remained superintendent of finance, a period of little more than three years, he accomplished great things. He was successful in borrowing considerable funds from abroad;

and in abolishing the plan of getting supplies by seizure and specific requests. He founded a bank which contributed no slight aid to the government. (See BANKING IN THE U. S.) He was unceasing in his calls on the states for the taxes due by them. The books of the treasury were faithfully kept, and he displayed all the attention possible to every detail of his office. He was severely pressed for funds throughout his period of office, and when every other source failed, he did not hesitate to use his own individual credit, which always stood higher than that of the government. — After the war closed, congress grew more lethargic than ever, and the states were less inclined to support the government. The articles of confederation were ratified March 1, 1781, but these did not go far toward cementing the states together. Several attempts were made to induce them to yield their power of taxing imports to the confederation, but one or more states always objected, and no state was willing to part with the power unless all were. Rhode Island was the most strenuous objector. Morris exerted his utmost to induce the states to yield, but failed. — It was while Morris was at the head of the finances that congress first considered the subject of coinage. He sent an elaborate communication to congress, showing what unit ought to be adopted, and tracing all the details relating to this delicate matter. Jefferson and Gouverneur Morris also contributed some valuable ideas. — After Morris resigned, the board of treasury was re-established, for there was no other man to whom congress would confide so much power. But the new board was not more efficient than the former one. They had less to do, for the war was ended, yet there was a vast debt hanging over the confederation, both foreign and domestic, and a multitude of unsettled claims, the delay to settle which was embarrassing to many of the owners. But the less that congress and the board did in adjusting these matters, the more imperative became the need of a stronger federal bond which should have the effect of uniting and awakening the energies of the people. Morris resigned early in 1784, and for the next five years chaos reigned in the treasury office. It became at length apparent to all that the work which the continental congress had begun, that body was utterly unable to finish. If creditors were to receive their dues, a new constitution must be formed giving greatly enlarged powers to the general government, especially in the way of providing a revenue to discharge past and future pecuniary obligations. — THE SEVENTY YEARS OF PEACE, from 1789 to 1860. With the adoption of the federal constitution a new chapter begins in the history of American finance. The first question that confronted congress related to the funding and payment of the revolutionary debt. The leaders of the republic felt that its destiny turned on the solution of that question. Soon after the first assembling of congress, Hamilton, the secretary of the treasury, was directed to consider the subject and make a report thereon at the second session of that body. — The debt was of two kinds, foreign and domestic. The foreign debt was due to three nations: Holland, France and Spain. The amount due to each of these countries was well known, and also the terms of payment, and there was no difficulty concerning its liquidation, for no one thought of repudiating it. The action of the government, therefore, with regard to it was free from embarrassment. — Unhappily, the fact was otherwise with respect to the domestic debt. This was divided into three branches. One branch covered the expenditures incurred directly by the government. The evidences of it in the possession of creditors consisted principally of certificates of various kinds. In many cases the creditors had parted with them at varying sums much less than their face value. In providing for their payment two questions were raised. The first question was, ought the government to pay any more than the present holders had paid for them? and secondly, if the government ought to pay the full face value, should not the difference between that value and the sum paid by the assignee be paid to the assignor? Hamilton contended that the government ought to pay to the present holders the face value of the certificates without regard to the fact that some of them had been transferred from the original holders. Jefferson and Madison differed from him. The contention grew sharp, but, in the end, the view taken by Hamilton and recommended in his report prevailed. — A second branch of the expenditures concerned the expenditures incurred directly by the states. Hamilton maintained that throughout the revolution congress had repeatedly promised to equalize the burdens of the states and to do justice to them, and that when they relinquished the right to impose taxes on imports, their richest source of revenue, it was with the expectation that the federal government would relieve them from the burdens they had borne in prosecuting the war for independence. The contest over this question was prolonged and bitter. The votes on various propositions relating to it were exceedingly close, and for a long time the final action of congress was regarded with grave doubt. The amount of these debts was supposed to be $25,000,000. Finally, congress agreed to assume an arbitrary amount, $21,500,000, apportioning this sum among the several states. Northern members generally were in favor of assumption; but those from the south were opposed to it. Hamilton succeeded in getting enough votes from the southern section to pass the measure by persuading northern members to consent to the location of the capital on the Potomac, instead of allowing it to remain at Philadelphia where the country very generally supposed it would be permanently located. Thus the national honor was saved and the capital located at Washington. — The third branch of expenditures consisted of sums advanced to

the states by the continental congress, and by the states to that body. It was very difficult to determine the exact amount of these sums, and commissioners were appointed to consider what was due on the one side and the other "according to the principles of general equity." — The first branch of the domestic debt was funded in the following manner: Interest at the rate of 6 per cent. was to be paid on two-thirds of the principal after 1790, and on the balance after 1800; and 3 per cent. interest was to be paid on the interest which had accumulated on this portion of the debt. The government was permitted to redeem 2 per cent. annually of the principal if it desired, and that portion bearing 3 per cent. whenever it desired. — The state debts assumed were thus funded: Four-ninths bore 6 per cent. interest beginning with the year 1792, three-ninths 3 per cent. interest beginning at the same time, and the remainder, two-ninths, bore interest at 6 per cent. after the year 1800. — In respect to the third branch, the debts between the states and the federal government were so adjusted that when the final account was made up it stood as follows:

CREDITOR STATES.		DEBTOR STATES.	
New Hampshire	$ 75,055	New York	$2,074,846
Massachusetts	1,248,881	Pennsylvania	76 009
Rhode Island	299,611	Delaware	612,428
Connecticut	619,121	Maryland	151 640
New Jersey	49,630	Virginia	100,879
South Carolina	1,205,978	North Carolina	501,082
Georgia	19,988		
Total	$3,517,584	Total	$3,517,584

The balances due to the creditor states were funded in the same manner as the second branch of the domestic debt. These are the main features of the funding system, but there were several others which require too much space to be described. — Having funded the debt the next step was to provide for its payment. Of course the mode of paying interest was settled in the funding scheme, but not that of paying the debt itself. Prior to 1800 the provisions pertaining to the subject were somewhat complex and inadequate. Hamilton, whose financial genius has never been surpassed, had not discovered the fallacy of the sinking fund theory, for Robert Hamilton had not yet pricked the bubble which Walpole and some of his successors had so industriously blown. Commissioners had been appointed for receiving that portion of the public income obtained from taxes and loans which were set apart and delivered to them for discharging the interest and principal of the debt. But there was no fixed amount for discharging the principal. Another feature of this legislation was, that all the debt purchased or redeemed was considered as drawing interest just the same, which was paid to the commissioners to be applied by them in discharging more debt. — When Jefferson became president he chose Gallatin for secretary of the treasury. Another law was then passed determining the mode of reducing the debt. This provided that $7,300,000 should be set aside annually for that purpose. This was not a purely arbitrary sum, but was the amount needed for paying the interest and principal that might be discharged during the next two years. In 1803 Louisiana was purchased, and $700,000 more were added to the sinking fund. — During the first ten years of the government the debt was not diminished. Several unusual events happened. The war with the Indians on the frontier, the insurrection in Pennsylvania where the collection of the internal revenue tax on whisky was resisted, the difficulty with the Barbary powers, the unprovoked aggressions of France and England—these events necessitated the expenditure of large amounts of money, and prevented a reduction of the debt. With the opening of the century the last cloud disappeared, and without increasing the revenues, though the mode of collecting them was considerably changed, rapid progress was made in paying the debt. It rose in value, so that the commissioners could not buy any except at a premium, which they had no right to offer. The sinking fund was larger than could always be applied toward discharging the public indebtedness. Gallatin, in order to place the debt more perfectly under the control of the government in respect to its payment, proposed that a certain portion of the debt on which annuities had been paid should be changed, if the holders consented, into paid-up stock for the balance due, payable at a fixed time, instead of discharging a portion of the principal annually. Congress heeded the recommendation, and a considerable portion of the debt was changed into a new form. — The reduction of the debt continued until the second war with Great Britain, when there was a pause. During the first eleven years of the century $46,022 810 had been paid, and $45,154,189 still remained. Had the war not occurred, the remainder would have been paid in twelve years, but in consequence of that event it was not extinguished until 1834. — Gallatin's plan of finance at the opening of the war was very simple. He proposed that sufficient taxes should be laid to defray the expenses of the peace establishment, the interest on the old debt and the new one that should be contracted, and that the extraordinary expenses of the war should be paid from loans. The following loans were authorized by congress at the dates given: March 14, 1812, $11,000,000; Feb. 8, 1813, $16,000,000; Aug. 2, 1813, $7,500,000; March 24, 1814, $25,000,000; Nov. 15, 1814, $3,000,000; March 3, 1815, $18,452,800. Six per cent. interest was paid on each loan. — Gallatin thought that, as our commerce for a time at least would be idle, banks and individuals would readily loan their money to the government, and so they did in the southern and middle states, but not in New England, for in that section the war was not popular. At first, individuals were inclined to loan their money quite freely, and when the subscriptions to the first loan were opened, Gallatin said that the amount was the largest ever offered to the government at 6 per cent. interest

by individuals since the formation of the government. But after a few months the inclination of the people to subscribe weakened, and finally, in order to get funds, the government asked lenders on what terms they would make loans. They prescribed terms; and having thus prostrated itself before the feet of the money lenders, the government was obliged to stay there until the close of the war. — The reason why the credit of the government sank so low was, because congress was unwilling to lay adequate taxes, such as the occasion imperatively demanded. The best fountain of revenue had dried away, yet congress hesitated to introduce a system of internal taxation, which should have been adopted at the outbreak of the war. Gallatin recommended its adoption in the beginning, but congress would not heed his advice. Had congress introduced a thorough system of taxation at the opening of the contest, instead of waiting until near the close, the sad story never would have been told which the committee of ways and means in 1830 did tell, that for the loans of $80,000,000 obtained by the government during this period they yielded only $34,000,000 after deducting discounts and depreciation. — Another expedient to which congress resorted during the war of 1812 was the issue of treasury notes. They were receivable for all dues to the government, but no individual was obliged to receive them. They were issued for a year, and bore interest, and were really a loan in anticipation of the taxes. The amount swelled until the close of the war. The amount then outstanding equaled the amount of the last loan authorized, the object of which was to get the means for discharging them. A portion was funded and others were paid for taxes and canceled. — The total debt contracted from the beginning of the war was $80,500,073.50. The sinking fund was increased to $10,000,000, and once more debt-paying began. Portions of it were extended from time to time at lower rates of interest, and one loan for $5,000,000, to pay awards under the Florida treaty, was obtained at 4½ per cent. The government was not able to pay $10,000,000 into the sinking fund every year, but, aggregating the amount paid, there was a compliance with the law. In 1834 the debt was extinguished. — Shortly afterward there was a surplus of more than $40,000,000 in the treasury, arising from the sale of public lands. Congress decided to deposit all except $5,000,000 with the states. The amount to be deposited was $37,468,819.97. One-quarter of the amount was to be paid every three months. When the first three-quarters had been paid, a financial tornado swept over the land, the banks keeping the government deposits failed, and the government suddenly found itself on the edge of bankruptcy. The merchants were unable to pay their bonds, and the treasury was reduced from a plethoric state to utter emptiness. Congress was convened and the members voted to extend the time for merchants to pay their dues, and authorized the issue of treasury notes to defray the expenses of the government. The secretary of the treasury, Woodbury, urged congress to recall the deposits from the states, but the plea was not regarded with favor. It has never been repaid. Congress, however, repealed the law authorizing the payment of the fourth installment. — The worst of the crisis soon passed away, but every year the government authorized the issue of new treasury notes with which the old ones were redeemed. But the amount outstanding kept growing. A very uncomfortable feeling arose, that in a time of profound peace the government should not be able to pay its expenses. After the public debt was discharged, the expenses were greatly increased. New enterprises of great variety and requiring heavy outlays were undertaken. These were continued just the same after the government was overtaken with reverses. Congress did not seem inclined to retrench. Hence treasury notes were put forth in ever-increasing quantities until 1842, when the amount not redeemed was funded. The same thing was done two years later, when there was another accumulation of them. — In 1847 war was declared with Mexico, and there were more issues of treasury notes and stock. The cost of the war was $63,605,621. After its close debt-paying began and continued until 1857, when the amount unpaid was reduced to a low figure. In that year the tariff was revised and the duties were cut down, but hardly had this been done when another financial tornado swept over the land, the revenues were insufficient to pay the expenses of the government, and consequently more treasury notes were issued to fill the gap. The revenues did not recover rapidly, though it was quite generally expected that they would, and the treasury continued to put forth treasury notes. In 1860 the debt had grown to about $60,000,000. — The influence of the secretary of the treasury in directing the national finances at times has been very great; at others, very slight. The treasury department was one of the earliest departments organized, and its province was pretty clearly defined at an early day. When Hamilton was ready to make his first report to the house, he inquired whether he should make it orally or in writing. That body determined to receive it in writing, and the mode then observed has always been followed. But there are many reasons why, besides thus making it in writing, he should appear before either branch of congress whenever asked, and explain it. Such a requirement would necessitate putting men at the head of the treasury department possessing a familiar knowledge of the finances. — When the question of organizing the treasury department was before the house, some members favored the establishment of a board of treasury similar to that which existed during the revolutionary war. Gerry, of Massachusetts, was one of the stoutest defenders of the old system. Yet no one knew better than he its defects, for at one time he was a member of it, and con-

demned it in plainest terms for its inefficiency. (See TREASURY DEPARTMENT.) — Alexander Hamilton was first chosen to administer the affairs of the treasury department. How he fulfilled the duties of his position was never more felicitously described than by Webster. "The whole country perceived with delight, and the world saw with admiration. He smote the rock of the national resources, and abundant streams gushed forth. He touched the dead corpse of the public credit, and it sprung upon its feet. The fabled birth of Minerva from the brain of Jove, was hardly more sudden or more perfect than the financial system of the United States as it burst forth from the conception of Alexander Hamilton."— He remained in office during Washington's first term and a part of his second. He was succeeded by Oliver Wolcott, of Connecticut, who was an admirer of Hamilton and trod closely in his footsteps. He resigned shortly before the close of Adams' administration, and Samuel Dexter, the secretary of war, acted as the head of the treasury department during the remainder of Adams' term.— Jefferson appointed Albert Gallatin, who was one of the ablest financiers that ever occupied the post. He was a worthy successor of Hamilton, and for several years was as influential with his party on all questions touching the administration of the national finances as Hamilton had been with the party he represented. But after a time discord arose in his party, and the influence of Gallatin was weakened. To his honor be it said, opposition to him was caused by his exposure of the misdeeds of the secretary of the navy, who was the brother of Senator Smith, of Maryland, one of the most influential members in that body. Not long after the war broke out with Great Britain, he was sent abroad with two other commissioners to negotiate a treaty of peace. But he did not resign, and William Jones, the secretary of the navy, was temporarily placed in charge of the treasury. He was utterly unfitted for the post, especially at such a critical time when the highest order of financial ability and constant attention to the duties of the office were required. After Gallatin resigned, George W. Campbell, of Tennessee, was appointed. But he had neither the health nor the requisite ability, and soon broke down and retired. While he was in office the business of negotiating loans, which was of the highest importance, was very largely confided to Mr. Sheldon, the chief clerk, who was opposed to war, and rejoiced over the failure of any plan for getting the sinews of war. No wonder, with such officials in the treasury department at this time, that incompetency should have shown itself in very glaring colors!— When Campbell retired, A. J. Dallas, of Philadelphia, was appointed, and in a short period he restored the national credit. He infused new vigor into his department. He increased the taxes. He took strong and sure steps to restore specie payments. He zealously urged the creation of another United States bank. Madison was desirous of appointing him long before he did, but a section in the senate was unwilling, especially the two senators from Pennsylvania, and so Madison was obliged to wait until the finances reached such a deplorable state that they consented to withdraw their opposition. Hamilton, Gallatin and Dallas—a glorious triumvirate of financiers—were all born on foreign soil.— When Monroe was elected president in 1816 he selected Wm. H. Crawford, of Georgia, for secretary of the treasury, though he would have gladly kept Dallas had he been willing to serve. Crawford did excellent service during the eight years that he remained at the head of the treasury department. His most noted report is one on the "Bank of the United States and other Banks, and the Currency," made in February, 1820. He was succeeded by Richard Rush, of Philadelphia, the appointee of John Quincy Adams. He served during a golden day in our financial history, when expenditures were light, the revenues large, and debt-paying was rapid.— We now approach a stormy time. When Jackson was elected president, Samuel D. Ingham, of Pennsylvania, was first selected for secretary of the treasury. After serving two years he resigned, and Louis McLane, of Delaware, succeeded him. Ingham's resignation grew out of differences with respect to the management of the public deposits, and the Eaton scandal. McLane remained long enough to make one annual report and then he too resigned, and Wm. J. Duane of Philadelphia, was appointed. A controversy soon sprung up between him and the president concerning the removal of the deposits, and, refusing to resign, he was dismissed. Then came Roger B. Taney, of Maryland, who held the office for a short time, when he was appointed chief justice of the supreme court of the United States. Yet he held the office long enough to accomplish the chief work for which he was selected, namely, to remove the deposits from the United States bank. (See DEPOSITS, REMOVAL OF.) The place was next filled by Levi Woodbury, of New Hampshire, who continued during the remainder of Jackson's presidential term and through that of his successor, Van Buren. Woodbury was an honest and industrious man, but corruption grew rankly at this period. It was at this time, too, that the policy of the government with respect to banking and money was radically changed. (See INDEPENDENT TREASURY.)— There was a change of parties in 1840, and Harrison selected Thomas Ewing, of Ohio, for chief of the treasury department. But Harrison died shortly after his inauguration, and with the accession of Tyler to the presidency cabinet reconstruction began. Walter Forward, of Philadelphia, succeeded Ewing, and he remained two years and then resigned. The president was very desirous of having Caleb Cushing, and sent in his name three times to the senate, but that body refused to confirm him. John C. Spencer, of New York, was then appointed, but, unwilling to execute the wishes of the president concerning the putting of some money into the

hands of certain persons in New York—an act which he regarded as illegal—he resigned, and George M. Bibb, of Kentucky, filled out the remainder of Tyler's troubled term — Polk chose Robert J. Walker, of Mississippi, who served during the next four years. He is generally regarded as a very able and successful administrator of the affairs of that department. In 1848, when Taylor was elected president, William Meredith, of Philadelphia, became secretary, but he did not remain in office long, and was succeeded by Thomas Corwin, of Ohio. He served through Fillmore's term, and was followed by James Guthrie, of Kentucky, who filled the post while Pierce was president. Buchanan appointed Howell Cobb, of Georgia. He remained there until a short time before the close of that administration, when he resigned, and was succeeded first by Philip F. Thomas, of Maryland, and afterward by John A. Dix, of New York. — The revenues of the government during this period of seventy years were derived mainly from loans, duties on imports, internal revenue, and public lands. The history of the loans obtained by the government we have already considered; the other sources of revenue will be more appropriately considered under other heads. (See TARIFF; INTERNAL REVENUE; LANDS, PUBLIC.) In respect to coinage, that topic, though forming an important chapter in the history of American finances, is considered elsewhere, and nothing further need be said here. (See COINAGE.) The only feature remaining for us to notice relates to the receipts and expenditures, in regard to which a few words must suffice. — The estimates of expenditure are first made by the various departments of the government and presented by the secretary of the treasury to the house. They are then examined by the proper committee, and appropriations are granted. These expenditures have varied greatly during the different periods of the government. Sometimes they have been made with great wisdom and economy, but too often in an unwise and wasteful manner. We have not space to analyze the expenditures, indeed this would require a volume. Something further, however, will be found under another title. — THE CIVIL WAR PERIOD. We have now reached the last period in the history of our national finances. These were administered on a grander scale than ever before, but they were less difficult to administer than during the revolutionary period, or the war of 1812. All the machinery for transacting the financial business had been perfected, a system of revenue existed, and though the credit of the government at the outbreak of the war was suffering, there was a vast amount of wealth in the country, and the people responded heartily to every call of the government for support. The funds to carry on the war were derived from loans, demand treasury notes, duties on imports, and internal revenues. — The first war loan was negotiated under an act approved in February, 1861. The credit of the government was so low that the loan, amounting to $18,415,000, bearing 6 per cent. interest, and running twenty years, could be negotiated only at a discount of $2,019,776.10, or at an average rate of $89 03 per $100. — Another loan was authorized in the summer of 1861 for $250,000,000. The banks agreed to furnish $150,000,000 at par, receiving $7\frac{3}{10}$ per cent. interest, but as the secretary of the treasury required payment to be made in gold, it was very difficult for them to comply, especially to pay the last installment of $50,000,000. Indeed, the operation compelled the banks to suspend specie payments; at the same time the independent treasury suspended also. This event took place Dec. 28, 1861. It has been affirmed that its existence at this time was very harmful to the government, because its operations were opposed to those of the banks. The occasion required that if possible both should work together. But, in paying gold, the banks, through the desire of aiding the government to the utmost extent, undermined themselves. Had the law been otherwise, and the treasury been permitted to take other money than specie from the banks, the suspension of specie payments with its long train of evils might have been delayed for a considerable period and possibly never have occurred. — There were other loans issued during the war, the most noteworthy of which were the nine hundred million loan, known as the ten-forty loan; and the loan for $500,000,000, payable after five years and running no longer than twenty. — A large amount of bonds was sold to the banks when the national banking system was created. This indeed was one of the objects of Secretary Chase in founding the system—to make a market for the government bonds. Its essential features were copied from the system existing in the state of New York, the real author of which was the Rev. Dr. McVickar, professor of political economy in Columbia college. In his pamphlet entitled "Hints on Banking," addressed to the legislature of New York in 1838, the system is clearly wrought out, though there are earlier publications from which doubtless he drew some of his ideas. These were the literary product of the derangement of the currency in the war of 1812. (See BANKING IN THE UNITED STATES.) — The demand treasury notes, more commonly known as legal tenders, were declared to be a legal tender for all debts, public and private, and were issued as a temporary relief to the government. The holders had a right to exchange them for bonds bearing interest, and it was not supposed when the first issue appeared that the amount would be very considerably increased, or that they would remain long in existence. Their constitutionality was questioned in the beginning, and their issue was defended solely on the ground that it was a war measure. But as the government was pressed from time to time for funds, the issues were increased until $450,000,000 had been put forth. Secretary Chase was opposed to issuing them for

some time, but the need of funds became so great that he consented. Afterward, the supreme court of the United States declared that the law authorizing their issue was unconstitutional (Hepburn *vs.* Griswold, 8 Wall., 603), and subsequently that tribunal reversed the former decision. (Knox *vs.* Lee, 12 Wall., 453.) The state courts have rendered several decisions on the question, and usually they have sustained the validity of the enactment. (See TREASURY NOTES.) — The various descriptions of bonds and other forms of indebtedness issued from the opening of the war to June 30, 1865, amounted to $3,888,686,575. — The duties on imports were increased in 1861 and again in 1863. (See TARIFF.) An internal revenue system was devised, from which large sums poured into the treasury. (See INTERNAL REVENUE.) It embraced a wide scope: liquors, tobacco, manufactures, stamp duties on a great variety of legal instruments, succession taxes, personal income, and other things. These measures, though of great importance, were hurriedly prepared and enacted, for there was not enough time to do the work thoroughly, and the difficulties and hardships growing out of the execution of them were numerous and trying. Yet the people bore much uncomplainingly, the spirit of patriotism ran high, and by slow degrees many of the most serious imperfections of this hasty legislation were removed. — When the war was over, it appeared that on Aug. 31, 1865, the total indebtedness of the government, excluding the "old funded and unfunded debt of the revolution," and the cash in the treasury, was $2,844,649,626.56. This was the highest point it ever reached. The amount of legal tenders then in circulation was $433.160,569. The figures first fell below $400.000,000 in September, 1866, nor have they ever exceeded that amount since. The following table will show the amount outstanding at the close of each fiscal year, which ends the 30th of June. It must be remembered, however, that no account is here taken of the cash in the treasury.

1866	$ 2,773,236,173 69	1874	$2,251,690,218.43
1867	2,678,126 103 87	1875	2,232,284,261.95
1868	2 611,687,851.19	1876	2,180.394,817 15
1869	2,588,452,213.94	1877	2,205,301.142 10
1870	2.480,672,427.81	1878	2,256,205,398.20
1871	2,353,211,332.32	1879	2,349,567,232.04
1872	2,253,251,078 78	1880	2,120,415,120 63
1873	2,234,482,743.20	1881	2,069,013 319.58

— The debt was very much increased by the suspension of specie payments, which unsettled prices and contributed to the speculation which grew rankly in almost every business. The issue of legal tender notes enormously aggravated the evil. Fluctuations in prices were rapid. When such a state of things exists an additional price is often asked, as a kind of premium to cover the loss from depreciation. This extra charge is an enormous tax which the people paid during the sixteen years that they were using paper money. While the war lasted, speculation centered on gold. Congress attempted to prevent it by legislation, but their action aggravated the movement. — As soon as the war ended, many expected that the government would immediately return to specie payments. They had conducted their business with this end in view. So did the merchants in the war of 1812. Mr. McCulloch, who was now secretary of the treasury, believed that the true policy was to contract the legal tender notes until their value should be restored to par. This policy was put into execution; but after contraction had proceeded a short time, a loud cry arose against it, congress stopped it, and not until Jan. 1, 1879, did the desired event take place. Another mistake was committed by congress — "greater," says a competent authority, "than all other mistakes in the management of the war" — and that was the abrogation by congress of the right to fund the legal tender notes in gold bonds. The taking away of this right from the holders was manifestly unjust to them; and by this act was prolonged the existence of a depreciated monetary circulation and the many ills which inevitably follow in its train. — Although the government delayed to take the step, the policy of returning to specie payments was not definitively abandoned. At almost every session of congress bills were introduced and discussed relating to the subject and then laid aside. No plan was matured. Finally, a bill was approved Jan. 14, 1875, providing for the resumption of specie payments on Jan. 1, 1879. The act provided, among other things, for the accumulation of gold in the treasury. Besides the amount thus obtained through the sale of bonds, the gold current, which had flowed away from us during the war and for several years afterward, changed and began to run hither. The balance of trade in our favor during the immediate years preceding the resumption of specie payments was enormous, and when the time for resumption arrived, the premium on gold had run down to zero, a large amount had been accumulated in the treasury, and the event occurred without the slightest disturbance to any trade or interest. — Although the government has not possessed the means to pay all the bonds at maturity, there has been no difficulty in refunding those which could not be paid. Most of the loans specified two dates, after the first of which the government might pay if it desired, and by the second of which it must. The government has always construed these obligations to mean that it will pay when the first period arrives, and it has been desirable for the government to avail itself of this right, because new loans could be obtained bearing lower rates of interest. — The last bonds refunded bear 3½ per cent. interest. The operation consisted in continuing bonds, which originally bore 5 and 6 per cent. interest, at a lower rate during the pleasure of the government. — Jan. 1, 1882, the principal items of the public debt were the following:

Bonds continued at 3½ per cent. interest	$530,982,800
Bonds bearing 4½ per cent. interest	250 000,000
Bonds bearing 4 per cent. interest	738,788,700
Legal tender notes	346,740,906
Gold and silver certificates	74,187,790

— There is a law requiring the payment of 1 per cent. of the debt annually, but it has not always been observed. The whole amount paid to the present time satisfies the sinking fund, though until within the present fiscal year there was a deficiency. — We have now gone over the field except to state the action of the government with reference to the coinage. Its action in demonetizing and remonetizing silver forms an interesting chapter of the period we are considering, but the articles on COINAGE, and PARIS MONETARY CONFERENCE cover the ground so well that nothing further need be added here. — AUTHORITIES: The Colonial Period: Douglass' *Summary, Historical and Political, of the First Planting, etc., of the British Settlements in North America*, 2 vols., 1760; *Discourse Concerning the Currencies of the British Plantations in America with Regard to Paper Money*, by the same author, 1740; *A Model for Erecting a Bank of Credit, with a Discourse in Explanation thereof*, reprinted at Boston, 1714; Felt's *Historical Account of Massachusetts Currency;* Bronson's *Historical Account of Connecticut Currency;* besides which may be mentioned the various histories of the states. In respect to coinage in the colonies, and subsequently, a good account may be found in the *Banker's Magazine*, for October and November, 1861, prepared by John H. Hickcox. The Revolutionary Period: The author's *Financial History of the United States* from 1774 to 1789, and the authorities there cited; and Lewis' *History of the Bank of North America*. The Third Period: The author's *Financial History of the United States* from 1789 to 1860, and authorities there cited. The Fourth Period: No work has appeared giving a full history of the financial events covered by it. Monographs have been written on many financial events of this period, and there are almost numberless government publications relating to the subject. Spaulding's *History of the Legal Tender Money* may be mentioned, and Richardson's *Practical Information Concerning the Public Debt of the United States.*

ALBERT S. BOLLES.

FINANCE, Science of, the science of the economy which the state must conduct in order to obtain and apply the commodities or services necessary to the proper performance of its functions. It depends immediately upon two other sciences whose conclusions form its starting point; upon political science in the narrower sense of the term, *i. e.*, the science which determines the functions of the state, and upon political economy, which develops the general principles underlying all social economies. As the prevailing theory or practice in reference to the functions of the state changes, the financial system and consequently the science of finance must change. The science of finance will be comparatively simple in a state which derives all its income, like private individuals, from the profits of its own property, such as domains, and which limits its activity as much as possible to simple protection of the citizen. In such a state neither the income nor expenditure exercises any great influence on the economic condition of the country. But the problems become more complex as society develops, as the functions of the state increase, as the system of domains disappears and the system of taxation takes its place: as the income and expenditure grow larger, and the government by its system of raising and applying revenue begins to exercise an ever increasing influence upon the economic development of the state and upon the distribution of the national income. As a consequence the science of finance must develop, must take up the consideration of an ever increasing number of problems, and will not be completed until society has reached its ultimate economical development. As the term is ordinarily used it includes, as our definition indicates, merely the treatment of the economy which the state conducts, as the highest form of compulsory associative economies, *i e*, the science of finance treats only of national finance as opposed to local finance. But the course of its development will soon force it to take up the latter subject also. And rightly too; since each state, for example, in our American Union, each county in the state, and each city in the county, has or may have its own system of finance independent of all the others, the consideration of which ought not to be omitted in any tolerably complete presentation of the subject of finance. The same thing is true of the local organizations of other countries. The whole subject of local and particularly of municipal finance forms one of the most important subjects in the whole range of political science, and in no other connection can it be so conveniently and thoroughly treated as in connection with the science of national finance. — The science of finance is a product of modern thought. The scientific investigation of financial subjects seems to have been entirely unknown to antiquity or even to the middle ages. The work of Xenophon on the revenues of Athens was simply a discussion as to how the city might derive sufficient revenue from its own territory without having to depend on foreign sources. His recommendation of a state monopoly of silver mining, and his opinion that the increase of the amount of silver would not diminish its price, are worthy of notice. But Xenophon was not a practical statesman, nor were the other writers whose occasional remarks are met with in classical literature, and so we have no means of ascertaining the theoretical opinions of ancient financiers except by inferring them from their financial institutions and contrivances. We must be careful in drawing such inferences, however, as the devices adopted depended often upon accident rather than upon a thoughtful consideration of what was best. The large income which the principal ancient states derived from the conquest and continued plunder of foreign nations raised them above the

necessity of systematically taxing their own citizens on a large scale, and so they were never forced to a thoughtful consideration of the most economical system of providing public revenue by taxation. Both at Athens and at Rome, it is true, some kinds of taxes and other sources of public income were carefully managed; but their financiers never thought it worth while to elaborate rules on the subject or to seek out general principles. The few writings upon financial subjects, therefore, which have come down to us from antiquity, while possessing considerable value to the historian of finance, are of but little importance to the theory of our science. — The science of finance is not only the product of modern thought, but it is chiefly the product of the thought of two nations, Germany and England. To German economists we owe its systematic form, to English economists the most valuable portion of its contents. A short sketch of the rise and development of the science is necessary to a full understanding of its present condition and prospects. Its history, like that of political economy in general of which it for a time formed a part, falls naturally into two periods, that before and that after Adam Smith. — In the transition period from the middle ages to modern times, when the revival of learning took place, and when, among other branches, political science was resuscitated, political writers took up finance also. The wide-spread political and economical changes of the time directed attention to the investigation of financial questions. Among these changes we may mention, as promotive of our science, on the one hand, the growing dissatisfaction with the patrimonial conception of the state, the rise of princely absolutism, by which for the first time a really political life was made possible, the revolution in warfare, the introduction of Roman law, particularly of Roman financial law, and the growing need of the state for an increased revenue; on the other hand, the transition from a barter to a money economy, the depreciation of money in consequence of the exploitation of American mines, the general tendency toward paternalism in the economical policy, as is shown by the rise of the mercantile system and the predilection for monopolies, and finally, the secularization of the church property in Protestant lands, which among other changes rendered necessary different poor laws. — As a matter of course the first literary attempts, both of the more pretentious works on political science and of the monographs devoted exclusively to finance, were, and long remained, very defective. The authors naturally enough began with the concrete institutions of their own countries, and with proposals for reforming particular abuses. But their works testify rather to their zeal in compilation than to their thorough knowledge of the subject. They often gave very good but very trite directions as to economy, justice, etc., but they took their illustrations without discrimination from the most opposite political conditions, and showed little insight into the real condition and wants of their times. Nor did the practical men, who began to treat the subject during the sixteenth century, show any greater tendency toward scientific exactness. From the seventeenth century mercantilistic views began to exercise a more and more marked influence upon financial literature. And even in this early period a marked difference appears between the English and German treatment of the subject, which has remained characteristic even down to the present time. English writers have preferred to devote their attention to the investigation of particular subjects closely connected with the questions which were from time to time of great public interest, neither knowing much nor caring to know much of their relations to other subjects. German writers, on the contrary, have made a special effort to systematize the results of their investigations, and by a proper subordination of parts to make their knowledge a science. The very dissimilar political relations of England and Germany led their economists to emphasize very different points. The early German authors discuss finance principally in connection with the system of domains and monopolies then in vogue, and gradually make the science of finance a part of cameralistics. This latter science included all the information considered necessary to an officer of the internal administration, and the science of finance came to occupy a prominent place in it. The system of domains was universally accepted by these writers as the principal element in every financial economy. But the development of nations soon compelled a great change in these views. The growing needs of the state demanded a constantly increasing revenue; the domains became more and more unable to meet this demand. The system of direct taxation was still in a very crude condition and generally unpopular with the rulers, because it depended on obtaining the consent of the estates. As a consequence attention was directed more strongly to the development of monopolies and of indirect taxes, like the excise, etc. These subjects are accordingly extensively discussed in the literature of the time. But little change occurs in this development until after the middle of the eighteenth century. Essentially upon the basis of the previous views, although under the influence of the new political and philosophical tendencies, the theory of finance was gradually systematized and worked out in its details. The better writings of this period are therefore of value even now, because they present the principles of administration which were then accepted and which in part still prevail. — The strictly scientific era of the science of finance did not begin until after the middle of the last century. Three influences affected its development. First, the development of the modern science of political economy, of the theory of free competition, elaborated in the writings of the physiocrats, (Quesnay, Turgot), and more fully in the epoch-

making work of Adam Smith. Second, the theoretical revolution in jural and political philosophy and in politics effected by Montesquieu, Rousseau and Kant. Finally, the practical revolution in political, social and economical life produced by the French revolution and the events connected with it. — The physiocrats exercised a stimulating and fruitful influence upon the theory, if not upon the practice, of finance by their one-sided plan of taxation, the principle of an *impôt unique*, of a single universal tax on land, which was to take the place of all other taxes. Adam Smith, then, threw a new light upon the subject of finance by developing the economical basis of the same in the "Wealth of Nations." Public revenues, from the isolation in which they had been discussed before, were now brought together and treated as a whole, which had the most intimate connection with the greater whole of political economy. Instead of indefinite and variable rules, men were now enabled to lay down definite principles for the preservation of national wealth and national industry. They saw that measures and contrivances were defective, which they had long accepted as perfect. But even Smith, although he had a tolerably complete system of political economy, did not produce a complete science of finance, because he had no fundamental principle upon which to base his theory. This was the natural consequence of his defective theory of the state, particularly of his complete misconception of the universal importance of the state for national life and the limitations of the national economy by the state. But aside from this defect—a very serious one, it is true—Adam Smith made an epoch in this subject by the fifth book of his famous work on the "Wealth of Nations," and exercised a moulding influence, lasting even down to the present day, upon the theoretical conception and treatment of finance, and at least outlined a tolerably complete system of theoretical science. Even the externally close connection into which he brought finance with political economy remains to-day characteristic of all writers except the Germans. And even German thinkers, independent in some respects, are still greatly influenced by Smith. — The progress of philosophy and the French political revolution led to new investigations in political science as to the functions of the state and the limits of its activity, by which new principles as to the rights of the state were won and preparation was made from another direction for the science of finance. The evil of this movement was the excessive reaction of Kant's school against the eudemonistic tendencies of Wolf and his followers, and against the practice of the state of "good despotism." This reaction led to an unfortunate limitation of the idea of the state which is entirely inconsistent with actualities, and which corresponds with the one-sided and unhistorical opposition of Smithianism to all interference of the state in economical matters. The false theory of Smith and his school in reference to the unproductivity of services, and consequently of the state, favored this fatal tendency. In spite of all, however, the science of finance gained a firmer systematic form, and in consequence of this perfecting of the science a revolution in praxis was begun which is slowly but irresistibly progressing. — In recent times the Germans have taken the lead in the development of the science. English writers, following Adam Smith, discuss finance as a comparatively unimportant part of political economy, using it principally to afford an application and explanation of economical principles And although they have done invaluable work in elaborating details, such as the economical effects of taxes and the incidence of various kinds of taxes, the theory of public debts, paper money, coinage, banking, etc., yet they reveal nowhere even down to the present an adequate conception of the importance of finance to political economy. On the contrary, the Germans, although their treatment of the details has been and still is, in many respects, unsatisfactory, have yet elaborated a complete and systematic science of finance which is full of promise for the future. — The science of finance falls naturally into three divisions. The first discusses the organization of the financial economy, and investigates the general principles which must underlie all financial systems. The second treats of public expenditure, and the purposes for which it may be made. The third treats of public income, and the ways and means of obtaining it — I. *The Organization of the Financial Economy.* 1. In constructing a financial system we must first have regard to the amount to be expended. This will depend upon the number and character of the functions which the state assumes. This last will vary with the political development of the state. We see, then, how idle the attempt is, which many theorists have made, to fix once for all the sum total of expenditure. One state may be justified in making an expenditure many times greater than that which another state of equal area or even of equal population may make. England may with impunity devote a sum to public purposes which would bankrupt many states of greater population and area. Although we may not lay down a cast-iron rule for proper expenditure, we may sum up the purposes for which the modern state devotes money, and such a summary will be found at the close of this section. The science of finance, as such, has nothing to do with determining the functions of the state—a problem which belongs to the science of politics, in the narrower sense of the term. But, inasmuch as no important function of the state can be performed without the expenditure of resources in some form, it follows that determining the functions of the state and providing for their proper performance include the determining of a certain expenditure and of the income necessary to cover it. This last is essentially a problem of finance; and financial science, then, requires that in every revenue system there shall be, first, a de ailed and

efficient supervision and control of expenditure; second, a rigid observance of the principle of economy; and third, a careful regard for the relation between expenditure and national wealth. Most modern nations have attempted to secure a careful supervision by adopting the system of budgets. The administration lays before the legislature a careful estimate of the sums which in its opinion are necessary to the proper performance of the functions of the state. The latter, in voting or refusing to vote the sums proposed, confirms or rejects the views of the former as to the limits of state interference. In this settlement the administration and the legislature represent the two sides of a business transaction. The former represents the *supply* of governmental interference which in its view would be advantageous; the latter, the *demand* of the people for such interference. Their views are likely to be very different. The administration is prone to over-estimate the advantages of the services of the state for the people, and to underestimate the cost (in taxation, etc) which they impose upon the people. The legislature shows opposite tendencies. History has shown that by such a device a fair control of the financial system is secured. By the principle of economy is not meant that the state must limit its activity to the narrowest possible bounds; but simply that in the proper performance of any given function (which it has been decided the state should assume) the least possible expenditure should be made. The third point is a very important one. No mathematical ratio between the expenditure and national wealth can be found. All attempts to do this have failed, as they rest upon a false, mechanical view of the relation of the state to the national economy—a relation which is essentially organic. We may lay down the following as a principle: the greater the economical value of the public service, the more it promotes the productive power of all, the greater the net income of the nation, the larger the proportion of public revenue derived from industrial undertakings, the larger may the public expenditure become both absolutely and relatively. The question might be formulated as follows: May the expenditure increase to such an extent that the sacrifices it demands of the people become very oppressive? The answer would be affirmative, if it has reference to a temporary outgo, and the expenditure promises to be successful, and the particular form of state deserves preservation. But if the condition is to be permanent, if no saving can be effected, if the functions of the state can not be diminished, then the impossibility of raising sufficient revenue proves the impossibility of the continued existence of such a state. Even the assistance derived from repudiation, *i. e.*, violation of legal obligations, will not always afford a permanent relief. In such cases public production must, like private production, cease, because the undertaking no longer pays expenses. 2. But in the construction of a financial system regard must be had, in the second place, not merely to the amount to be raised at any given time, but also to the indubitable fact that the total expenditure of a modern civilized state tends constantly to increase. A glance at the budgets of modern states for the last fifty years will afford statistical proof of this so-called law of the ever increasing functions of the state. The governments of nearly all existing states have taken upon themselves within recent times the management of the postal system, of education, etc., in many cases of the telegraph and the railroad. This tendency must be taken into account. A good revenue system, therefore, must be elastic. It must be able to adapt itself to the growing demands of the state, and, hence, we must condemn all those plans which involve the limiting of the state to one or two sources of revenue. Another point should be considered in this connection, viz., the adjustment between the national and local systems of finance. This varies greatly in our modern states according to the historical development and peculiar conditions of the various nations. In some countries each individual city and county and province has or may have its own system of revenue to provide for its own wants. In others the local organizations are permitted to raise money only by a system of additions to the national taxes In our own country no state may raise revenue by emitting bills of credit or by laying duties on imports or exports. Practically under our present laws the states are also prevented from establishing state banks as sources of revenue. The municipalities are restricted, in many parts of the Union, as to the kinds of taxes they may levy and as to the amount they may raise by taxation. It will be found by experience in the various countries what particular sources of revenue can be best exploited by the national government and what are best adapted for local organizations, although the science of finance has hardly taken the first step toward a satisfactory solution of this question—one of the most important within its whole field. 3. In the third place, provision must be made in every revenue system for securing an equilibrium between income and outgo. This can be secured permanently only by providing a proper system of income. We must endeavor to ascertain some principles, then, which may guide us in selecting proper sources of income. But these can be found only by investigating what sources of income are best adapted to the various kinds of expenditure. We must classify expenditure, therefore, with a view of deciding upon the sources of income appropriate to each class. This classification leads to the distinction between extraordinary and ordinary income, in the various senses of the word. The sources of income in our modern states are principally taxes and public loans. Our investigation will be limited, therefore, chiefly to these two sources of income, and to deciding which is the appropriate one for any given kind of expenditure. The

fundamental principle of this portion of our science is, that *income must equal outgo*—a principle, the very opposite of that which must prevail in a private or individual economy, in which a man, to remain solvent, must regulate his outgo by his income. The government decides what functions the state will assume, what expenditure is necessary to perform them properly, and then aims to raise the required revenue; while the individual must first find out his revenue before he fixes his outgo. A disregard of this principle results in a deficiency, which, if long continued, becomes chronic, and easily leads to national bankruptcy. The best means of avoiding such a deficiency is to insist upon carefully prepared budgets for short periods of time—one, two or three years. If the estimates for one period are wrong, they can easily be corrected for the next. In deciding upon the sources of income to be used, we must have reference to the kind of expenditure. Expenditure may be classed as ordinary and extraordinary expenditure. These terms are applied in three different senses. *In the first sense*, ordinary expenditure is such as occurs regularly in the ordinary course of the government, and can be estimated almost exactly beforehand. Extraordinary expenditure is such as must be made in consequence of some special and unexpected necessity, such as war or a great public calamity. The first kind must be met, of course, by an income of equal regularity and quantity. The second may be met by extraordinary measures, such as treasury notes or the use of public credit in some other form; though in many cases it is better to keep a permanent surplus fund in the treasury to use on such occasions. *In the second sense*, we have reference to the permanence of the results achieved by the expenditure. We apply in our financial system the idea of fixed and circulating capital. Ordinary expenditure is such as is regularly applied in the process of public production within a financial period, which reappears in the value of its products (public services), and must therefore occur periodically to the same amount. It includes all expenditure for the running expenses of the government. Extraordinary expenditure is such as is made at irregular times, and whose effects extend beyond the current financial period. The outlay may form the basis of a permanent advantage, or it may be necessitated by some great obstacle in the way of political progress, such as an unavoidable war. In the first case it becomes an investment of fixed capital, so that in the subsequent financial periods a less expenditure is sufficient and an increased productiveness results. Such an investment may be made for two purposes. It may be a simple commercial undertaking like that of any private individual, for the sake of the profit connected with it, such as investment in domains, railroads, etc; or it may be for the purpose of improving or establishing the means of performing the functions of the state. All great reforms in administration, the building of free public roads, the improvement of the means of defense, etc., etc, require such investments. The money expended in an unavoidable war has very different results from that expended in the last two cases. It involves a real loss of men and capital. Nor does even a really successful war give us any guarantee of no repetition; on the contrary, it is often merely the prelude to longer and more costly wars. *In the third and legal sense*, ordinary expenditure is that which is granted, once for all, for certain purposes, and need not be incorporated in the budget. Extraordinary expenditure is that which must regularly receive the consent of the legislative body. Thus, in England the amount supposed to be actually necessary to the existence of the government, is furnished by a permanent income which, although it may be changed by every parliament, is practically changed very seldom. All other expenditure must be voted regularly by parliament. Now, as has been said, in constructing a financial system, regard must be had to the kind of expenditure which is to be provided for by any given source of income. We may lay it down as a principle, that the ordinary expenditure in the second sense of the term must be met in all cases by ordinary income (*i. e.*, in general, income from taxes); while extraordinary expenditure may be met by extraordinary income (*i. e.*, by the use of public credit). Ordinary expenditure in the third sense must of course be met by ordinary income, while extraordinary may be met by temporary devices of a character suited to the particular object in view.—II. *Public Expenditure, and the Purposes for which it may be made.* 1. The financial needs of the state may be divided into two classes: first, its need of things in kind; second, its need of money. In the early periods of political development the need of things in kind predominates. The government needs men to fight, and it simply demands their services without paying them anything in return. It expects the soldiers to arm themselves at their own expense and to provide their own rations while in the field. As the state develops, there is a constant tendency to satisfy its necessities by way of purchase, and in consequence of this its need of money becomes more important than its need of things in kind. But even in our modern money economy there are some cases in which the state can better afford to take things in kind than money. In time of war, for instance, it may become necessary to have more horses, or supplies, and it will often be better to take the things wanted than to take money and attempt to purchase them. All instances of the use of the right of eminent domain come under this head. It is often more advisable to take a piece of ground, for instance, and pay what seems to be a fair valuation, than to attempt to raise money enough to satisfy the demands of the owner, which, as is well known, become exorbitant as soon as the government attempts to buy. 2. From another point of view, the financial needs of

the state may be classified as its need of personal services and its need of commodities. The science of finance must investigate the various methods of expenditure necessary to satisfy these needs. Several different systems of securing persons to perform the services have been in vogue at different times and in different countries. The following are the most important: 1st, the German system, according to which all public offices are filled from the ranks of persons who have shown their fitness for the places by prescribed tests, and the appointment gives (after a certain period of probation) a right to the office, and therefore its salary, so long as its duties are properly performed, 2d, the French system, in which the salaried officer, although professionally educated, may be removed at pleasure; 3d, the American system, in which the salaried officers are appointed and removed at pleasure, without any necessary regard to their fitness; 4th, the voluntary system, in which the offices are filled from among those able and willing to perform their duties without salaries. The first system, involving, as it does, educated officials and pensions, seems at first thought to be the most expensive. For the salaries must be large enough to attract and retain men of ability and education. They involve, therefore, a restitution of the costs of education. The officers may not be dismissed, so that they must continue to draw their salaries, even if the circumstances should allow a material reduction of the force. If they give out while performing their duties, they must be supported, and they must finally be pensioned after they become too old for the active service. But there are several points in its favor to be considered. In the first place, we must have regard to the value of the service as well as its nominal cost. A professionally educated civil service will furnish better results by far than an uneducated one. An officer who feels sure of his position as long as he does his duty, and reasonably sure of increased salary or of promotion as a result of marked faithfulness, will do his work far better than one who may be removed at the pleasure of an irresponsible superior The German system will secure a more honest set of public servants than any of the others mentioned, and so less will be lost by peculation and fraud than under the other systems. It is better than the plan of voluntary offices, for under the latter only the wealthy can enter the public service, and the government would receive a too aristocratic coloring. Thus, although the German system seems to be the most costly, yet it is after all the cheapest and consequently financially the best one. We pass over the further discussion of this point at this place. (See Civil Service.) — As a rule the state can better afford in our modern industrial economy to satisfy its need of commodities by purchase in the open market than by manufacturing them itself. There are some exceptions to this, however. If the state needs peculiar commodities which the commercial industry of the country would not produce except for the state, or if special experiments are necessary which private parties would not make, or if the competition among private firms is not very great, and inspection of the commodities difficult, then the state can generally better produce them itself. Military supplies afford a good example of this; although private parties can often furnish even these on better terms than the government could produce them. Krupp, in Germany, and our own rifle factories in this country, are good instances. In all other cases the state in providing its supplies must simply follow the ordinary rules of private business — buying by contract and *en gros*. Financial considerations must further determine whether the government shall erect buildings for its business or hire them from private parties. 3. Public expenditure may be divided, from a third point of view, into gross and net expenditure. Gross expenditure includes not only what is consumed in performing the functions of the state, but also what is expended in collecting the sums so consumed. Net expenditure includes only the former of these two items. They should both be carefully indicated in the budgets, as the costs of collection reveal the economy of the financial system and of the administration. It goes without the saying that these costs of collection should be as low as possible, and yet they can never become a determining factor in a financial system. They depend upon a great variety of circumstances, some of which we summarize. Those public economies which derive a large portion of their income from industrial sources, such as domains, forests, mines, factories, railroads, etc., etc., will always have a relatively larger gross expenditure than those which depend on taxes. (Compare English with German finance.) Even of two economies which have the same system the budgets will be very different, according to the systems of administration. The relations of time and place and circumstance have very much to do with determining the ratio of gross and net expenditure. In addition to the nominal costs of collection there are to be counted all those sacrifices which the public must make beyond their taxes, and which do not result even in a larger gross income to the state; all costs growing out of illegalities, bribery, bad systems of administration, incomplete control, hindrances to production, etc., etc., some of which are characteristic of states in a backward condition of political development, others arising from the kind of taxes (customs duties, excise, indirect taxes in general). The nominal costs of collection depend: 1st, upon the condition of the whole financial, and particularly of the tax, system, the system of collection, whether by farming, by officers, by local authorities, etc., exercises the greatest influence in this respect; 2d, upon the kind of taxes most employed, whether direct or indirect; 3d, upon local and temporal circumstances, even with the same kind of tax. The moral development of a people, its geographical situation, its communi-

cations, its economical condition, the prevalence of great industries, etc., are all of great influence in this respect. The more favorable all these items are, the less may the costs of collection become. — The purposes for which expenditure is made in the modern state may be classed under three heads: 1, for the executive and legislative departments; 2, for justice and defense; 3, for the general welfare. The executive head must receive an allowance which will not only allow him to live, but to maintain an establishment in some degree of elegance if not of splendor. It is necessary to connect a salary with the office of chief executive in a republic, or it would limit the choice of the people to wealthy men able and willing to undertake the expense. It is also usual in free states to pay a salary to the members of the legislature, for the same reason. In monarchies the income of the sovereign is largely derived from private property, though in many modern states the legislature, considering that royal estates belonged to the government, has taken possession of them and allowed the king a salary, so to speak, instead. Under the head of justice fall all expenses for the courts, for prisons, and penitentiaries; under defense, all outlay for police, detective force, workhouse, foreign representatives, and, most important of all, for the army. In most modern states the army is a necessity, and the best way to provide it is one of the most difficult questions of finance. "In peace prepare for war," is a direction which European states have been following so thoroughly for the last generation that some of them are already on the verge of bankruptcy, and nearly all are seriously impeded in their material progress by the enormous cost of their armies. The militia system is exceedingly costly, because exceedingly inefficient, and can be adopted only by those nations that are reasonably free from war. The American rebellion was the most costly war of modern times, largely because a vast army had to be raised and an enormous fleet built within a short time by a nation practically unacquainted with either. But it may well be doubted whether any great saving would have been effected by having spent large sums for fifty years preceding the conflict, in order to be ready for it, to say nothing of the fact that one party would have had as much advantage from the preparation as the other. But a European nation, such as Germany, may well find it cheaper to keep a large standing army and a still larger reserve (of all able-bodied men) than to rely upon a standing army and conscription, or upon a militia system. The amount of expenditure a nation can apply to its army is measured solely by the value it sets on its national existence. — Expenditure for the general welfare includes expenditure for inner administration, for economical administration, and for education. Statistics, public health and poor laws belong to the first; coinage, the post-office, telegraph, state railways, public highways, etc., to the second; schools, art and religion to the third. — III. *Public Revenue, and the Sources from which it may be derived.* The ordinary revenue of modern governments is derived from three sources: 1, from agricultural, industrial or commercial enterprises; 2, from fees; 3, from taxes. These three sources must be carefully distinguished, and their relative and historical importance emphasized. When a state manages a public farm, conducts a great commercial institution, like a bank, upon the same principles and for the same purpose as private individuals, viz., to secure a pure income which it may apply to other purposes, it derives revenue from the first source. When it undertakes the exclusive performance of certain functions for its citizens, and charges the persons especially benefited a certain sum, which it fixes without reference, possibly, to the value of the service to the person served, or its cost to the government, it derives revenue from the second source. The postoffice is an excellent example of this source. The postage is the fee. The government charges three cents for forwarding a letter to the address. It may not cost the government one-tenth of that sum, or it may cost ten times that sum. The person served might be willing to pay one hundred times the postage charged, or he might prefer to hire somebody else to forward it because it would be cheaper. But the government fixes its own price and insists upon being allowed to perform the service, and accomplishes its aim by refusing to allow any one to perform it more cheaply. When the state exacts a sacrifice of a citizen without performing any service for him other than affording the general protection and opportunities which come from his enjoying the privileges of citizenship, it derives revenue from the third source. The fundamental distinction between a fee and a tax lies in the nature of the return made by the government to the individual paying it. Both are contributions to the government, but for the former the payer receives in return a special service, which is not performed for anybody except those who pay for it; while for the latter he receives only a general return which everybody living in the state enjoys, whether he pays for it or not. The revenue from fees is intended to cover the expenses of performing the service. In case the government charges more than private parties would charge, the surplus becomes a tax levied only on the persons availing themselves of these services. In case the revenue is insufficient to pay the cost of the service the deficit must be made up by general taxation, and is in so far a gift from the state as a whole to the portion of the community profiting by these services. The same thing is true of the individuals in these classes. Under free competition a man in New York might get his letter carried to Boston for one cent, a man in Texas might have to pay twenty-five cents for the same service; under the present system the former is *taxed* two cents, which are given to the latter to apply on his postage. A fee, therefore,

may contain a tax for the individual, whenever it is higher than what he would have to pay for the same service under free competition, and we must carefully distinguish in every contribution to the government between the fee and the tax.—1. *Revenue from business enterprises.* In an early stage of civilization or of industrial development the public revenue must be largely derived from the profits of public property. Land is the most common form at first. Mines are also a common form in early as well as in later times. A period soon comes in a progressive state when the income from such sources is no longer sufficient, and the main dependence must be placed upon taxation. But even under such conditions the state may retain its domains and even develop similar sources of revenue, such as smelting works, factories, banks, canals, railroads, etc. Down to a late date the domains furnished the greater portion of the national revenue in many of the European states, and even at the present time they form an important element in the financial systems of most continental states. The general tendency has been toward selling the farm domains and retaining the forest domains. Of late years the questions of state banks and state railways and canals and telegraphs have been growing more and more important. There has been a marked and growing tendency toward government ownership of all such agencies. The purely financial element, however, has rarely led to government ownership in these cases, although such enterprises generally make good returns on the investment. The income of several European countries from such sources is steadily growing, and it is likely to become more and more important with every advance in industrial development. (See RAILROADS, FORESTRY, PUBLIC LANDS.) — 2. *Revenue from fees.* The modern state derives a large income from fees, which, as already defined, are contributions made to the state in return for a special service rendered the individual. The theoretical justification of fees lies in the nature and in the results of various functions of the state; their actual existence and historical development are closely connected with the prevailing views of law, of the state, of society and of the national economy, and with the conditions of the same, and change, therefore, with those views and conditions. The principles laid down, therefore, with reference to fees are not absolute, but temporal, local, and historically relative. What functions the state ought to assume is not a financial question, nor has the science of finance to decide which of its functions it should discharge at the general expense of the whole state and which at the expense of the individual most benefited. Historically, in the economically progressive state, a growing tendency has shown itself toward the public assumption of functions performed hitherto by private parties. Such, for example, are the paving and lighting of streets, the furnishing of means of instruction, the establishment of water works, of asylums, etc., etc. At first all such institutions are generally supported by the fees of those most concerned; in course of time, however, a tendency shows itself toward lessening the fee more and more, until, a deficit occurring, the state must support the institution by taxation. The following principle may be laid down in reference to what functions should be supported by fees and what by general taxation. The more clearly the performance of a certain function redounds to the benefit of particular individuals who can be easily ascertained, the greater the proportion of expense which said individuals should defray by their fees; the less clearly it accrues to the benefit of one individual more than another, and the greater the difficulty of ascertaining the parties benefited, the greater the proportion of expense which the state should bear by general taxation. As has been said above, the fee must not amount to more than the charge private parties would make for performing the service; otherwise it becomes a tax. Many taxes are levied under the form of fees. In all cases where the government requires the performance of a certain act merely for the sake of taxing it, as, for instance, the stamping of deeds, contracts, etc., the so-called fee is really a tax, and should be considered such. — 3. *Revenue from taxes.* Taxation is the most important and most difficult department of modern finance, and the theory of taxation the most important and the most difficult portion of the science of finance. The latter falls naturally into two divisions—a general and a special: the former treating of the general principles of taxation; the latter, of particular taxes and their special characteristics. The remainder of this article will be devoted to the general division; the special division will be treated in the article entitled TAXATION. We shall discuss the general principles of taxation under two heads: 1st, the basis, nature and development of taxation in general; 2d, the fundamental principles of taxation. 1st. The right of taxation, *i. e.*, the right of collecting from subjects compulsory contributions for public ends and purposes, finds its theoretical justification in the absolute necessity for the state, and therefore in its right to existence. From which it follows, that the justification of this right does not belong to the service of finance, but in its economical aspects and connection with the organization of property and industry to political economy, in its political and legal aspects to the science of the state, and in its philosophical aspects to jural philosophy. This point will be further considered, however, at the end of our second division. The nature of a tax has been fully explained in a preceding portion of this article. The development of taxation has kept pace with the industrial development of society. In a primitive and undeveloped state taxes are not to be found. The only thing corresponding to them is the voluntary contribution or gift to the head of the state (prince, chief, etc.), on special occasions. "The government is

expected to pay expenses." The conquest of other nations, the proceeds of the public domains, etc., are ordinarily fully adequate to meet all financial necessities. On the other hand, society makes but few demands upon the government. Its members depend more upon themselves, rarely expecting more from the government than protection of life and property. As the industrial order of society is developed, greater demands upon government aid and interference are made. The functions of the government are rapidly multiplied. At first those who expect this aid must pay for it themselves, *i. e.*, the expenses of the additional functions are defrayed by fees. But in course of time the number benefited by these advantages increases, until the want has become "public," *i. e.*, can be satisfied at the expense of the state as a whole. But the more such wants are multiplied, the more impossible it becomes for the domains to furnish the requisite funds. Taxes become necessary, and the greater the amount of money needed, the more extensive and complex does the tax system become. 2d. The fundamental maxims of taxation laid down by Adam Smith have become classical We produce them here for the sake of convenient reference in our discussion of the subject. They are as follows: 1. The subjects of every state ought to contribute toward the support of the government as nearly as possible in proportion to their respective abilities, that is, in proportion to the revenue which they respectively enjoy under the protection of the state 2. The tax which each individual is bound to pay ought to be certain and not arbitrary. The time of payment, the manner of payment, the quantity to be paid, ought all to be clear and plain to the contributor and to every other person. 3. Every tax ought to be levied at the time and in the manner in which it is most convenient to the contributor to pay it. 4. Every tax ought to be so contrived as both to take out and keep out of the pockets of the people as little as possible, over and above what it brings into the treasury of the state. The last three are simply principles of proper administration and will be discussed later. The first maxim contains implicitly three distinct principles. It finds the justification of taxation in the protection accorded by the state. It lays down a principle of just distribution of taxation, viz., upon every one according to his ability It proposes a method of taxation by which this equal distribution is to be reached, viz., the income tax. It may be safely said of these last that the second is a contradiction of the first, and that the third is by no means an axiom, and is not easily demonstrable. The maxim is really a begging of the question, and yet it has been copied and recopied and paraphrased by nearly three generations of successors. — The fundamental principles of taxation are to serve as a guide in the practical levying of taxes, especially in the choice of the various taxes and in the organization of the tax system as a whole. Every tax is to be tried by these principles, and as far as possible that one chosen which will best satisfy their demands. *On account of the great difference in these demands and on account of the practical difficulty of reconciling them with one another, it is very evident that no one tax should be adopted as the sole source of public revenue. On the contrary, a judicious combination of several different kinds of taxes, i. e., a real tax system, seems best adapted to realize our ideal, viz., the greatest practicable agreement of actual taxation with our fundamental principles.* These principles are nine in number, divided into four groups as follows: I. Politico financial principles: 1. Adequateness of taxation; 2. Elasticity of taxation. II. Economical principles: 3. Choice of proper sources of taxation, *i. e.*, particularly, discussion of the question whether taxation is to draw only from individual and national *income*, or also from individual and national *capital;* 4 Regard for the incidence of taxation, particularly of the various kinds of taxes, upon the tax payer, and a general investigation of the "shifting of taxation." III. Principles of justice or of the just distribution of taxation: 5. Universality; 6. Equality of taxation. IV. Administrative principles: 7. Definiteness as to time, place, manner and quality; 8. Convenience of the same; 9. Economy in collection. It is not usual to include the first two principles in such a summary; but they should be placed first of all, as they are most important of all. They follow from the very nature of the financial economy, and from the principle upon which that is based, viz., that income is determined by expenditure, and must be sufficient to meet it For not, as the Smithian school of political economy from their particularistic standpoint teach, not "justice toward the individual," not the maxim of universality and equality of taxation, but the fulfilling of the conditions of social life and union, is our fundamental principle—the securing of the means for the preservation of the state and for the performance of its functions.—1. By "*adequateness of taxation*" we mean that the income from taxes must be sufficient to cover the expenses of a financial period, so far as other means are lacking or are impermissible. Taxation must be resorted to after the income from industrial undertakings and the surplus from the fee system have been exhausted, and it must meet the rest of the expenditure.—2. By "*elasticity*" is meant that a tax system must contain such component parts (*i. e.*, kinds of taxes) as can adapt themselves to changes in expenditure or can supplement possible deficiencies of other taxes or other sources of income In consequence of the law of the ever-widening functions of the state, we must demand of the tax system that it shall be able to furnish a constantly increasing revenue.—3. The "*source of taxation*" is that economical quantity from which the tax is really paid, and is to be carefully distinguished from the *basis of assessment.* The latter term denotes that on which the tax is nominally laid and according to which it is assessed. Thus the so-called property tax, levied on and according to

property, is ordinarily in reality an income tax, *i. e.*, it is paid by the property owner out of his income. Where the property is actually diminished from year to year in order to pay the tax, the latter becomes a real as well as a nominal property tax. There are three possible sources of taxation: income or profits; capital, *i. e.*, property used as a means of production; and finally, property in use It is possible for a tax to be collected from the commodities belonging to each of these three classes of property, or from the money which represents them in the market, in such a way that the sum total of these commodities shall be diminished by the tax.—The normal source of taxation is national income By national income we mean the total amount of commodities which come newly into the possession of a nation within a year, and which might have been consumed without lessening the total amount of national wealth at the beginning of the year. In the long run this is the only source from which taxation may draw. A constant or even frequent encroachment on national wealth or capital would soon be stopped by the diminution of the latter. A taxation of national capital, *i. e.*, of the supply of material means of production—or capital in the purely economic sense as opposed to capital in the historico-legal sense—leads necessarily to a limitation of production and to a keenly felt reduction in the standard of comfort. The "sparing of property and capital," the verdict against real taxes on property and capital (*i. e.*, taxes which really diminish property and capital) is, therefore, a universal and highly important principle of the modern theory of taxation. We must keep in mind, however, that a taxation of private or individual capital is not always a taxation of national capital, and that the same objections, therefore, do not apply to a tax on individual which apply to taxes on national capital. Thus a tax on inheritance, while it really diminishes private may not diminish national capital a particle, as it may result in a mere difference of distribution among the citizens. A temporary tax even on national capital or property may be justifiable, in order to support great undertakings on which the existence or continued prosperity of the nation may depend; as, for instance, to prosecute a necessary war or to introduce much needed reforms in national politics or economy, just as in private business the sacrifice of a portion of the capital or property may be necessary to save the rest.—4. *Regard for the incidence of taxation.* The government may determine the basis of assessment or the object upon which the tax is laid, and thereby the person who is to advance this tax in the first place, *i. e.*, the tax payer; but under a system of free competition it has no power to determine the source of taxation or the person who must ultimately bear the tax, *i. e.*, the tax bearer. In reference to the last it may have wishes and intentions, and by its choice of taxes and objects for taxation may do much to realize its wishes and intentions. But what particular private income or property shall ultimately become the real source of taxation, or what particular person shall become the real tax bearer, is determined by the economic process which we call the "shifting of taxation." The latter is the result of a reaction of taxation upon the tax payer. He attempts to get rid of the burden of taxation, either by increasing his income (and therefore regularly by increasing his activity of production) or by collecting from another the tax which he has advanced. This endeavor appears in industry as the shifting of taxation, and expresses itself ultimately in certain changes in production and distribution in the whole national economy. Taxation often distributes itself ultimately, therefore, among the sources of taxation and tax bearers, in a very different way from that in which it was originally levied on the objects of taxation and the tax payers. This ultimate distribution is the important point. It should be consistent with economical principles and with principles of justice. The important problem, therefore, of the theory and praxis of taxation consists in finding out, as accurately as possible, what effects a given tax system or particular kinds of taxes have upon the ultimate distribution of taxation which results from this shifting process.—Very many theorists, and nearly all practical men, in this sphere of our science have hitherto attributed an undue importance to this process. They see in it a universal panacea for all inequality of taxation, and maintain that every tax, no matter how unjust when first imposed, if it be retained, will in course of time be equalized by this process of adjustment, and hence cease to be unjust. We may call this the optimistic theory. It is well summed up in the motto, "Every old tax is a good one; every new tax, a bad one." However, neither reason nor observation sustains this view. While in many cases such an adjustment as furthers equality does undoubtedly take place, yet in many others it meets very great difficulties, and in some, insuperable obstacles. It may also be urged against this view that the adjustment often occurs in such a way as to increase inequality. The economically weaker elements of society, being oftentimes unable to shift any portion of their taxation, are further burdened by whatever portion the stronger elements are able to shift from their own shoulders. In any case it is exceedingly difficult to determine what the effect of this shifting process has been, and we have therefore no security that a harmful and unequal system of taxation will distribute itself justly by any process of shifting or reshifting. It is necessary, therefore, to make our system of taxation, from the first, consistent with the principles of economy and justice.—5 and 6. *Universality and equality of taxation.* The idea of justice in taxation is a purely relative one. A system may be essentially just at one period and under one set of conditions, which under different circumstances would lack every element of justice. In

the following we shall speak of just taxation with reference to the conditions of modern industrial life. Our idea of just taxation will depend very largely on our idea as to the present distribution of wealth which has taken place under the *régime* of so-called free competition. Whoever regards our present system as absolutely right and the only just one, must regard the present distribution of property and income which has taken place under it, as the only proper one. His theory of just taxation will be a system which interferes as little as possible with the actual distribution of wealth in our society. Universality means to him that every citizen, whether his income be large or small, whether it be derived from funds or daily labor, shall be taxed. He must refuse all proposals to remit taxes. Equality of taxation means that every one shall pay an equal numerical proportion of his income as tax, and implies, therefore, a rejection of progressive taxation. But the claim that the existing distribution effected under free competition is the only just one, is, on the one hand, a begging of the question, and, on the other, it ignores the influence of the existing laws of private property which have been inherited from entirely different conditions. The conclusion, therefore, that the present distribution of wealth is a *noli me tangere*, is unfounded. A second principle has been making its way into theory and practice, which we may call the politico-social principle, according to which taxation is not merely a means of providing revenue for the government, but, in addition, a means of correcting the existing distribution of property. According to this, the rule of universality admits of some exceptions, such as leaving a certain minimum income untaxed. Equality means equal sacrifice; not attempting to realize that, however, by demanding a numerically equal proportional part of all incomes, but by taking a numerically larger proportion with every increase in income, at least within certain limits.— Two principles have been proposed by which taxation is to be justified and according to which it is to be levied. The first we may call the industrial principle, which would adjust taxation according to "interest," or "service and counter-service." This views the relation of the tax-paying subject to the state as a purely business one. The state performs certain functions, and the individual pays it for such performance. This, of course, is a mere generalization of the fee principle, and is entirely untenable as a general basis for taxation. The second, which we may call the organic principle, would regulate taxation according to the ability of the taxed to sustain it The degree of taxation is determined by the relation between the economic condition of the taxed and the amount of the tax. The justification of taxation lies, accordingly, in the nature of the state and in the relation of the taxed to the state, from which taxation results not as a special counter-service for advantages from the body politic, but as a duty of a member toward the fulfillment of the conditions of the existence and prosperity of the whole to which he belongs. This theory considers the tax as a sacrifice, and equality of taxation is to be established by so adjusting the taxes that they will require an equal sacrifice of all. This is to be accomplished by a system of progressive taxation, *i. e.*, one in which the rate increases with the income. For it is evident that the day laborer who barely earns enough to sustain his family, we will say $400 a year, must make a greater sacrifice to pay a 3 per cent. tax, than a capitalist whose income is $10,000 a year, *i. e.*, that $12 is more for the former than $300 for the latter. The first of these principles is naturally the predominating one in all primitive conditions, the second becomes more and more important the more highly the industrial economy is developed.— 7, 8 and 9. *Definiteness, convenience, economy* These may be called administrative axioms. From our conception of a tax as a sacrifice, it follows, as a matter of course, that every device ought to be adopted to diminish the burden as much as possible consistent with accomplishing our purposes. Definiteness and convenience are really of value only so far as they contribute to economy. Economy in this connection means economy in costs of collection, using that term in its widest sense. We refer to what was said on this point at the close of division II. of this article. — LITERATURE. At the head of systematic works upon the subject we rank the *Finanzwissenschaft*, by Adolph Wagner, Leipzig, 1877–82, which was taken as the basis of the foregoing article and largely used in its preparation. It is a revision and rewriting, with large additions, of the *Finanzwissenschaft* of Rau. It contains admirable summaries of the literature upon special points, as well as upon the subject as a whole. Stein's *Lehrbuch der Finanzwissenschaft*, Leipzig, 1860; Bergius' *Grundsätze der Finanzwissenschaft*, Berlin, 1865; von Malchus' *Handbuch der Finanzwissenschaft*, Stuttgart, 1830; von Jakob, *die Staatswissenschaft*, Halle, 1831; may be mentioned among German works. De Parien, *Traité des impots*, Paris, 1862–5; J Garnier, *Eléments des finances*, Paris, 1858; L. Cossa, *Elem. di scienza della fin.*, Milan, 1876; are all worthy of notice, and contain summaries of all valuable literature on finance. The English works bearing on this subject will be mentioned at close of article on TAXATION.

E. J. JAMES.

FINE ARTS, The. The taste for the beautiful, that is to say, the want felt for a certain order and a certain harmony in things which affect the senses and the intellect, either in sound, color, form or movement, gave birth to the fine arts. To arrange sounds, forms, colors or movements in a manner which shall produce an agreeable impression upon the senses or the intellect, is the object of the musician, the painter, the architect, the sculptor, the poet, or, to use a general

term, of the artist. The domain of the fine arts is commonly restricted to painting, sculpture, architecture and music. Some even give the name of art only to the imitation by mechanical means of all forms in their highest degree of natural or ideal beauty. This is what is called plastic art. This word embraces only such arts as drawing, painting, sculpture and architecture, together with engraving and mosaic work. But this definition is evidently too narrow. When a musician or a dancer awakens in the mind a sense of the beautiful, the one by harmonious cadences, the other by graceful and expressive movements, they are artists in the same sense that the painter, the sculptor or the architect is. It is of little importance what may be the material or the instrument which the artist employs to operate upon the senses and the intelligence, provided he succeeds in pleasing them. The fine arts might, therefore, be defined in a general manner as the application of human labor to the production of the beautiful.—The fine arts are found among all nations, even the most barbarous, but they are more or less perfect, more or less developed, according to the state of civilization and the peculiar aptitudes of the people. The Greeks seem to have possessed in the highest degree the taste for the beautiful, and the faculties necessary to satisfy this elevated want of the senses and the intellect. Hence Greece was for a long time a wonderful studio, in which painters, sculptors, architects, musicians and poets vied with each other in ministering to the ruling passion of an artistic people. Other nations, like the ancient Mexicans, seem to have been entirely destitute of the feeling of the beautiful. The forms of the Grecian statues and monuments are as beautiful as those of the Mexican statues and monuments are hideous. — Man could make no great advance in the fine arts until after his more pressing wants were satisfied. Music and dancing probably were the first. Although the art of the architect and the sculptor could not be developed before the trade of the mason or the stone-worker, man needed only the graceful play of the limbs to invent dancing, and the free use of his voice or a reed to invent music. It was possible to develop painting, sculpture, and, above all, architecture, only by the aid of the industrial arts. The trade of building must necessarily have preceded architecture. It was the latter's mission to give to each individual edifice the kind of beauty appropriate to its purpose and to local exigencies. In architecture, as in literature, the same style would not apply equally well to all kinds of work. The architect is bound to give, for example, a religious character to a church, a secular character to a theatre or ball room. The Gothic style up to the present time seems to be that which is most appropriate to the manifestation of religious sentiment. In the Gothic cathedral, the ethereal height of the arches, the vast depth of the nave, and the mysterious subdued light from the windows, join with the profound and solemn accents of the Gregorian chant and the grave and majestic tones of the organ, in awakening the sentiment of veneration. The motley style of the renaissance is better calculated to excite mundane and worldly thoughts. Hence it is the one chosen for theatres and ball rooms. The peculiar propensities of nations have naturally exercised a great influence upon the development of the fine arts. A religious and melancholy people alone could have invented Gothic architecture. In Grecian architecture is found that exquisite elegance which marked all the customs as well as all the works of the privileged Hellenic race. The affected and *bizarre* customs of the Chinese are also found reflected in their architecture as well as in their dress. — The necessities of climate and the configuration of the ground have exercised a great influence upon the development of architecture, and they have often determined the character of it. Necessities of another order have also operated upon the development of architecture and other arts. Throughout all antiquity is seen the influence which the fine arts exercised over the mind. — For a long time they were considered as an *instrumentum regni*, as a means of appealing to and mastering the imagination by terror or respect. The gigantic constructions of the Assyrians and Egyptians—constructions, the utility of which we vainly endeavor to discover to-day — had perhaps no other object. These exterior signs of power were then necessary to make a simple-minded people accept the absolute dominion of a race or caste. Those who claimed to be the representatives of divinity upon earth were obliged to show themselves superior to other men, in all that was considered as a manifestation of strength or majesty. The co-operation of the fine arts was indispensible to the display of their power. They needed them to construct their temples and palaces, to ornament them with magnificent decorations, and to fashion their garments and their arms. Architects, painters, sculptors, musicians and poets were not less necessary to them than soldiers and priests in sustaining the imperfect and vicious structure of their dominion. Hence the particular care which governments in all ages have given to the development of the fine arts, and the ostentatious protection which they have accorded them, very frequently to the great detriment of other branches of production. Although, in the past, the fine arts were powerful auxiliaries of politics and religion, as nations have developed intellectually and morally, as their intelligence and sentiments have broadened and become purified, this display has exercised less influence over the minds of the people, and the fine arts have lost their political and religious importance. The taste for the beautiful has ceased little by little to be used as an instrument of domination. — Economists have put two leading questions on the subject of the fine arts. They have inquired, first, whether the fine arts form a species of national wealth, and second, whether the intervention of the government to

protect them is necessary. — Do the products of the fine arts constitute a species of wealth? As regards all that concerns architecture, painting and sculpture, there can be no doubt as to the answer. A building, a statue and a picture are material riches, the accumulation of which evidently augments the capital of a nation. But can as much be said of the products of music and dancing? Can the talent of the musician and the dancer be regarded as productive? Adam Smith says, no; J. B. Say and Dunoyer say, yes. According to Smith's doctrine, the name of products can not be given to things which are ended at the very moment of their formation. To which J. B. Say answers, and rightly, as we think: "If we descend to things of pure enjoyment, we can not deny that the representation of a good comedy gives as much pleasure as a box of bonbons or an exhibition of fire-works. I do not consider it reasonable to claim that the painter's talent is productive, and that the musician's is not so."— But although J. B. Say recognizes the musician's talent as productive, he does not admit that its products can contribute to the increase of a nation's capital. He states his reasons for this opinion as follows: "It results from the very nature of immaterial products that there is no way to accumulate them, and that they can not serve to augment the national capital. A nation which contains a great number of musicians, of priests and of clerks, might be a nation well endowed as to amusements and doctrines, and admirably well administered, but its capital would not receive from all the work of these men any increase, because their products would be consumed as fast as they were created." (J. B. Say, *Traité de l'économie politique*, book i., chap. xiii.) — But does it follow, because a product, material or immaterial, is consumed immediately after having been created, that it does not augment the capital of a nation? May it not augment, if not its *external* capital, at least its *internal* capital, or, to make use of Storch's expression, the capital of its physical, intellectual and moral faculties? Would a population deprived of the services of clergymen, administrators, musicians and poets, a population, consequently, to which religious, political and artistic education was wanting, be worth as much as one sufficiently provided with those different services? Would not man, considered at once as capital and as an agent of production, be worth less under the former circumstances than under the latter? — In his work, *De la liberté du travail*, M. Charles Dunoyer has completely demonstrated that the consumption of the material or immaterial products of the fine arts develops in man valuable faculties; whence it results that artistic production, material or immaterial, can not be considered barren. — Let us complete this demonstration of the productiveness of the fine arts by means of a simple hypothesis. Suppose her musicians and singers were taken away from Italy, would she not be deprived of a species of wealth, even if these artists were replaced by an equal number of laborers, carpenters and blacksmiths? Italy profits by the work of her musicians and her singers as absolutely as she does from the products of agriculture or of manufacturing industry. In the first place she consumes a part of it herself, and this consumption serves to educate the Italian people by developing their intelligence, by refining and polishing their manners. Then, another part of the products of the fine arts, of which Italy is the nursery, is exported each year. Italy supplies a great number of foreign theatres with its composers, its musicians and its singers. In exchange for their immaterial products, these art-workers receive other products purely material, a part of which they commonly bring back to their own country. What laborer, for instance, would have added so much as Rossini to the wealth of Italy? What seamstress or dressmaker, however capable or industrious, would have been worth as much as Catalani or Pasta from the same point of view? The production of the fine arts can not then be considered barren for Italy. — The fine arts, then, can contribute directly to augment the capital of a nation, whether material capital or immaterial capital, which resides in the physical, moral and intellectual faculties of the population. They are in consequence productive in the same degree and in the same sense that all the other branches of human work are. — Artistic production also, like all others, is effected by previous accumulation, the co-operation of capital and labor. In this respect artistic production offers no particular point of interest, except that it gives birth more frequently than any other kind of production, agricultural industry excepted, to natural monopolies. Great artists possess a natural monopoly, in this sense, that the competition among them is not sufficient to limit the price of their work to the level of what is strictly necessary for them to execute it. Jenny Lind possessed a natural monopoly, for the remuneration which she obtained on account of the rarity of her voice, was very disproportionate to what was strictly necessary for her to exercise her profession of a singer. The difference forms a species of rent, in the politico-economical sense of the word, of the same nature exactly as rent derived from land. If nature and art had produced a thousand Jenny Linds, instead of producing but one, it is evident that the monopoly which she enjoyed would not have existed, or that it would have been infinitely less productive. Painters, sculptors and architects possess in their reputation a still more extended monopoly, for it exists and is principally developed after their death. The value of this monopoly depends upon the merit of the artist and upon the quantity of his works. According as the number of works produced by a painter or sculptor is more or less considerable, the price of each one is more or less high. Where the merit is equal, the pictures or statues of the masters who produced the least have a greater pecuniary value than those of

the masters whose productions are numerous. Thus, for example, an ordinary picture by the Dutch painter, Hobbema, commonly sells for more than an ordinary picture by Rubens, although Hobbema does not rank so high in art as Rubens. But the former produced only a small number of pictures, while the latter left an enormous number of works. Supposing, also, that the pictures of Ingres and Horace Vernet were equally prized by amateurs, the former would always have a superior pecuniary value to the latter, simply because they are rarer. The differences in the price of objects of art, and the variations which their value in exchange undergoes, notably when fashion takes up again a style which it had abandoned, are curious to study; some valuable ideas are found here in regard to the influence which the fluctuations of demand and supply exercise upon prices, also some interesting information as to the origin, progress and end of natural monopolies.— After having examined the question of the productiveness of the fine arts, we must now see if this kind of production should be specially directed and encouraged by the government, or should be abandoned to the free action of individuals, like all other kinds of production.— The Egyptians and all the nations of antiquity condemned to slavery their prisoners of war, and sometimes entire nations whom they had subjugated. They employed these slaves to construct their monuments. We know that the Israelites helped to build the pyramids. But the Egyptian monuments are rather remarkable for their gigantic proportions than for their beauty. It is plain that the object of the people, or rather of the caste which instructed them, was to inspire the mind with awe rather than to charm it. In Greece the products of the fine arts have quite a different character. They bear above all the imprint of liberty. Grecian art was not enfeoffed to a government or a caste. The greatest number of Grecian monuments were built by means of voluntary contributions. The famous temple of Diana at Ephesus, for instance, was erected by the aid of contributions from the republics and kings of Asia, as later was St. Peter's at Rome in part by the money of Christendom. When Erostratus reduced it to ashes, a new subscription was made to rebuild it. All the citizens of Ephesus considered it an honor to contribute. The women even sacrificed their jewels. At Delphos, also, the temple was rebuilt, after a fire, at the public expense. The architect, Spantharus of Corinth, was engaged to complete it, for the sum of 300 talents. Three-fourths of this sum were furnished by the different cities of Greece, and the other fourth by the inhabitants of Delphos, who collected money even in the most distant countries to aid in completing their quota. A certain Athenian added a sum of money for embellishments, which were not included in the original plan. The greater part of the ornaments of the temple were offerings from the cities of Greece or from private citizens. Thirteen statues by Phidias were a gift from the Athenians. These statues were the result of a tenth part of the spoils taken by the Athenians upon the plains of Marathon. A great number of other objects of art commemorated the victories of the different peoples of Greece in their intestine wars.—A part of the revenue of the Grecian temples was applied to the support of the priests, and another part to the support and embellishment of the edifices. The priests made the greatest sacrifices to ornament the dwelling place of the gods, and these sacrifices were rarely unproductive, for in Greece, as elsewhere, the best lodged gods were always those which brought in the most. The fine arts were also nurtured by the rivalries of the small states, into which Grecian territory was divided, as to which should have the finest temples, statues and pictures This emulation, pushed to excess, gave rise to more than one abuse. Thus it was agreed, after the invasion of the Persians, that henceforth a contribution should be levied upon Greece to defray the common expenses, and that the Athenians should be made the depositaries of it. Pericles did not hesitate to divert these funds from their proper destination, and employ them for the embellishment of Athens. Such an odious abuse of confidence aroused the indignation of all Greece against the Athenians, and was one of the principal causes of the Peloponnesian war. —The Romans, less happily endowed than the Greeks, from an artistic point of view, did not make such considerable sacrifices for the encouragement of the fine arts. At Rome, as in Egypt, the arts were chiefly employed to display to the eyes of conquered nations the power and majesty of the sovereign people. The construction of monuments of the arts was still among the Romans a means of keeping their troops in habits of work and of occupying their slaves. The taste for the beautiful did not enter much into these enterprises, and art naturally felt the effects of this. Still, under Augustus, there was at Rome a great artistic movement, a movement which was due in great part to the development of communication between Rome and Greece. Augustus caused to be built the portico of Octavia, the temple of Mars Ultor, the temple of Apollo, the new Forum, and many other monuments of less importance. His friends, L. Cornificius, Asinius Pollion, Marcius Philippus, Cornelius Balbus, and his son-in-law Agrippa, erected at their own expense a great number of monuments. Attributing to himself, as is common among sovereigns, all the merit of the advance which the arts had made under his reign, Augustus said, some time before his death: "I found Rome of clay, and left it of marble." At Rome, as in Greece, the statues were innumerable. The greater part of the chief citizens erected statues to themselves at their own expense. The censors endeavored to deprive them of this trifling satisfaction, by forbidding the erection of statues at Rome without their permission. But as this prohibition did not extend to the statues which orna

mented country houses, the rich citizens evaded the ordinance of the censors, by multiplying their effigies in their splendid villas.—At the time of the downfall of the Roman empire, the barbarians destroyed with stupid rage the finest masterpieces of ancient art. The fine arts then disappeared with the temporary eclipse of civilization. But they soon sprang up again, thanks to the expansion of the religious sentiment supported by municipal liberties. Gothic art owes its birth and progress to the Christian sentiment developed in the emancipated communes of the middle age. A fact which is generally ignored is, that the expense of constructing the greater number of the magnificent cathedrals which adorn European cities, was in great part defrayed by voluntary contributions of residents of the city, nobles, bourgeois, or simple journeymen. Nothing is more interesting, even from the simple economic point of view, than the history of these wonders of Gothic art. At a time when poverty was universal, nothing but religious enthusiasm could have decided people to impose upon themselves the necessary sacrifices for their erection. And nothing was neglected to rouse and excite this enthusiasm. The bishop and the priests furnished an example by sacrificing a part of their revenues to aid in constructing the cathedral; indulgences without end were promised those who contributed to the holy work, either by their time or their money. When there was need of it, miracles happened to animate the languishing zeal of the faithful. By casting a glance over the history of the principal cathedrals, one will be convinced that diplomatic skill was no less needed than artistic genius satisfactorily to accomplish those great religious enterprises. At Orleans, for instance, Saint Euverte having undertaken the construction of the first cathedral in the fourth century, an angel revealed to this pious bishop the very place where it should be built. In digging the foundations of the edifice the workmen found a considerable amount of treasure; and the very day of the consecration of the church, at the moment when Saint Euverte was celebrating mass, a resplendent cloud appeared above his head, and from this cloud issued forth a hand, which blessed three times the temple, the clergy and the assembled people! This miracle converted more than seven thousand pagans, and gave a great reputation to the church of Orleans.—At Chartres, Bishop Fulbert devoted in the first place three years' income and the income from the abbey, to the construction of the cathedral (1220); afterward he collected a considerable sum to continue the work. The pious Matilda, wife of William the Conqueror, was associated with him in his work, and gave the greater part of the lead roofing of the cathedral. A physician of Henry I. built at his own expense one of the lateral portals. Those who had no money gave their work. Workmen of every description voluntarily took part in this enterprise. A great number of the inhabitants of Rouen and of other dioceses of Normandy, provided with the blessing of their archbishop or their bishop, joined the workmen. The troop of pilgrims chose a chief, who apportioned to each his work.—At Strasburg, great indulgences were promised to the faithful who should contribute to the building of the cathedral. Gifts flowed in from all parts. Still the construction of that magnificent cathedral lasted for nearly four centuries. Commenced in the twelfth century, it was not finished till the fifteenth. The construction of the cathedral gave a great reputation to the stone-workers of Strasburg. These workmen, who furnished the greatest architects of the time, formed in the German empire, as well as in France, a body distinct from that of ordinary masons. Up to the time of the French revolution, they continued to have charge of the repair and preservation of the Strasburg cathedral.—The cathedrals of Europe, therefore, the most magnificent and most original monuments which it possesses, are due, in a great part, to the zeal and the faith of individuals. Sometimes, doubtless, this faith and zeal were excited by pious frauds; sometimes also the pride of the bourgeois and the workmen were appealed to, to induce them to construct a more spacious and more beautiful cathedral than that of a neighboring and rival city; but in general no recourse was had to coercive measures; there was no levying of taxes to be specially devoted to the construction of churches. the sacrifices which the clergy generously imposed upon themselves and the voluntary gifts of the faithful were sufficient, and assured the multiplication of masterpieces of the Gothic art in an age of universal misery and barbarism.—In Italy the constitution of a multitude of small municipal republics was singularly favorable to the development of the fine arts. Rivals in commerce, the Italian republics were also rivals in the arts. The rich merchants of Genoa, of Pisa, of Florence and of Venice made it a point of honor to protect the arts and to endow their cities with magnificent monuments. This spirit of emulation seized the popes, and Rome disputed with Florence for the great artists of Italy. The basilica of St. Peter's was commenced; but as the ordinary resources of the papacy were insufficient to complete this immense enterprise, recourse was had to a special issue of indulgences; unfortunately this particular kind of paper, having been made too common, depreciated in value, and ended by being refused in a great number of Christian countries. So the gigantic basilica was never completely finished With the political and commercial decline of the republics, which spread like a network over Italian soil, commenced that of the fine arts in Italy. The encouragement of despotism has never availed to restore them to the splendor which they had in the time of the municipal republics of the middle age and of the renaissance.—In France, Louis XIV. thought that in his own interests it was his duty to protect the

arts. Prompted thereto by the great king, Colbert founded the academy of fine arts. Unfortunately, the great king and his minister did not adhere to this creation. Louis XIV. spent enormous sums upon his royal dwellings. Under his reign the fine arts became the auxiliaries of war in crushing nations.— In his learned *Histoire de la vie et de l'administration de Colbert*, M. Pierre Clément estimated at 165,000,000 livres, money of the period, the sums which Louis XIV. expended in buildings, and in the encouragement of the fine arts and manufactures. The details are as follows:

	Livres.
Total expense of Versailles: Churches, Trianon, Clagny, St. Cyr; the Marly machine; the river Eure; Noisy and Molineaux	81,151,414
Pictures, stuffs, silverware, antiques	6,386,674
Furniture and other expenses	13,000,000
Chapel (constructed 1699-1710)	3,260,241
Other expenses of all kinds	13,000,000
Total for Versailles and surroundings	116,798,429
Saint Germain	6,455,561
Marly (not including the machine which figures in the Versailles item)	4,501,279
Fontainebleau	2,773,746
Chambord	1,225,701
Louvre and Tuileries	10,608,969
Arch of Triumph of St. Antoine (demolished in 1716)	513,755
Observatory of Paris (constructed 1667-72)	725,174
Royal Hotel and Church of the Invalides	1,710,332
Place Royal of the Hotel Vendôme	2,062,699
The Val-de-Grâce	3,000,000
Annunciades of Meulan	88,412
Canal of the two seas (not including what was furnished by the estates of Languedoc)	7,736,555
Manufactories of Gobelins and Savonnerie	3,645,943
Manufactories established in many cities	1,707,990
Pensions and gratuities to men of letters	1,979,970
Grand total	165,534,515

By taking as a base, adds M. Clément, the mean value of the mark of silver in Louis XIV.'s time and in 1846, we shall find that the approximate value of the above is about 350,000,000 marks. But when we remember the wonders of Versailles alone, it is probable that all the buildings of Louis XIV., if executed in our day, would cost not far from a billion. — Still these ostentatious expenditures contributed in no way to the progress of the fine arts. Under Louis XIV. art was only a reminiscence of antiquity or of the renaissance. In the eighteenth century, taste in art, fettered by the immutable rules of the subventioned academies, became more and more corrupt. The revolution destroyed official protection, but it was wrong in not stopping there; the vandals of that time placed their sacrilegious hands upon the masterpieces of the past, as if they were suspected of royalism. On the other hand, the ridiculous imitations of Greek and Roman institutions, which at that time had bewitched all republican imaginations, were reproduced no less ridiculously in the arts. To the corrupt taste of Watteau, Boucher and Vanloo, succeeded the false taste of the school of David. Napoleon did not fail to re-establish official protection. "I wish," he wrote to his minister of the interior, Count Cretet, "I wish the fine arts to flourish in my empire." But the fine arts did not hasten to obey the injunction of the despot, and the imperial epoch was anything but artistic. — It is a common opinion that modern civilization is not favorable to the progress of the fine arts. As proof in support of this opinion, are cited the English and Americans, who, at the head of industrial civilization, are in a state of inferiority from an artistic point of view. But it is forgotten that all nations are not endowed with all aptitudes, any more than all soils are provided with fertility of all kinds. While certain northern nations obtained as their heritage industrial genius, artistic aptitudes fell to the lot of the southern nations. Certain nations have been for centuries the studios of the fine arts, as others have been the workshops of manufacturing industry. As international exchange becomes more developed, this division of labor will be more marked, and it will facilitate more and more the progress of the fine arts as well as that of the industrial arts. The progress of the arts will be accelerated also by the spread of comfort, which will augment their market, and by the progress of industry, which will place new materials and new instruments at their disposal. Fewer palaces, perhaps, will be built, fewer battle pieces painted than in the past, but railway stations and palaces for industrial expositions will be constructed; the splendid and grand landscapes of the new world, which steamships render more and more accessible to European artists, will be painted; and statues will be erected to useful men instead of to conquerors. On the other hand, the use of light materials, of iron and glass for example, renders possible to-day artistic combinations unknown to the ancients. The employment of new instruments, invented or perfected by industry, will give birth to progress in other ways. Has not the multiplication of musical instruments already given an immense impetus to instrumental music? In an artistic sense, as in all others, modern civilization is probably destined to surpass ancient civilization. But if liberty was the essential condition of the progress of the arts in the past, it will be no less so in the future. Like all other branches of production, and more still because of the character of spontaneity which is peculiar to them, and which has given to them the name of liberal arts, the fine arts will progress the more rapidly the sooner they are freed from all protection and all shackles. G. DE MOLINARI.

FIRE INSURANCE. (See INSURANCE.)

FISHERIES. *Definition of the term Fishery.* To the term *fishery* must necessarily be granted a wider significance than its derivation seems to permit. By universal consent and usage the industries connected with the capture of whales, turtles, corals and sponges are called fisheries, as well as those which are connected solely with animals grouped by zoölogists with the class of fishes. The exploitation of the products of sea, lake and river constitutes an industry distinct from all others, with methods peculiar to itself,

carried on by a class of operatives, appropriately enough called "fishermen," and which can not well be described otherwise than as "the fisheries," or, better, "the fishery industry." Inappropriate as, at first thought, it may appear to designate as fisheries the pursuit of seals upon dry land, with clubs and guns, or the dredging of oysters and corals from the decks of steamers, the seeming incongruity disappears when we take into consideration the similarity of method between these industries and others, such as the swordfish fishery and the trawl-net fishery of the German ocean. The most comprehensive interpretation of the term is sanctioned by the usages of the Berlin and London fishery exhibitions, and by that of the tenth census of the United States. — THE OBJECTS OF THE FISHERY INDUSTRY. In discussing the various kinds of animals, plants and other objects, which are the objects toward which the activity of the fishery industries is directed, it seems most convenient to follow the order of scientific classification.— *Seals, or Pinnipeds.* The pinnipeds are divided into three families: the walruses, the eared seals (*Otariidæ*), and the common seals. The walruses are found only in Arctic seas, and the Atlantic species, formerly ranging down our coast as far as Cape Sable, N. S., is now restricted in American waters to Hudson bay, Davis straits and Greenland. The Pacific walrus still occurs in great numbers in Alaska and northern Siberia, where it is hunted by American whalemen. In 1877 it was estimated that in the preceding ten years at least 120,000 of these animals had been killed by white men in the Arctic ocean and Behring sea, producing about 50,000 barrels of oil and 400,000 to 500,000 pounds of ivory. A considerable number are killed by European whalemen in the North Atlantic, and the Esquimaux of the entire Arctic zone depend largely upon this animal for food, and leather and ivory for manufacturing purposes. The eared seals are of two kinds: the sea lions and the fur seals. The former are used chiefly by the Esquimaux and Indians for food and leather. The latter are the most important of fur-bearing animals. Their skins, when plucked and dyed, command a price of $50 to $80. The most important fur-seal industry is on the Prybilov islands of Alaska, where 100,000 pelts are annually taken by the Alaska commercial company, in accordance with the terms of lease from the United States. Large quantities are also obtained from the Siberian coast, from the islands around Cape Horn, and in the Antarctic ocean. The common seals, of which there are several species on our coast, are valuable chiefly for their skins and oil. The United States does not engage in their capture. There are extensive sealing grounds in West Greenland, where about 90,000 are annually taken by the natives; about Newfoundland, yielding in 1873, 526,000; by Englishmen, and other European seal hunters in the Jan Mayen or Greenland seas, yielding in 1868, at least 250,000; in the White sea, yielding about 100,000; in the Caspian sea, yielding about 130,000. The total annual capture of common seals can not fall far below 1,000,000 individuals, yielding oil to the value of $1,250,000, besides the skins. An immense animal of this group is the sea elephant, (*Macrorhinus leoninus*), now found chiefly in the Atlantic ocean, though formerly abundant on the west coast of the American continent from California southward. These animals reach the length of eighteen or twenty feet, and one of them yields from 150 to 200 gallons of oil. For more than a hundred years several vessels from New London, Connecticut—formerly also from Sag Harbor and Stonington—have yearly penetrated the ice of the Antarctic ocean to capture these animals at Heard's island and elsewhere. There was formerly an extensive capture of sea elephants on the Californian coast. For a full account of the pinnipeds, and their capture, see J. A. Allen's *Monograph of North American Pinnipeds*, Washington, 1880, and H. W. Elliott's *Monograph of the Seal Islands*, a part of the Fishery Census Report, printed in advance.— *Cetaceans.* There are two principal groups of cetaceans: those with teeth and with a single blow-hole, the sperm whale, porpoises, etc., and those with two blow-holes, which have the teeth replaced by a sieve-like mass of flexible laminæ—the whalebone of commerce—the right whales, bowheads, finbacks, sulphur-bottoms, etc. The sperm whale, pottfisch, or cachalot, (*Physeter macrocephalus*), occurs in every ocean, and though preferring warm waters, sometimes approaches close to the Arctic circle. It is one of the most important of cetaceans, yielding large quantities of common oil and a specially fine quality of oil called *sperm oil*, which, together with spermaceti, is found in the cavities of the ponderous head. Ambergris is a product of the intestines of diseased cachalots. Porpoises, dolphins and blackfish, which are pigmy sperm whales, occur the world over in the open ocean and near the shore. Fifteen kinds have already been discovered in the waters of the United States, the most common of which are the "snuffing pigs," or harbor porpoises. (*Phocæna brachycion* on the east coast, *P. vomerina* on the west), the skunk—or bay—porpoises, (*Lagenorhynchus perspicillatus*, east, *L. obliquidens*, west), and the blackfish, the "caing whale," of Scotland, (*Globicephalus intermedius*, east, *G. scammoni*, west). These are valuable for their oil, particularly that of the heads, which is the porpoise-jaw oil, used in preference to all others by watchmakers and machinists. These animals, particularly the lumbering blackfish, often run ashore in schools of hundreds on certain portions of our coast, a valuable windfall for the inhabitants. The white whale, (*Delphinapterus catodon*), occurs both in Alaska and on the North Atlantic coast, and is prized both for its fine oil and for its skin which makes the valuable porpoise leather used for mail bags, military accoutrements, etc. The right, or whalebone whales, are represented in our waters by a number of species. The humpbacks, scrags, sul

phur-bottoms and finbacks are large, shy species, much trouble to kill, but yielding fair quantities of common or body oil, though their whalebone is so short as to be of little commercial value. The right whale, and the bowhead, (*Balæna mysticetus*), are sought chiefly in Arctic seas, the latter among the icebergs of the extreme north. The longest slabs of whalebone from an adult bowhead measure from fourteen to seventeen feet. (For details see C. M. Scammon's *Marine Mammals of the Northwest Coast and American Whalefishery;* San Francisco, 1874.) — *Tortoises.* The most important of this group to the United States is the diamond back terrapin, (*Malaeoclemmys palustris*), which occurs in our seaside marshes from Cape Cod to the gulf of Mexico. It is highly esteemed by epicures, and is an important article of commerce. The green turtle, (*Chelonia mydas*), is a standard article of food, and many hundreds are taken annually at Key West, and in the inlets of Florida and the Carolinas. It affords turtle soup, a standard article of food in the cities of Europe and America. The eggs of this and other sea turtles yield a fine oil, which is an article of commerce in South America. The "turtle oil soap" of our markets is, however, made from other substances. The hawksbill turtle, (*Eretmochelys imbricata*), is a marine species which yields the tortoise shell of commerce. The largest quantities are obtained from the east, the European and Chinese markets being supplied chiefly from Singapore, Manila and Batavia at the rate of 26,000 to 30,000 pounds annually. In 1870 it was imported into Great Britain to the value of $150,000, and from the following countries: Holland, Philippine islands, British India, Straits Settlement, Australia, New Granada, Honduras, West Indies. France, in 1876, imported tortoise shell to the value of $418,000. Certain pond and river turtles are eaten in the United States, and the land turtle, or gopher, (*Xerobates carolinus*), is one of the chief resources for meat of the negroes of Florida — FISHES. *The Cod Family.* The most important family of fishes, from an economical point of view, is undoubtedly that of the codfishes, which occurs everywhere in the Arctic and temperate waters of the northern hemisphere. The codfish, (*Gadus morrhua;* Swedish, *torsk;* Norwegian, *skrei;* German, *dorsch*, and *kablian;* Dutch, *kabeljau;* French, *morue*, etc.), is found in the North Atlantic and Arctic oceans, from Greenland and Spitzbergen on the north to Virginia and the bay of Biscay. In the Pacific it ranges south to the straits of Fuca on the east, while its limits on the Asiatic coast are not yet known. Everywhere it is the object of extensive fisheries along the shore, and there are important bank fisheries on the banks of Newfoundland, and the other banks along the coast of North America, off the Lofoden islands of Norway, on the shoals in the German ocean, and off the coasts of Ireland and Iceland; in the Pacific, on the banks near the Chumagin islands, and on the Asiatic side. The flesh of the cod is hard, of excellent flavor, is dried with little trouble, so that it may be kept for a long time, and on this account is an important article of commerce, supplying a cheap and nutritious article of food. The oil of the liver is abundant, and useful in the arts as well as in medicine; the roes, salted, form an important article of bait, used in the European sardine fisheries; the swim-bladders form the basis for a fine grade of isinglass, and the skins and fins are made into most useful glues and cements. The other species of the family are useful in similar ways, though the cod is superior to all except in the matter of furnishing material for isinglass and glue, in which it is excelled by the hakes. The roes of the pollock are large, and are by some preferred for bait. The haddock, (*Melanogrammus æglefinus*), is found in company with the cod in the North Atlantic, though not so widely distributed either to the north or south. It is highly prized for consumption in a fresh state, though rarely dried. It is a favorite fish for boiling in Europe and in New England, where also it is recognized to be without a rival as a foundation for chowder. The pollock, (*Pollachius carbonarius*), occurs only in the North Atlantic, its range corresponding closely to that of the haddock, though somewhat more northerly. On account of its darker flesh it is not so highly esteemed as the cod, either fresh or in a dried condition, though many experts believe it to surpass the cod in sweetness and sapidity. The pollock is represented on the west coast of North America by a closely allied species (*Pollachius chalcogrammus*), which possesses all the economic qualifications of its Atlantic relative. The hakes, (*Phycis*, various species), occur in the Atlantic, over much the same area as the two last-mentioned species, and are captured in large quantities. Next to the cod they are most in demand for salting and drying, their flesh being nearly as white as that of the cod, though of somewhat inferior flavor. When their long ventral fins or "beards" are removed, the uninitiated are unable to distinguish them from cod, and since the introduction of the practice of putting up "boneless fish," cut in strips and packed in boxes, two of the greatest obstacles to the sale of hake under the name of codfish have disappeared. It is but fair to say that conscientious dealers brand their packages with the words "boneless fish," not "boneless codfish," but to the majority of buyers the words have the same significance. The air-bladders of the hakes are large, and immense quantities are used in the manufacture of isinglass. The cusk, (*Brosmius brosme*), found on ledges and under rocks in localities in the North Atlantic where hake occur, and particularly in Europe, is highly prized as a fish for boiling. The ling, (*Molva vulgaris*), occurs only along the shores of northern Europe, where it is caught with cod and applied to similar uses. There are also several other members of this family, such as the whiting, (*Gadus merlangus*), of northern Europe, the coal fish, (*Pollachius virens*), of northern Europe, and the tomcods, or frost fish, of North

America, (*Gadus tomcodus* of the Atlantic, and *Gadus proximus* of the Pacific), which have much local importance. The burbot or eel pout, (*Lota vulgaris*), distributed through the fresh waters of northern America, Europe and Asia, is highly esteemed as a food fish on the other side of the Atlantic.— *The Herring Family.* The herring family is perhaps of wider importance to mankind than that of the cods, since its representatives are found in every portion of the globe, within the tropics as well as under the Arctic circle, and everywhere constitute an important food resource. They usually congregate in schools, not far from the surface, and are easily caught, particularly at the period of spawning when they assemble in shallow water in closely crowded masses. Two groups, with distinct habits, are found within the family, many species remaining constantly at sea, and spawning on the shallows near the shore, others ascending the rivers in the spring and early summer to deposit their eggs upon the flats—but slightly covered with water—near the sources of the streams in their tributaries. The latter, or anadromous class, give occasion for extensive river fisheries in many parts of the earth, for there are few large rivers in temperate or subtropical regions which have not an abundance of one or more species of the herring family. A well-known example of the latter class is our shad, (*Clupea sapidissima*), abundant in the rivers of eastern North America, from the St. Johns in Florida to the St. Lawrence, and of late years introduced by artificial processes into the Mississippi and its tributaries. Accompanying the shad are three related species, the spring or branch herring; the alewife of New England rivers, (*Clupea vernalis*), the glut herring, or blue back, (*Clupea æstivalis*), and the tailor herring or mattawocca, (*Clupea mediocris*), all of which are of large economic value. Europe has no river fish comparable to the shad, although there are two somewhat similar species in the rivers; one of which, the allice shad, or maifisch of Germany, (*Clupea alosa*), is sometimes held up as its rival. This fish and the twaite shad, or finte, (*Clupea finta*), are far inferior in size and flavor to their counterparts on the opposite side of the Atlantic, and are not sufficiently abundant to possess commercial importance. Several attempts have been made to introduce our shad into Europe, and it can not be doubted that by the ingenuity of our fish-culturists this difficult task will yet be accomplished. A fish similar to the shad is said to give occasion for important fisheries in the Yang-tse-kiang and other rivers in China. Of the group confined to the sea, the herring, (*Clupea harengus*), is the most prominent example, and gives rise to extensive fisheries from Norway, Sweden, Denmark, Great Britain, Germany, and Holland. This fish, like the others of the tribe, but preeminently among them, is well suited for pickling and smoking, and, thus prepared, is one of the chief food resources of northern Europe. The young of this species is the celebrated "whitebait" of England, which has of late years been introduced to notice in this country by Blackford, the great fish factor of Fulton market, New York. Within five years numerous establishments for canning young herrings have sprung up in Maine, and "American sardines" are now put up to the amount of nearly $2,000.000 every year. The true sardine of Europe (*Clupea pilchardus*) has for half a century been the basis of an extensive canning industry in southwestern Europe, and has recently been prepared in canneries on the south coast of England. The young herrings, so immensely abundant, will doubtless soon be utilized in the establishment of a sardine industry in Norway and Sweden, where they are fabulously abundant. On our west coast occur the California herring, (*Clupea mirabilis*), and the California sardine, (*Clupea sagax*), which are similar fishes, whose value will doubtless be greater in the future. One of the most important fishes of the United States is the menhaden, or mossbunker, (*Brevoortia tyrannus*), about 900,000,000 of which are taken annually, to be made into oil and guano. The menhaden fishery, which is one of the most extensive and remarkable in the world, is carried on chiefly by steamers. Menhaden occur on the west coast of Africa, where, very possibly, an extensive fishery will, in the future, be inaugurated. (For details see Goode's *History of the American Menhaden*, in Report of U. S. Fish Commission, Part V.) The oil sardine, (*Clupea scombrina*), of the eastern coast of the Indian peninsula, and the trubu of the Malays, (*Clupea toli*), are valuable Asiatic species. The latter is extensively captured on the coast of Sumatra for the sake of its roes, which are salted and exported to China. There are many valuable species of this family in the warmer regions of the earth, where, on account of the ease of capture they are important articles of local consumption. Certain tropical species are believed with good reason to be poisonous, causing a dangerous sickness (called by the Spaniards of Cuba "ciguatera,") to those who eat them. — *The Mackerel Family.* The common mackerel, (*Scomber scombrus*), is one of the most important food fishes of the northern Atlantic, being extensively taken for consumption in a fresh state, by the fishermen of northern Europe, and, in New England and Canada, giving occasion for one of the most important commercial fisheries in the world; pickled mackerel taking the place, in North America, of the pickled herring which have been alluded to as of such importance in the food supply of Europe. The mackerel, like the herring, congregate together in great schools, and are taken, a hundred barrels or more at a time, in the American purse seine. The methods of capture now employed in Europe correspond to those abandoned on this side of the Atlantic half a century ago. Species closely related to the common mackerel are abundant on the coast of California, in Japan, about New Zealand and Australia, and at the cape of Good

Hope, everywhere giving rise to fisheries. There are not many other widely important fishes in this family, though all temperate and tropical seas have three or four or more representatives of the family of considerable local importance; particularly is this the case on the east coast of the United States, where occur in greater or less abundance at least twenty-five members of this and the closely related group of *Carangidæ*, which are marketable, some of which are recognized to be among the choicest food fishes in the world. The pompanoes, (*Trachynotus carolinus* and allied species), are very highly esteemed, selling at retail in the markets of the large coast cities for fifty cents to $1.50 per pound; these epicurean treasures are taken chiefly south of New York. The Spanish mackerel, (*Cybium maculatum*), is almost as valuable as the pompano, and is captured in much larger quantities, from Cape Cod southward, especially in the Chesapeake bay, and on the coast of New Jersey. This fish has been successfully propagated by the United States fish commission, and extensive operations in its culture are in contemplation. The tunny, or horse-mackerel, (*Orcynus thynnus*), is the subject of an extensive fishery in the straits of Messina, and elsewhere in the Mediterranean. Though the number of individuals taken is small, their immense bulk—for their average weight is from 500 to 1,200 pounds—renders the aggregate result of the fishery quite important. This fish is abundant on the coast of New England, but is not at all valued. Large numbers of them are killed annually in the nets and pounds, where they inflict much damage upon the property of the fishermen, but their carcasses are allowed to fall to pieces on the beaches. The various species of albacore and bonito, harpooned so frequently at sea, belong to this family, and many valuable food fishes, such as our crevallé and amber fish, which are collectively of considerable importance to man. Closely allied to the mackerels are the *Stromateidæ*, the harvest fishes and butter fishes, which are of considerable importance on the Atlantic coast of the United States. The butter fish, (*Poronotus triacanthus*), the starfish of Norfolk and vicinity, is a favorite in the many seaport towns, and the harvest fish, (*Peprilus paru*), is in large demand at Norfolk and other southern markets.—*The Salmon Family.* The salmons, trouts, chars, graylings and whitefishes are of great importance to the inhabitants of the northern hemisphere, one or more representatives of the group being found in almost every lake, brook or river. These fishes are sedentary in inland waters, except the true salmons, many of which spend a considerable portion of the time between birth and maturity in the estuaries of the rivers in which they were hatched, or at sea, the adults invariably ascending to the headwaters of their rivers when the season of reproduction approaches. The best known of the tribe is the Atlantic salmon, (*Salmo salar*), once abundant in the rivers of Europe south to France and Portugal, and in those of the United States to the Connecticut, and probably even to the Housatonic and Hudson, now nearly exterminated except in the few streams where stringent protective laws have been enforced. (For details of this and other game fishes see Goode's *Game Fishes of North America;* New York, Scribner's, 1880–81.) The most important from an economical standpoint, is the California, or quinnat salmon, (*Oncorhynchus chouicha*), which is canned in California, Oregon and Washington, and shipped to all quarters of the globe. California has several other very important species of sea and river salmon, notably the dog salmon, (*O. keta*); the humpback, (*O. gorbuscha*); the coho (*O. kisutch*), and the nerka (*O. nerka*). Japan and Siberia have also extensive and valuable salmon fisheries. The chars and lake trouts, though not ordinarily captured by the wholesale, are of much importance, affording food in large quantities, and sport of the most attractive kind. The American lake trout, or Mackinaw trout, (*Salvelinus namaycush*), is the largest perhaps of this group. The brook trout of eastern North America, (*Salvelinus fontinalis*), is a prime favorite of angiers. Northern Europe possesses several species of chars, related to our brook trout, prominent among which are the *saelbling*, (*S. salvelinus*), and the "ombre chevalier" of the Swiss lakes. The oquassa, or blue-backed trout, (*S. oquassa*), of the lakes of Maine, is a noteworthy American form. The Danube salmon, or *huchen*, (*S. hucho*), is also a member of this group. The smelt, (*Osmerus mordax*), comes in winter from the sea to spawn in the streams from New Jersey to Labrador, and immense quantities of them are shipped to market, packed in ice and snow. It is esteemed a great delicacy. The allied species of Europe, the smelt, or *stinte*, (*O. eperlanus*), has a flavor equally fine, but is little prized, chiefly because the fish dealers of Europe do not ordinarily take pains to keep their fish fresh and hard. The surf smelt, (*Hypomesus olidus*), is an important fish upon the northwest coast of America, as is also the oulachan, or candle fish, (*Thaleichthys pacificus*), which affords a large quantity of sweet, limpid oil, now being introduced as a substitute for cod liver oil. The capelin (*Mallotus villosus*), the lödde of Norway, occurs in immense quantities in the North Atlantic and North Pacific, where it is a favorite food of the codfish. Coming near the shore to spawn in the spring, they give occasion for the extensive spring codfisheries of Labrador, Newfoundland and Finmark. As a bait fish for cod they are, at this season, of great importance. Whitefish of various species, one of the best known being the common lake whitefish, (*Coregonus albus*), occur in the great lakes of North America, where they give rise to important commercial fisheries, and in other lakes of the new and old world. The gwyniad, the vendace and the pollan of Great Britain, and the *madue maræna, schnäpel* and *felchen* of Germany, are well

known. The whitefish are delicious in flavor, and are well adapted for transportation in a fresh state as well as for pickling and smoking. They are propagated artificially with much success both in this country and in Europe. The grayling, (*Thymallus*, various species), are very beautiful and graceful, and therefore celebrated in angling literature. The grayling of the United States, inhabiting Michigan, Wisconsin and Montana, was discovered first about 1867, and has of late years been much discussed. The four families which are of the greatest importance to man, namely the gadoids, clupeoids, scombroids, and salmonoids, having been discussed somewhat at length, it remains to notice briefly the other groups which are of considerable commercial importance. Many families, well worthy of notice, must necessarily be omitted in an essay so much abridged as the present.—*The Flatfish and Sole Families.* The fishes of this group are of world-wide distribution, and in temperate seas are everywhere of importance as sources of food. The largest of the group is the halibut, (*Hippoglossus vulgaris*), distributed throughout the North Atlantic, North Pacific and Arctic oceans, ranging on the North American coast south to Long Island on the east, and the Farallone islands on the west; while on that of Europe its range is limited by the parallel of 50° north latitude. Its capture in the eastern Atlantic is somewhat casual, but the fishermen of New England carry on extensive halibut fisheries on the offshore banks and in Davis straits; in the stormiest months of winter, as well as in summer, they set their lines hundreds of miles from shore, and the halibut fishery is unquestionably the most perilous pursuit in which seafaring men habitually engage. Halibut are especially well suited for marketing in a fresh condition, since the hardness of their flesh renders it possible to preserve them packed in ice for weeks, without suffering detriment to an extent which would be observed by the ordinary buyer in an inland town. Smoked halibut are highly esteemed throughout the northern United States, while the pickled fins and heads are put up to supply a limited New England market. The turbot, (*Rhombus maximus*), and the brill, (*Rhombus lævis*), are favorite food fishes in Great Britain and the adjoining parts of the continent, and with the sole, (*Solea vulgaris*), give rise to an extensive fishery with trawl nets. Though attaining a larger size than any of the flounders of our North Atlantic coast, they are yet superior in flavor to several of our related species, such as the common flounder, (*Paralichthys dentatus*), or the flatfish, (*Pseudopleuronectes americanus*), which are to a great extent neglected by our people. We have no substitute in the eastern United States for the sole, which, in flavor and texture, far surpasses any of our flatfishes, although we have some magnificent species to which it is zoölogically closely similar. tentative experiments have been tried with a view to its acclimation here, and there can be little doubt that this will be accomplished as soon as a really positive effort is made in that direction. The Greenland turbot, so called, (*Platysomatichthys hippoglossoides*), is brought from Newfoundland by the winter herring fleet, and is often seen in the markets of the eastern cities. It is one of the most delicious of flatfishes, and deserves to be better known. The pole flounder, (*Glyptocephalus cynoglossus*), inhabits deep holes off the New England coast, where it was discovered in 1877 by the United States fish commission. By many its flesh is highly relished. California has many species of flatfishes in its markets, about all of which pass by the name "sole"; none of them have as yet acquired special renown as a food fish. The turbot of the Black sea, (*Rhombus maeoticus*), is a species of some importance. The plaice, (*Platessa vulgaris*), the *scholle* of Germany, is also valued in Europe.—*The Red Perch Family.* The rose fish, red perch, or Norway haddock, (*Sebastes marinus*), is of special importance to the natives of Greenland, and considerable quantities are taken in the British provinces and northern New England by shore fishermen, as well as in northern Europe. This family attains its highest commercial importance, however, on our Pacific coast, where under various names, many of them variations of the word *rockfish*, no less than twenty-eight closely related species occur, all of them highly esteemed for food. A closely related family, (*Chiridæ*), is also present in great force in that region, six or more species being included in the list of California food fishes. Among these is the cultus cod, or buffalo cod, (*Ophiodon elongatus*), and several forms of "rock trout."—*The Wrasses and Parrot Fishes.* Fishes of the families *Labridæ* and *Scaridæ* abound in tropical waters, especially among coral reefs, and with their graceful forms and bright colors are among the showiest and most beautiful of their class. These showy tropical forms are usually dry and flavorless when cooked. There are, however, many less conspicuous species inhabiting temperate waters, and a few, as well, in the tropics, which are highly prized for food. In our New England and middle states are the tautog or blue-fish, (*Tautoga americana*), and the cunner, chogset, or blue-perch, (*Ctenolabrus adspersus*), both captured by hook and line in considerable quantities, and entering largely into local consumption. The *scare* or scarus of the Mediterranean, (*Scarus cretensis*), is still highly prized, and in the days of ancient Rome was considered the choicest of fishes, and was introduced from the Troad into the sea between Ostium and Campagna, at great expense, by Elipentius. *Coridodax pullus*, the butter fish, or kelp fish of New Zealand, is an important food fish; and *Lachnolæmus falcatus*, of the West Indian fauna, the hog-fish of Bermuda, is in many places greatly depended upon in the fish market. The sale of the latter species is forbidden by law in Cuba, on account of supposed poisonous properties of its flesh. It is nevertheless sold in large quantities Many spe-

cies of this group are looked upon with suspicion in the tropics, and doubtless at times acquire poisonous properties from their food.— *The Sword-fish Family, etc.* The members of this family, swordfishes, sail-fishes, and spear-fishes, are eaten in all parts of the world. The only commercial fisheries, however, are along the shores of Sicily and Calabria, and of New England, where the common swordfish, (*Xiphias gladius*), is pursued with harpoon and line similar to those employed by whalemen. The flesh of this enormous fish is excellent, either fresh or pickled. (For details see Goode's *History of the Swordfish Family*, in Report of U. S. Fish Commission, Part VIII.) The silvery hair-tail, or scabbard fish, (*Trichiurus lepturus*), a near relative of the swordfish, is an important species at Jamaica. — *The Surf-fish Family.* The surf-fishes of the Pacific coast, constituting the family *Embiotocidæ*, are best known from their remarkable habit of bringing forth their young alive. They are among the most important food fishes of the Californian coast, and twelve distinct species are known from the San Francisco markets.— *The Drum Family*, (*Sciænidæ*). The drum family occurs in all the warmer parts of the Atlantic and Indian oceans, and is well represented on the Pacific coast. The species are nearly all large, and are of such excellent quality for food that the family would seem to deserve mention among the few which are of the greatest importance to man. The drums, however, with a few exceptions, do not congregate together in schools, and can only be caught by the slow processes of hook and line fishing from the shore, and are therefore rarely, if ever, the objects of special fisheries carried on upon a commercial basis. Our eastern coast is particularly well stocked with edible fishes of this family, such as the well-known squeteague, or weakfish (*Cynoscion regalis*), and its southern representative, the spotted trout or sea trout, of the South Atlantic states, (*C. carolinus*), which are valued not only for their flesh but for their sounds, which yield a particularly fine quality of isinglass, and are caught in large numbers in weirs and seines. The drum, (*Pogonias chromis*), is well known as one of the most destructive enemies of the oyster beds, and, when young, is a desirable food fish. The fresh-water drum, (*Haploidonotus grunniens*), distributed widely throughout the great lakes and the Mississippi basin, is known by numerous local titles, such as gaspergou, jewel head, sheepshead, and maleshagenay. The lafayette, spot or goody (*Liostomus obliquus*), and the croaker, (*Micropogon undulatus*), are well known types of the smaller members of this family, all consumed in large quantities from New York southward. The drum of the Chesapeake, the redfish or channel bass of southern waters, (*Sciænops ocellatus*), often attains the weight of forty to sixty pounds, and is captured in large quantities in nets and with the hook. The kingfish, (*Menticirrus nebulosus*), and the whiting of Charleston, (*M. alburnus*), are also important species, and next to the pompano, Spanish mackerel, and sheepshead, are the most highly prized by epicures and most costly in the market. The queen-fish, the bagre and the roncador are members of this group, well known in California. The *maigre*, (*Sciæna aquilla*), and the *ombre*, or *corvo*, (*Umbrina cirrhosa*), are European food fishes, and others of commercial importance occur at the cape of Good Hope and in the East Indies.— *The Sheepshead Family.* The sheepsheads, or sea breams, are, like the drums, of importance everywhere, but though caught in quantities in the aggregate, with hook and line, among the rocks where they feed, they can not ordinarily be taken by wholesale method. An exception to this general statement may be made in the case of the scup, or porgy, (*Stenotomus argyrops*), which is the subject of an extensive trap fishery in Narragansett bay, during the spawning season in the spring. (See Baird in *Report of U. S. Fish Commission*, Part I., pp. 228–235.) The sheepshead, (*Archosargus probatocephalus*), occurs from Cape Cod southward to the gulf of Mexico, and is a favorite of anglers and epicures, besides being a prominent feature in many markets. The sailors' choice, or pin-fish, (*Lagodon rhomboides*), is a small species of value. The *sargo* of the Mediterranean is well known, and there are in the east numerous important fishes of this group, among them the snapper, (*Pagrus unicolor*), one of the chief fishes of southern Australia and New Zealand, *Pagellus lithognathus* of the cape of Good Hope, and *Chryophrys hasta* of the East Indies and China.— *The Snapper Family.* Several members of this family, (*Pristipomatidæ*), occur in the markets from New York southward under the name of grunt, and numerous similar forms occur elsewhere in warm seas. The red snapper, (*Lutjanus blackfordii*), is the most important of its representatives in the United States, giving rise to a large and constantly increasing reef fishery in the gulf of Mexico, from which Pensacola and New Orleans derive a large income. The gray snapper, (*Luljanus caxis*), and the red snapper, (*L. autolycus*), are among the most important food fishes of the Bermudas. — *The Perch Tribe.* The sea basses proper, (*Serranidæ*), like the fishes of the three families last mentioned, while not captured by wholesale means, are of much importance to the local fishermen of many regions. The sea bass of New England and the middle states, (*Centropristis atrarius*), the blackfish of Charleston and the south, is one of the best representatives of the group. New York, Noank, Philadelphia and Charleston all have small fleets of fishing vessels chiefly engaged in their capture. The grouper, (*Epinephelus morio*), gives rise to considerable smack fishery in the gulf, carried on by New England and Florida fishermen for the supply of the Havana market. Numerous other species of local repute might be mentioned. The family *Labracidæ*, closely allied to that just mentioned, includes our striped bass, or rockfish, (*Morone lineata*), one of the noblest of game fishes, and of great commercial value withal, which is

found from the gulf of St. Lawrence to Florida, and is taken both by hook and by net in all the rivers and estuaries. The bass of England, (*Morone labrax*), is a very similar fish. Our white perch, (*Morone americana*), is sold in immense quantities in markets south of Cape Cod, and is one of the most useful of our smaller fishes. The white bass, and the short striped bass and similar forms, inhabit the great lakes and the Mississippi basin. The common perch, (*Perca fluviatilis*), occurs in lakes and streams throughout eastern North America, Europe, and northwestern Asia, and is everywhere of great local importance. The pike perches, represented in the United States by at least two species of the genus *stizostedium*, known in the interior states by such names as wall-eyed pike, sauger, and frequently also erroneously by such names as salmon and salmon-trout, are important, as is also the *zander*, (*Lucioperca zandra*), of continental Europe. A family, allied to the perches, which attains its highest development in North America, is that of the breams, (*Centrarchidæ*). In addition to the two species of *Micropterus*, the large-mouthed black bass, (*M. salmoides*), and the small-mouthed black bass, (*M. dolomieu*), so well known throughout the United States, we have in the streams and rivers—particularly those east of the Rocky mountains—numerous smaller forms known by such names as breams, bass, sun-fish, pond-fish, etc. The blue-fish, (*Pomatomus saltatrix*), is the only noteworthy species in a very small family. (See Baird in *Report of U. S. Fish Commission*, Part I., pp. 235–252.) It is of great importance on our coast from New England to Cape Hatteras, but though found in almost all warm seas is elsewhere of little economic value. The moon-fish, (*Chætodipterus faber*), called porgy in the Chesapeake bay, is another important isolated species. This fish—which as a table fish is similar to, and equals, if not surpasses, the sheepshead—is taken abundantly in the Chesapeake, and is rapidly coming into notice in the markets of New York, Baltimore and Washington.—*The Mullet Family.* The mullet family, (*Mugilidæ*), sometimes called "the gray mullets," occurs everywhere in the brackish waters of temperate and tropical regions. Over seventy species are already known. They swim in schools, and being easily caught in simple nets, form an important article of food for the poor wherever they occur. In Italy, mullet roes are esteemed a delicacy, and, when salted and smoked, constitute the renowned "botargo." The mullets of the southern Atlantic, (*Mugil lineatus* and *M. brasiliensis*), give occasion for a considerable shore fishery.—*The Anchory Family.* The family of anchovies, (*Engraulidæ*), is of comparatively small importance save in southern Europe, where considerable quantities of these tender little fish are preserved in oil, or put up in the form of a relish under the name of anchovy sauce.—*The Catfish Family.* The catfishes are always of some local importance, but nowhere give rise to commercial fisheries of considerable extent. In Philadelphia and in Washington considerable quantities are annually marketed.—*The Carps and Suckers.* Suckers, dace, and other brook fishes belonging to the families *Cyprinidæ* and *Catostomidæ*, are of local importance in Europe and North America. The common carp, (*Cyprinus carpio*), for two centuries a highly prized domestic animal of Europe, has, since 1877, been introduced into all parts of the United States by the United States fish commission, and is undoubtedly a most valuable accession to the food resources of the country. The buffalo carps, (*Bubalichthys urus*), and other species of the Mississippi valley, are of immense size for fresh-water species, sometimes weighing fifty or sixty pounds. It is quite possible that if domesticated they would be of more value than even the German carp.—*Various Minor Families.* The eel, (*Anguilla vulgaris*), is also of local importance in Europe and eastern North America. Hatched from the eggs at sea, the little female eels, when not larger than a common darning needle, ascend the rivers to their sources. After three or four years they descend to the sea, where they encounter the males, propagate their kind, and die. On their downward descent they are caught in "eel sets," or weirs, placed across the river at right angles to its current. (For details see Goode, article in *Bulletin of U. S. Fish Commission*, Vol. I.) The marays, various species of *Muræniдæ*, and related families, are of importance in tropical countries. The sturgeons, (*Acipenseridæ*), are of most importance in Russia, where the sterlet, (*Acipenser ruthenus*), and some of the larger species afford material for the much prized caviare. An extensive sturgeon fishery is growing up in the rivers of the eastern Atlantic states, and large quantities of the lake sturgeon, (*Acipenser rubicundus*), are caught in our great lakes. Quantities of caviare and smoked sturgeon are now put up in the United States to supply the demands of the large foreign-born population. Sharks are much dreaded, the world over, on account of their size and voracity, though in temperate regions they are rarely dangerous to men. In the United States we have but two species of commercial value, though many are pernicious on account of the annoyance they cause to the fishermen. The dog-fish, (*Squalus americanus*), is caught in quantities on the New England coast for the sake of its liver, rich in oil. In California the oil shark, (*Galeorhinus galeus*), is the subject of a considerable fishery. Oil is casually obtained from many other of our common sharks, particularly the basking shark, (*Selache maxima*), the liver of one of which will yield several barrels of valuable oil. Throughout the East Indies there are in various localities, particularly at Kurrachee, extensive shark fisheries carried on for the purpose of obtaining the fins for drying and export to China. Small sharks are eaten in many countries. Skates are eaten in Europe, and a small quantity of their fins is now consumed in New York. From the skins of skates and sharks the ornamental leather called *shagreen*, (also used for polishing purposes by metal and wood-work-

ers,) is obtained. Lampreys, (*Petromyzontidæ*), though esteemed as food in Europe, are not used in the United States, save at Hartford, Connecticut. In the codfishery of the German ocean they are of the highest importance for bait. — *Mollusks.* The oyster, (*Ostrea*, various species), is the most important of all mollusks, and is more abundant and valuable in our southern Atlantic states than elsewhere, its production amounting to $13,000,000 annually. The oysters of Europe are, like those of California, less abundant, smaller, and to the American taste of inferior quality. Oyster culture is extensively prosecuted, and with considerable success, on the coasts of France, and to a less degree in Holland. Without some special effort our oyster fisheries bid fair to become extinct within a quarter of a century. (For details see Ernest Ingersoll's *The Oyster Industry of the United States*, a part of the Fishery Census Report, printed in 1881.) — The eastern United States is well provided with other delicious shellfish, the clam, (*Mya arenaria*), the quohog, (*Venus mercenaria*), and the scollop, (*Pecten irradians*). Little attention is paid in this country to the mussels and snails, so much eaten by the lower classes in Europe, and of which we have an abundant supply. — The most important source of mother-of-pearl which we have is the abalone or ear-shell, (*Haliotis*, various species), found on our Pacific coasts. In 1880 $703,250 worth of their shells and dried flesh were gathered, the latter exported to China. There is a vast undeveloped resource in the fresh water mussels (*Unionidæ*) so abundant in the Mississippi valley. The greatest part of the mother-of-pearl of commerce comes from the pearl fisheries of the east, in the gulf of Manaar, in Ceylon and southern India, in the Persian gulf, on the coast of Australia and in the bay of Panama. Statistics of these fisheries can not well be given. Simmonds estimates that between 1796 and 1877 Ceylon produced over $5,000,000, Tutecorin in 1861 about $50,000, the Persian gulf about $200,000, and the bay of Panama about $125,000. In 1870 pearls to the value of about $125,000 were imported to France and Great Britain. Cameos are made from the helmet shells, (*Cassis*, various species), and from the conch, (*Strombus gigas*), large quantities of which are gathered annually in warm seas. From the latter is made the pink shell jewelry, of late coming into favor. The chank shell (*Turbinella pyrum*) is the sacred shell of India, and is used in their temples as well as in various manufactures. The fisheries of the Indian ocean yield from four to five millions of these shells annually, worth from $50,000 to $75,000. The cowry shell, (*Cypræa*, various species), is the only coin in use in parts of Africa and India, and immense quantities, of uncertain value, are yearly sent to those countries. The "cuttle-fish bone" of commerce is obtained from a species of squid abundant in the Mediterranean, and vast supplies of dried cuttle fish are imported into China, for food, from all eastern seas. The squid is gathered in large quantities on our eastern coast for baiting in the cod fisheries, and affords employment to a number of schooners. The minor uses of mollusks are multifarious. — *Crustaceans.* The lobster is the most important of crustaceans, and is still very abundant on the coast of our middle and New England states as well as that of Nova Scotia. In addition to the large quantities consumed in a fresh state, there is a product of canned lobsters worth $238,280. New England capital supports seventeen lobster canneries in Canada, the entire product of which is exported to England, and is not recorded upon the export records of our custom houses. Norway has extensive lobster fisheries and the neighboring countries of northern Europe obtain smaller harvests. Crawfish, (*Astacus* and *Cambarus*, numerous species), are very abundant in the United States, but are not yet appreciated; in Europe they are highly esteemed, and command liberal prices. Shrimps, too, so largely consumed in Europe, are rarely caught in this country; there are one or two shrimp canneries on the coast of the gulf of Mexico, and in California large quantities are dried for export to China. Crabs are eaten in all parts of the world. On our eastern coast the blue crab (*Callinectes hastatus*) is extensively captured, and, especially when in the "soft-shell" condition, is a favorite article of food Canneries have recently sprung up on the shores of the Chesapeake. — *Worms.* The palolo (*Palolo viridis*) is an important article of food at the Navigators' islands, and many tribes of American Indians feast periodically upon worms and insect larvæ. The only worms of importance to civilized man are the medicinal leeches, (*Hirudo medicinalis* of Europe, and allied forms). Most of the leeches used in this country are imported, though certain American leeches, as *Macrobdella decora*, are by many authorities considered valuable for surgical purposes. — *Radiates.* The precious red coral, (*Corallium nobile*), comes chiefly from the Mediterranean, though a small quantity is obtained at the Cape Verde islands and certain less valuable kinds from India, the Malay archipelago and Japan. A rough estimate places the value of the annual production of coral at $2,500,000, in an unmanufactured state. The trepang, or beche de mer, belongs to the group of holothurians, closely related to the star fishes. They are obtained in quantity in all eastern seas, and are dried for exportation to China, where they constitute a favorite article of food. The value of the Chinese import may be anywhere from $500,000 to $1,000,000. About 1870 an establishment for drying trepangs was in operation at Key West, but it was soon abandoned. Abundant as these animals are on our own southern coasts and in the West Indies, no use can be made of them until "Chinese cheap labor" is introduced into those regions. — *Sponges.* Sponges are obtained in the Mediterranean to the value of at least $2,000,000 annually, and the greater part of the sponges used in the United States are still im-

ported. Florida has a large and growing sponge industry, and, except in the finest qualities, experts consider the product of the Gulf equal to that of Europe. — APPARATUS OF THE FISHERIES. Although it is impossible in this essay to describe all the forms of fishery apparatus, it seems appropriate to call attention to their general character and to caution the reader against certain popular errors, into which, owing to similarity of names, persons unfamiliar with the fisheries are likely to fall. The hook and line is the commonest instrument of capture, and, varied in form and material, is used in much the same manner in all parts of the world. The trawl line, set line, spilliard, trot line or bull-tow, used in North America and northern Europe, consists of numerous short lines, each with hook attached, fastened at intervals along a heavier main line. A New England trawling schooner often lays out ten to fourteen miles of trawl line. Drailing, trailing or trolling should be distinguished from trawling. In fishing by this method a spoon bait, squid or baited hook is rapidly pulled across the surface of the water, either from a boat in motion or from a station on the shore. The trawl net of Europe should be carefully distinguished from the trawl line, with which it is often confused by the inexperienced. This is an immense bag net, dragged slowly over the bottom, for the capture of soles, turbots and other ground-loving species, its mouth being kept open by a framework of iron and wood (beam-trawl) or by two broad boards or otters, spread apart by the pressure of the water (otter-trawl). The dredge, used in the oyster fisheries and in scientific exploration, is a net similar to a trawl net, but much smaller, its mouth being formed of a framework of iron from two to four feet wide. The oyster dredge is often made entirely of iron. Seines are of all sizes, from that of ten feet (used by two persons, wading) to those a mile or more in length, used in the shad fisheries of the Potomac and the North Carolina sounds, set and hauled by the use of steam. The purse-seine, used with such tremendous effect in the menhaden and mackerel fisheries of the United States, is an immensely deep and long net, which, after it has been made to encircle a school of fish, is drawn together in the form of a purse or pocket, from which the fish are bailed out with shovel or scoop nets. The gill net is a net with large openings into which fish thrust their heads and are retained by the pressure of the twine. The pound net, trap net, weir, bar net, fyke, eel basket, lobster pot, mudrague, and numerous other devices, are all forms of the labyrinth trap, the fish gaining access to the interior through a tortuous or narrow passage, through which, from lack of intelligence, they are unable to return to freedom. Fish spears, grains, gigs, etc., are all many-pronged forks with barbed tips, which are used, the world over, in striking large fish, turtles and porpoises. The harpoon, originally a one-tined spear, with single or double prong, is now usually constructed on the principle of a toggle, the head turning upon a pivot after it has entered the flesh of the animal struck. The "lily iron" or "Indian dart," used in the sword fishery, is the form of the toggle-harpoon. Toggle-harpoon-heads are now frequently shot into whales by means of large guns, and the use of explosive bullets is becoming general in the whale fishery of the United States.— FISHERIES OF THE UNITED STATES. Owing to the fact that at the time of the preparation of this article the statistical results of the investigation of the fisheries made in connection with the tenth census are not fully compiled, it is only possible to present a partial statement of the condition of the fisheries. The figures presented are, in the main, to be regarded as final, though certain corrections will necessarily be made hereafter in the statistics of the gulf states, and of other localities. — The total value (to the producers) of the products of the fisheries, is $44,870,252. The prices upon which this estimate is based are very low, and if the value of the product were estimated on the basis of prices paid by retail merchants to jobbers and wholesale dealers, the amount would be at least $90,000,000, and probably much more. In addition to the sum above stated, which has reference solely to the sea and great river and lake fisheries, the smaller rivers and lakes of the continent yield products, the value of which, at the lowest estimate, is $1,500,000. More than half of the value stated is in the product of the class of fisheries which has been designated by the term "general food fisheries," which includes all of our great food fisheries along shore and at sea, most prominent among these being the cod, halibut, salmon, herring, mackerel, haddock and lobster fisheries, all of which, though sometimes carried on as special fisheries, are so intertwined in matters of capital, vessels and fishermen, that it is impossible to discuss them separately except at great length. The yield of the so-called general fisheries is valued at $25,128,717. Next in importance is the oyster fishery, valued at $13,403,852, the whale fishery at $2,323,943, the menhaden fishery at $2,116,787, and the seal fishery at $1,390,313, followed by the sponge fishery at $200,750, and the marine salt industry at $305,890. — In these several fisheries are directly employed 132,081 persons, of whom 102,758 are fishermen, and 29,323 are "shoresmen," being men employed on the wharves in packing and curing fish, or in the numerous canning establishments. The number of vessels over five tons in burden is 6,605, valued at $9,358,282; of boats 44,800, valued at $2,460,000. The total amount of capital invested in the fisheries, including the value of vessels, boats, apparatus and shore property, is put at $38,336,000. — The New England states stand first in importance, since from the ports of this district most of the deep-sea or off-shore fisheries are prosecuted. The total number of persons employed is 37,043, of whom 28,838 are actual fishermen. The capital invested amounts to $19,937,607, there being

2,126 vessels, valued at $4,562,131, and 14,787 boats, valued at $739,970, besides outfit, apparatus and shore property in proportion. The value of the product is placed at $14,270,393, of which about $10,000,000 is distributed to the general fisheries; $2,211,385 to the whale fishery; $1,478,900 to the oyster fishery; $539,722 to the menhaden fishery; $111,851 to the Antarctic seal and sea elephant fishery; and $3,890 to the marine salt industry.—Next in importance stand the southern states, which employ 58,204 persons, 44,230 of whom are actual fishermen; 18,283 boats, valued at $685,476; 3,211 vessels, valued at $2,683,521, together with outfit, gear and shore property sufficient to bring the total amount of capital invested up to $9,496,991.* The total value of products for this division is estimated at $11,025,027, the general fisheries being rated at $3,126,137; the oyster fishery at $7,382,052; and the sponge fishery at $200,750.—The fisheries of the southern states are naturally divided into two sections: those of the gulf of Mexico and those of the Atlantic coast. Messrs. Earll and McDonald present the following summary of statistics for the latter, including sea and river fisheries of Maryland, Virginia, the Carolinas, Georgia and East Florida:

No. of persons employed	52,814
No. of fishing vessels	3 014
Tonnage of same	60,886.15
No. of fishing boats	13,331
Capital dependent on the fishery industries	$8 951,722
Pounds of fish sold fresh for food	42,571,340
Pounds of fish salted for food	30,579,500
Pounds of products other than fish for food	129,719,527
Pounds of miscellaneous products for fertilizers and other purposes	94,668,800
Value of products to the fishermen	$9,602,737

"The only persons included in the tables are those who fish extensively, or devote a considerable portion of their time to preparing and marketing fishery products. Parties fishing for pleasure or home supply are wholly neglected, though an estimate of the fish taken by them is included. A large majority of the fishermen are married, having families depending upon them. Assuming that 30,000 families are represented, the total number of people dependent upon the fisheries of this district will scarcely fall below 200,000. Fully five-eighths of the entire number are Americans, nine-tenths of the remainder are negroes, and the rest are foreigners, chiefly of Spanish descent." "The $9,602,737 represents the sum realized by the fishermen as the result of their labor, and not the market value of the catch. Owing to the cost of transportation, the expense of icing and packing, and the profits of the various middlemen, the values of many of the products are greatly increased before they finally reach the consumer. If the market value of the products be desired, fully $7,000,000 must be added to the above figures."—Following the southern states, forming a group third in importance, stand the states and territories of the Pacific coast. In Oregon, Washington and California there are 5,555 fishermen and 5,060 shoresmen and factory hands. The total number of fishermen in Alaska is estimated at 6,000, though practically nearly the entire population of the territory, men, women and children, are actively engaged in the fisheries On our Pacific coast there are 5,547 boats, valued at $404,695; and 53 vessels, worth $178,450. The total amount of capital invested is placed at $2,748,383. The total value of the product, including $2,345,547 for enhancement of value upon 43,389,442 pounds of salmon in canning, amounts to $9,548,277. $3,715,668 (or $6,061,215, if the enhancement on salmon be included,) of this amount is credited to general fisheries; $703,250 to the oyster and mussel fisheries; and $225,300 to the whale fishery (a small quantity of seal and salmon, and shark oil, being included) —The middle states constitute a group fourth in importance. With the great-lake fisheries of New York and Pennsylvania included, the statistics of these four states are as follows: Persons employed, 16,017, of whom 13,482 are actually employed in fishing. Number of vessels, 1,211, (with tonnage of 23,576.40), valued at $1,385,600; of boats 8,501, valued at $560,347, together with other property sufficient in value to increase amount of capital invested to $4,509,828. Value of products, $8,874,899; of which $3,111,040 is classed under general fisheries, $4,532,900 under oyster fishery, and $1,261,385 under menhaden fishery. The value of the river and lake fisheries of the middle states is placed by Earll and McDonald at $654,921, a portion of which, $208,320, is to be deducted if the value of the river fisheries of the Atlantic coast is to be separately considered. The fisheries of the great lakes are, perhaps, most conveniently discussed in a separate group. The value of the coast fisheries of the middle states is $8,666,579.—The fisheries of the great lakes, as tabulated by Mr. F. W. True, in census bulletin No. 261, employ 5,050 fishermen; 49 steam tugs; 1,656 vessels and boats; and capital in the aggregate to the amount of $1,345,975. The total number of pounds of fish taken is 68,742,000, valued at $1,652,900 in fresh condition, and $1,784,050 when finally put upon the market by producers. The fisheries of Lake Michigan are most important, employing 1,578 men, and $551,135 capital; 612 vessels and boats (30 of which are tugs), valued at $125,895; 476 pound nets; 24,599 gill nets; 19 seines, and 1,455 smaller nets; and producing 23,141,875 pounds of fish, (12,030,400 whitefish, 2,659,450 trout, 3,050,400 lake herring, 3,839,600 sturgeon, 110,925 "hard fish," 408,800 "soft fish," 508,600 "coarse fish," and 533,700 "mixed fish"), valued at $668,400. Those of Lake Erie are almost as important, employing 1,470 men; 538 vessels and boats; 758 pound nets; 5,755 gill nets, and 8,145 smaller nets; with aggregate capital invested of $503,500; and producing 26,607,300 pounds of

* The statistics for this division are presented here with the statement that they are merely approximate, the final revision of figures for the gulf states not having yet been completed, (June 15, 1882).

fish, (2,185,800 whitefish, 26,200 trout, 11,874,400 lake herring, 1,590,000 sturgeon, 4,214,800 "hard fish," 5,994,900 "soft fish," 43,000 "coarse fish," and 1,178,200 "mixed fish"), valued at $412,880. Lake Superior has 414 fishermen; 155 boats; $81,380 invested capital; 43 pound nets; 4,630 gill nets; 33 seines; 200 small nets; and produces 3,816,625 pounds of fish, (2,257,000 of which are whitefish), valued at $118,370. Lake Huron, (with Lake St. Clair), has 976 men; $155,910 capital; and produces 11,536,200 pounds of fish, worth $293,550. Lake Ontario has 612 men; $54,050 capital; and produces 3,640,000 pounds of fish, worth $159,700.—In addition to the fishermen mentioned above, there are Canadian fisheries of considerable extent, the product of which is largely sold in the United States.—As has already been indicated, New England possesses the most important fisheries in the United States, and they are also, without doubt, the most profitable and extensive in the world. Norway, with 56,000 fishermen, produces not over $12,000,000 value of fishery products annually, while New England, with 29,000 fishermen, or with 37,000 if all shoresmen are counted, produces $14,000,000. The close rivalry of the southern states with New England is due to the extent of the oyster fishery. Remove this, and the value of the fisheries of the south remains only $3,400,000. Eliminating the salmon industry, the general fisheries of the Pacific slope are worth only $2,800,000. The general fisheries of New England alone are worth about $10,000,000.—With a coast line of 5,013 miles* extending from the Arctic circle almost to the tropics, and with fishing fleets in Arctic, Antarctic and Equatorial seas, the United States participates in almost every kind of fishing known to mankind, except the coral fishery. The extent and variety of its fishery interests were especially evident on the occasion of the late international fishery exhibition in Berlin, in which the United States was brought into comparison with all the countries of the world which possess commercial fisheries, except France.—The coast fisheries, or those carried on from the shore with small boats, are similar in character and extent to those of other countries. There are, in addition to these, certain special fisheries, in large part peculiar to this country, to which reference must be made, though this article is too limited to permit their satisfactory discussion.—The menhaden fishery is different from any other in the world. The commercial importance of the menhaden has but lately come into appreciation. Twenty-five years ago, and before, it was thought to be of very small value. A few millions were taken every year in Massachusetts bay, Long Island sound, and the inlets of New Jersey. A small portion of these were used for bait; a few barrels occasionally salted in Massachusetts to be exported into the West Indies. Large quantities were plowed into the soil of the farms along the shores, stimulating the crops for a time, but in the end filling the soil with oil, parching it and making it unfit for tillage. Since that time manifold uses have been found. As a bait fish this excels all others; for many years much the greatest share of our mackerel was caught by its aid, while the cod and halibut fleet use it rather than any other fish when it can be procured. The total consumption of menhaden for bait, 1877, did not fall below 80,000 barrels, or 26,000,000 of fish, valued at $300,000. Ten years before, when the entire mackerel fleet was fishing with hooks, the consumption was much greater. As a food resource it is found to have great possibilities. Many hundreds of barrels are sold in the West Indies, while thousands of barrels are salted down for domestic use by families living near the shore. In many sections they are sold fresh in the market. About 1872 there sprung up an important industry, which consists in packing these fish in oil, after the manner of sardines, for home and foreign consumption. In 1874 the production of canned fish did not fall below 500,000 boxes. This industry has now been discontinued, the herring proving to be better suited for canning. As a source of oil, the menhaden is of more importance than any other marine animal. Its annual yield usually exceeds that of the whale (from the American fisheries) by about 200,000 gallons, and, in 1874, did not fall far short of the aggregate of all the whale, seal and cod oil made in America. In 1878 the menhaden oil and guano industry employed capital to the amount of $2,350,000; 3,337 men, 64 steamers, 279 sailing vessels; and consumed 777,000,000 of fish. There were 56 factories, which produced 1,392,644 gallons of oil, valued at $450,000. and 55,154 tons of crude guano, valued at $600 000: this was a poor year. In 1874 the number of gallons produced was 3,373,000; in 1875, 2,681,000, in 1876, 2,992,000; in 1877, 2,427,000. In 1878 the total value of manufactured products was $1,050,000; in 1874 this was $1,809,000; in 1875, $1,582,000; in 1876, $1,671,000; and in 1877, $1,608,000. It should be stated that in these reports only four-fifths of the whole number of factories are included. The refuse of the oil factory supplies a material of much value for manures. As a base for nitrogen it enters largely into the composition of most of the manufactured fertilizers. The amount of nitrogen derived from this source, in 1875, was estimated to be equivalent to that contained in 60,000,000 pounds of Peruvian guano, the gold value of which would not have been far from $1,920,000 The yield of the menhaden fishery in pounds is probably triple that of any other carried on by the fishermen of the United States. In the value of its products it is surpassed by three only: the cod fishery, which in 1876 was estimated to be worth $4,826,000; the whale fishery, $2,850,000; and the mackerel fishery, $2,275,000; the value of the menhaden fishery for this year being

* This does not include the Alaska coast, nor the bays and sounds of the general coast line, except Long Island sound.

$1,658,000. In 1880, with an increased value of products, the menhaden fishery yielded $2,116,787. In estimating the importance of the menhaden to the United States, it should be borne in mind that its absence from our waters would probably reduce all our other sea fisheries to at least one-fourth their present extent.—The salmon fishery of the Pacific is another industry peculiar in its methods and extent. The salmon which throng the rivers of this region as they ascend to their spawning beds are taken in gill nets, to the number of 2,755,000 (in 1880), weighing 51,862,000 pounds. 3,370 fishermen, with 1,715 boats, worth, together with nets and other apparatus, $142,900, are engaged in their capture. A limited quantity (1,585,500 pounds of fish, 1,246,000 prepared,) is salted, and a still smaller quantity smoked. By far the larger portion of the catch is put up in hermetically sealed cans. In the canning industry are 45 establishments, employing 4,940 hands —for the most part Chinamen—and with capital to the amount of $1,239,000. These factories consumed, in 1880, 43,379,542 pounds of salmon, worth $909.818, and produced 31,453,152 pound cans of salmon, worth $3,255,365. The total value of the product of the Pacific salmon fishery was $3,389,934. This industry is of very recent origin, having sprung into existence, for the most part, within the last decade.—The sardine industry of Maine is similar to the Pacific salmon industry, and of still more recent origin. Up to 1880, according to R. E. Earll, it was confined to Eastport, and though experiments were made in the preparation of herring as sardines as early as 1866, the business did not practically begin till 1875, since which time it has grown with a remarkable rapidity. In 1880 it furnished employment to over 1,500 fishermen and factory hands, in addition to 376 fishermen belonging to New Brunswick. The capital dependent upon the industry during the same season, including $80,000 belonging to the New Brunswick fishermen, was over $480,000, and the value of the products amounted to nearly $825,000.—The lobster canning industry is also comparatively recent. It is located chiefly in Maine and the British provinces, and is carried on largely by means of Portland capital. The value of the Maine lobster fishery alone, as its products entered into consumption in 1880, was $412,076, $238,280 of which was in canned lobsters. The products of the 17 Canadian canneries, operated by capital from the United States, are exported directly to Europe, to the amount, I am informed by Mr. Earll, of about $250,000 annually. This amount does not appear upon our custom house records, but should be recognized as a by-product of the activity of the United States in the fishery industry.— The whale fishery has of late years greatly decreased in value, owing to the introduction of mineral oils and the great diminution in the number of whales, due to over-fishing. It is now located, for the most part, in the North Pacific and the Arctic seas in the vicinity of Behring strait. In 1880 its product was valued at $2,323,394, and it employed 171 vessels, with tonnage of 38,633.38, and 4,198 men. There is still a considerable shore fishery about Cape Cod. About eighty humpback whales were killed at Provincetown in the winter of 1879, and large schools of blackfish and porpoises often run ashore on the sandy beaches.—The seal fishery has been fully discussed in Mr. Elliott's monograph recently published by the census office. 100,000 skins of the fur seal are annually taken by the Alaska commercial company from the Prybilov islands of Alaska, in accordance with the terms of a lease which they have received from the government of the United States. The same company obtained 47,000 skins in addition from the Commander islands, leased them by Russia. There are also 10,000 skins obtained by the shore fishermen of California and 56,000 by American fishermen in Puget sound. The total value of fur-seal skins obtained by Americans on this coast is placed at $1,540,912.* The fur-seal skins undergo an immense enhancement of value before leaving the hands of the Alaskan commercial company, which has establishments in London where they are plucked and dyed. Connecticut has a seal fishery in the Antarctic ocean, employing 9 vessels, and yielding, in 1880, $111,851. According to Mr. Petroff, the yield of sea-otter skins from Alaska, in 1880, amounted to 6,000, worth $600,000. In addition to these, 75, valued at $3,750, were taken in California. — The oyster fishery of the United States is the largest single fishery in the world. It employs 52,805 persons, and yielded, in 1880, 22,195,370 bushels, worth, to the producer, $9,034,861. There is to be considered an enhancement of 13,047,922 bushels, in passing from producers to market. This enhancement, which amounts to $4,368,991, results either from replanting or from packing in tin, and increases the value of the products to $13,438,852. This fishery employs 4,155 vessels, valued at $3,528,700, and 11,930 boats. The actual fishermen number 38,249, the shoresmen 14,556. About 80 per cent. of the total yield is obtained from the waters of Chesapeake bay. A speedy extermination of this most valuable mollusk will doubtless result unless some effective means of protection and artificial culture are soon employed. (See Ingersoll's *The Oyster Industry*, recently published by the census.) — The sponge fishery of the gulf of Mexico yields sponges of an excellent quality to the value of $200,750. This is located at Key West, Cedar Key and Appalachicola —There are several special fisheries of great interest carried on from certain parts of New England. The winter halibut fishery is peculiar to Gloucester. It employs a fleet of 39 of the staunchest and swiftest schooners, of 80 to 100 tons, manned by crews of men whose seamanship and daring can not be surpassed. The fishery is extremely perilous, being prosecuted on the outer banks in water from 1,200 to 1,800 feet

* This estimate is subject to revision.

in depth. Voyages continue two to six weeks. —The winter haddock fishery of Gloucester is almost equally perilous. In it are employed 77 of the best vessels engaged in summer in the cod and mackerel fisheries. — The Grand bank codfishery is participated in by vessels from numerous New England ports. Formerly one of the most important fisheries, its relative prominence is much less than it was a century or half a century ago. The codfishery on Georges bank is carried on chiefly from Gloucester, and, being a winter fishery, is both profitable and perilous. — The mackerel fishery employs 468 vessels, and 5,043 men. In 1880 its yield amounted to 343,808 barrels of salted mackerel and 28,796,855 pounds sold fresh and canned, the total number of pounds caught being 131,939,255. This fishery is of special interest from its connection with the late fishery treaties with Great Britain. (See *Report of Halifax Fishery Commission.*) — The swordfish fishery is carried on from New Bedford, New London, and several smaller ports of southern New England. About 17 small vessels are employed in summer, and the yield of their harpoons, together with that from the mackerel vessels, amounts to about 1,000,000 pounds. Among the minor fisheries are the pound-net or weir fishery of southern New England; the mullet fishery of the south; the sea-bass fishery of New London, Philadelphia and Charleston; the grouper fishery of the gulf of Mexico — devoted to the supply of Cuban markets; the red-snapper fishery of Pensacola; the abalone fishery of California; the clam, scallop, crab, terrapin and Irish moss fisheries, all of which might be discussed at considerable length. — The shad and herring fisheries of our great rivers are of much importance to the commercial centres of the fish trade and to the extensive inland districts which they supply with cheap food. It is not practicable to present full statistics in this article. It may be stated, however, that the river and lake fisheries of the Middle and South Atlantic states are stated by Col. McDonald to engage 13,017 persons; 78 vessels, and 4,815 men; and to yield 69,193,974 pounds of fish, worth $2,037,948. The river fisheries of New England and the Gulf states will easily increase this amount to $2,500,000 —*Exports and Imports.* In the year ending June 30, 1880, the total exports of fishery products from the United States amounted to $5,744,580, distributed as follows:

Oysters	$ 543,895
Dried and smoked fish	739,231
Pickled fish	284,293
Fresh fish	124,962
Miscellaneous cured fish	2,326,444
Sperm oil	187,004
Whale and other fish oil	349,109
Spermaceti	45,018
Whalebone	235,847
Manures (chiefly fish scrap)	588,777

— The chief exports of oysters were to Germany ($22,709), Quebec, Ontario, Manitoba, etc., ($114,321), and Great Britain ($366,403). The exportation of oysters to Great Britain has increased remarkably within a few years, as is shown by the following statement from 1875 to 1881: 1875, $38,661; 1876, $99,012; 1877, $118,634; 1878, $252,999; 1879, $304,473; 1880, $363,790; 1881, $403,629. Dried and smoked fish went chiefly to the British West Indies ($20,656), French Guiana ($24,757), French West Indies ($45,685), Dutch Guiana ($43,169), Cuba ($138,369), and Hayti ($369,124). Pickled fish went in the main to the Hawaiian islands ($16,747), San Domingo ($18,513) the British West Indies ($22,734), and Hayti ($168,435). Fresh fish went chiefly to Quebec and Ontario ($40,758), and to Cuba ($82,847). Miscellaneous cured fish, chiefly those hermetically sealed in cans, went to Quebec and Ontario ($20,603), British West Indies ($21,671); Hayti ($26,952), France ($29 083), Cuba ($54,624), Hawaiian islands ($57,641), Germany ($68,799), British possessions in Australasia ($157,754), Hong Kong ($261,931), and England ($1,496,365). The exportations of this class of goods to Europe increased from $184,783, in 1869, to $2,039,204, in 1878, and there is no reason why in another decade the quantity may not increase in almost equal degree. Sperm oil went almost entirely to Great Britain; whale and fish oil to Great Britain and France; spermaceti to Germany and England; and whalebone to France, Germany and England. — In the same year imports were received to the value of $2,412,803, distributed as follows:

Shell fish, turtles, etc.	$ 15,860
Dried and smoked fish. (salmon, $4,785; herring, $69,966.)	480,808
Pickled fish (herring, $445,620; mackerel, $492,934; salmon, $182,259; other fish, $95,676.15.)	1,152,494
Miscellaneous cured fish	96,885
Sundries	1,115,663
Oils	225,444

Of this amount, $1,715,245.25 was imported, free of duty, from Canada and Newfoundland, in accordance with the pernicious provisions of the existing fishery treaty. — FISHERIES OF BRITISH NORTH AMERICA. The fisheries of British North America, exclusive of Newfoundland, in 1880, employed 46,218 men, 1,168 vessels, 24,302 boats and netting to the value of $1,770,275. The total value of the product is placed by official authority at $19,226,528—a value which is much over-estimated if the estimates of the value of the mackerel taken serve as a criterion. In the so-called gulf division, including the fisheries of the St. Lawrence river, the north shore of the gulf of St. Lawrence, the Magdalen islands and the island of Anticosti, there are employed 11,535 fishermen and shoresmen, 166 vessels, 5,838 boats and flats, and nets and seines to the value of $688,134. The total value of the product was $2,357,220, of which $1,628,188 was in cod. In the districts above Quebec were employed 1,836 fishermen, and 1,152 boats, the product being appraised at $92,966, all in fresh-water fish. In the leased rivers of Quebec and New Brunswick were taken 1,717 salmon, weighing 23,202 pounds, worth, perhaps, $23,000. Nova Scotia employed 29,276 men, 731 vessels, 11,210 boats, and nets and weirs to the value of $661,000. The product

was $6,291,061, of which $2,507,898 was in cod, $1,270,368 in mackerel, $612,321 in lobsters, $561,177 in herring, and $357,094 in haddock. New Brunswick employed 8,566 men, 220 vessels, 4,219 boats, nets and weirs, worth $262,371. The product was valued at $2,744,446, $710,149 being in lobsters, $621,543 in herring, and $297,887 in cod. Prince Edward island employed 992 men, 19 vessels, 392 boats and nets, worth $3,496. The product was $1,675,089, of which $710,210 was in canned lobsters, $661,156 in mackerel, and $112,180 in cod. British Columbia employed 1,833 fishermen, 14 vessels, 426 boats and nets, worth $40,735, and produced $713,335, chiefly in salmon ($434,000) and fur-seal skins ($163,000). In addition to this, the Indian population consumed fish to the value of $4,885,000. Ontario, with its numerous lakes and rivers, employed 2,130 men, 18 vessels, 865 boats, and netting, to the value of $114,539. Its product was $444,491, $225,000 in fishes of the whitefish family, (*Coregonidæ*), and $104,430 in trout. — It is impossible to ascertain exactly the value of the fisheries of Newfoundland. In 1880 the exports amounted to $7,131,095.40, more than two-thirds of which was dried codfish. The local consumption probably does not exceed $500,000. — Estimating upon this basis, the total value of the fisheries of British North America would be $26,857,623, and of North America as a whole, $71,727,875. — WEST INDIES, AND CENTRAL AMERICA. Throughout the West Indies are excellent local fisheries, which are, however, quite insufficient to supply the demands of the large Catholic population. To the political economist this region is most interesting as affording a market for exported fishery produce. In 1877 Canada alone sent to the British West Indies fish to the value of $1,527,000, and to the Spanish West Indies $890,000. Cuba also consumes the entire product of the grouper fishery of the gulf of Mexico, carried on by vessels from Key West and Pensacola, and large quantities of Florida mullet. The Bahamas have important sponge fisheries, the export in 1877 amounting to $90,000, while tortoise shell, worth $15,000, was sent out the same year. The local industries of the various islands can not be discussed in an article of this character. The pearl fishery of the Mexican coast is estimated to yield yearly from $250,000 to $500,000. — SOUTH AMERICA. Chili had, in 1865, 1,912 persons employed in fishing. No statistics of production are available. There are no fisheries of commercial importance. The Argentine republic has local fisheries of which no record can be obtained. Uruguay imported, in 1878, 1,296,000 pounds of dried fish, besides preserved and pickled fish. Brazil consumes imported salt fish in great quantities, but statistics can not be obtained. Canada, in 1878, sent products worth $265,000 to South America, chiefly, no doubt, to Brazil. Here is a fine opening for the products of the United States. — NORWAY. The whole coast of this country is the seat of an extensive shore fishery, in which about 12 per cent. of the entire male population of the country is directly engaged. At least 30 or 40 per cent., probably a still greater proportion of the population, are directly and indirectly dependent on the fisheries for a livelihood. As will be evident from the statistics presented below, the total yield of the Norwegian fisheries, when it is remembered that the population of the country is only 1,800,000, is proportionally far greater than that for any other country. The yield of the Norwegian fisheries, as based upon an estimate of Mr. Herrman Baars, from the average export statistics of the years 1868–79, is as follows:

KIND	Quantity	Value
Herring.....bbls.	860,000	$ 3,072,000
Cod (prepared as stockfish) ..lbs.	44,120,000	1,296,000
Cod (prepared as klipfish)....lbs.	77,210,000	2,520,000
Pickled fish.....bbls.	80,000	288,000
Fish roes.....bbls.	40,000	240,000
Oil and blubber.....bbls.	100,000	1,200,000
Lobsters.....No.	1,000,000	84,000
Fresh and preserved fish; skins of seal, walrus and polar bears	.....	480,000
Fish guano.....lbs.	11,030,000	240,000
Total	.....	$ 9,420,000
Estimate for local consumption..	.....	2,580,000
Grand total	.....	$12,000,000

These estimates are somewhat below those for 1879 in certain kinds of products, the exports for that year in lobsters being placed at 1,019,404, instead of 1,000,000; in "klipfish," 44,684,160 kilos, instead of 35,000,000; in "stockfish," 20,665,420 kilos, instead of 20,000,000; in fish guano, 5,972,680 kilos, instead of 5,000,000; in fish roes, 50,588 barrels, instead of 40,000. The yield of herring in 1879, however, was less than that given in the table of estimates; while in 1881 and 1882 this has increased immensely, owing to the return of the herring schools so long in great part absent from these coasts. In addition to the above figures prepared by Mr Baars for the Berlin fishery exhibition of 1880, we have a series of returns prepared by the central bureau of statistics of Norway, which place the value of the fishery yield much lower, and which are probably not so nearly correct. According to these figures, the fisheries yielded products valued as follows: 1869, $5,034,000; 1870, $5,620,320; 1871, $6,859,200; 1872, $6,090,240; 1873, $6,724,080; 1874, $6,296,400; 1875, $6,415,040; 1876, $5,987,520; 1877, $7,949,040; 1878, $5,684,640; giving an average, for the ten years, of $6,266,880. — As is indicated in the foregoing table, about 79 per cent. of the entire product, as estimated by Mr. Baars, is exported. It is probable that the estimate for home consumption is much too small, nevertheless it is true that Norway exports a large proportion of its fishery products, and performs an important function in supplying the remainder of Europe with fish, distributing at least 300,000,000 pounds of eat-

able fish in marketable condition, the value of which, when finally sold to the consumer, may be estimated at fully $20,000,000. The distribution of the Norwegian fishery exports is explained in the following tables, derived from the official statistics of Norway. The first table gives exports by cities whence exported; the second, exports by countries whither exported:

EXPORTS OF THE MOST IMPORTANT FISHERY PRODUCTS OF NORWAY, 1879, BY CITIES.

CITIES from which products are exported.	Fish Guano.	Fresh Fish	Cod (Stockfish)	Cod (Klipfish)	Fish salted in bbls. or holds of vessels	Northern Herring.	Comm'n Herring	Other Herring and Brisling	Lobsters.	Fish Roes	Oil
	Kilo	Kilo.	Kilo	Kilo	Barrels	Barrels.	Barrels.	Barrels	No	Barrels	Barrels
Vadsö	383,680	.....	1,224,180	.....	16,426	.....	.....	24	.....	.....	7,605
Vardö	649,800	.....	1,523,720	28,870	39,250	.....	.....	40	.....	.....	5,855
Hammerfest	.....	.....	2,374,920	.....	26,127	.....	.....	215	.....	.....	11,119
Tromsö	1,100	.....	3,126,460	63,100	3,731	.....	.....	3,868	.....	.....	7,883
Drontheim	35,700	92,630	70,400	253,310	12	.....	.....	10,200	.....	.....	2,051
Christiansund	1,884,400	16,380	361,590	24,795,110	.....	.....	.....	96,352	1,290	5,893	4,948
Molde	197 600	.....	.....	640,530	.....	.....	84	7,260	.....	718	631
Aalesund	296,000	.....	57,120	10,118,740	.....	55	7,138	39,010	28,178	7,128	4,001
Bergen	19,400	45,590	11,866,710	8,764,300	166	108	20,440	233,656	109,733	35,870	73,229
Hougesund	.....	178,760	810	100	25	.....	22,290	68,291	410	.....	.....
Skudesnäshavn	.....	12,370	.....	.....	336	.....	3,680	1,490	50,433	7	.....
Stavanger	.....	28,770	2,260	1,550	24	.....	7,384	58 369	167,219	.....	93
Egersund	.....	336,300	.....	.....	5	.....	82	230	41,398	.....	.....
Flekkefjord	.....	63,390	70	.....	.....	.....	.....	166	33,192	.....	.....
Farsund	.....	781.920	.....	.....	.....	.....	.....	54	36,802	972	.....
Mandal	.....	1,980	.....	7,690	.....	.....	.....	.....	60,568	.....	.....
Christiansand	.....	478,860	1,170	1,620	1	.....	.....	149	202 570	.....	.....
Other Cities	2,505,000	476,630	546,010	9,240	17	50	1,568	47,924	287,611	.....	6,003
Total	5,972,680	2,513,580	20,655,420	44,684,160	86,120	213	62,616	567,298	1,019,404	50,588	123,418

EXPORTS OF THE MOST IMPORTANT FISHERY PRODUCTS OF NORWAY, 1879, BY COUNTRIES.

COUNTRIES whither exported.	Fish Guano.	Fresh Fish	Cod (Stockfish)	Cod. (Klipfish)	Fish p'kl'd in bbls or holds of vessels	Northern Herring	Comm'n Herring	Other Herring and Brisling.	Lobsters	Fish Roes.	Oil
	Kilo	Kilo.	Kilo	Kilo	Barrels	Barrels.	Barrels	Barrels	No	Barrels.	Barrels
Sweden	200	51,090	2,253.390	2,370	40	104	32,401	126.935	24,131	.....	334
Denmark	497,250	15,450	83,070	11,110	25	.....	3,356	61,802	173,690	.....	810
Russia incl. Finland	.....	.....	1,415,280	.....	84,882	.....	21,550	84,607	.....	.....	1,268
German Baltic Prov.	120,000	.....	46,480	1,060	1	.....	2,136	218,699	.....	.....	14,604
Hamburg and Altona	4,537.230	56,930	655,210	3,107,750	104	.....	2,481	49,632	180,120	61	42,649
Bremen and neighboring German Ports	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Holland	.....	.....	3.380.620	26,370	48	109	661	1,638	.....	.....	44,608
Belgium	.....	.....	907.280	8,120	336	.....	.....	3	109,409	7	2.526
Great Britain	816,900	2,382.360	360 060	1,935,500	678	.....	6	12,810	532,054	.....	10,029
France	.....	7,750	100.300	92,160	6	.....	25	10,254	.....	46,538	3,954
Spain	1,100	.....	381,410	32.197,240	.....	.....	.....	.....	.....	3,870	589
Portugal	.....	.....	5,400	5.270,350	.....	.....	.....	918	.....	112	.....
Austria and Italy	.....	.....	11,000.190	877,420	.....	.....	.....	.....	.....	.....	1,929
North America	.....	.....	41,210	1 800	.....	.....	.....	.....	.....	.....	50
Cuba	.....	.....	25,520	1,152,870	.....	.....	.....	.....	.....	.....	.....
South America	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Other Countries	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	8
Total	5.972,680	2,513,580	20,655,420	44,684.160	86,120	213	62,616	567,298	1,019,404	50,588	123.418

—For statistical purposes the coasts of Norway are divided into four districts, as follows: 1, the coast of the Skagerack, from the Swedish boundary to Cape Lindesnaes; 2, the coast of the North sea, from Cape Lindesnaes to Cape Stadt; 3, the coast of the Norwegian sea, from Cape Stadt to the island of Sörön (lat. 70° 40′ N.); and 4, the coast of the Polar sea from Sörön to the Russian boundary on the east. The total length of the coast line, exclusive of islands, is 1,926 miles, of which 229 lie in the first district, 327 in the second, 1,022 in the third, and 348 in the fourth. According to the estimates of the central bureau of statistics, the value of the Norwegian fishery product is divided among the four districts as follows: (1) 2.6 per cent., or about $750 to the mile; (2) 10.4 per cent., or about $1,989 to the mile; (3) 72.4 per cent., or about $4,438 to the mile; (4) 14.6 per cent., or about $2,553 to the mile. The cod fisheries are prosecuted almost exclusively in the third and fourth districts, four-fifths of all the cod being landed in the third, while the herring fisheries are for the most part in the second and third.—

The Norwegian coast fisheries are officially classified as follows—the figures following the name of each fishery are the percentages of the value of its yield to the average total value of the fisheries of the country, for the years 1869–78:

		Per cent.
1.	The winter cod fishery	49 3
2	The spring cod fishery in Finmark	10.8
3.	The fat herring fishery	16 2
4	Fishery for "brisling" and other small herring	1.4
5	The spring and winter herring fishery	4.4
6	The great herring fisheries about Nordland and Tromsö	5.6
7.	The summer fishery for pollock, cod, ling, etc.	6 6
8.	The mackerel fishery	3 1
9	The lobster fishery	1.2
10.	The salmon and trout fisheries	1.4
11.	The oyster fishery	—

Grouped in more comprehensive divisions:

1, 2.	The winter and spring cod fishery	60 1
3-6.	The herring fisheries	27.6
7-11.	The other fisheries	12 3

Norway has also certain fisheries in the entrance to the Baltic and a small cod fishery along the shores of Spitzbergen. The walrus and seal fishery in the vicinity of Spitzbergen and Novaya Zemlya employed, in 1878, 51 vessels, of 1,881 tons, and 306 persons, yielding products valued at about $40,000. The whale fishery in Varanger fiord resulted in the same year in the capture of 130 whales, valued at about $70,000. — According to the census of 1875 there were in Norway 33,255 grown men who derived their entire support from the fisheries, and 23,381 men who, in addition to fishing during the season, carry on other work part of the year. The total, 56,636, is about 10 per cent. of the total adult male population, 559,565. The estimated annual yield to men engaged in the several branches of the fisheries is as follows: winter cod fishery, about $60; spring cod fishery, $45; fat herring fishery, $40 to $55; mackerel fishery, $60. 12,243 boats were engaged in the winter cod fishery in 1878, and this total represents very nearly the actual number of fishing boats in Norway. They are for the most part open boats, with crews of four or five men. There are hardly any seagoing vessels in the Norwegian fisheries, though many of their clumsy "jaegten" are engaged in transporting fish from the fishing grounds to the markets. — SWEDEN. The fisheries of Sweden are but small compared with those of Norway, and are for a considerable part carried on by men engaged in farming the major portion of the year. Sweden exports almost none of its fishery products, but consumes much imported fish obtained chiefly from Norway. There is no official estimate of the number of fishermen and fishing boats, but Dr. Sidenbladh, a recent writer, in his work entitled "Le Royaume de Suède," gives figures which indicate that at least 6,000 boats and 24,000 men participate in the herring fishery. Probably not more than 6,000 to 8,000 of these are professional fishermen. It is safe to assume that a very large proportion of the entire professional and non-professional fishermen engage in the herring fishery, which is by far the most extensive and profitable of the fisheries of Sweden. In 1878, 577 persons, with 3,883 nets, were engaged in the eel fishery of Blekingen and Schonen; in 1875 the mackerel fishery of Bohuslän employed 313 vessels and 1,280 men, and in the same year the winter fishery in the Kattegat and vicinity was carried on by 179 decked boats, with a tonnage of 5,600, and crews of 1,509 men. The total product of the fisheries of Sweden, in so far as it is possible to judge from the scattered statistics which are accessible, does not exceed in value $1,500,000. Of this amount, $845,000 is the value of the herring fishery, $73,000 of the salmon fishery, $40,000 of the eel fishery, and $28,000 of the lobster fishery, the remainder being distributed among the general coast fisheries for cod, flounders, lance, etc., and the various fresh-water fisheries. The fisheries of Sweden are apparently about equivalent in value to those of Connecticut, though employing regularly at least twice as many men, and in the herring season a large additional force. — DENMARK. The fisheries of Denmark resemble those of Sweden, in that they are carried on chiefly by a peasant population, engaged part of the year in other pursuits. The fishes taken are cod, haddock, whiting and ling, the halibut, sole and other kinds of flatfish, mackerel, garfish, herring, dogfish, skate, salmon and eels, besides seals, porpoises, lobsters, shrimps, black mussels and oysters. The most important fishing places are the Lim fiord, where the product in 1878–9 was valued at about $107,000, and 2,021 fishermen, 569 being professional fishermen, were employed; and Bornholm, where, in 1874, 759 men, in 348 boats, large and small, captured fish to the value of $165,000. The only general official estimate at present accessible is one for 1865, which puts the value of the product at $988,000, or slightly more than that of Rhode Island. Rhode Island, however, employs only 2,300 fishermen, while Denmark is estimated to have 10,000. Like Sweden, Denmark largely consumes imported fish. In the year 1877, according to Arthur Feddersen, the oyster export being left out of account, the imports of fish of all sorts exceeded the exports by 5,420,000 pounds—since, although the exports of fresh fish exceeded imports of the same by about five and one-half million pounds, there were seven and one-half million pounds of pickled fish and four million pounds dried fish imported in excess of those exported. In 1878 the entire exports of fish amounted to 6,722,460 pounds, and of oysters to 1,005,023 pounds. — RUSSIA. Russia has an important fishery on the Baltic coast of Finland. The best statistics available are those quoted by Lindeman, who states that fish constitute the greater portion of the food of the inhabitants, and that the exports to Russia and Sweden in 1875 amounted to $457,000. The most important branch of the industry is the strömling or herring fishery, though the capture of sprats, salmon and seals employs a considerable number of men. The total yield of the Finnish

fisheries can not fall below $700,000, and is about equal to that of Michigan, Louisiana or Rhode Island. Russia has also fisheries of some extent in the Polar sea, an account of which may be found in the Report of United States Fish Commission, Part III., pp. 35–96. Statistics for these fisheries are not to be had. Numerous herring are taken in autumn and early winter, most of which are packed in barrels and sent to Archangel. Salmon are caught abundantly at the mouths of the Petschora, Mesen, Dwina, Onega, Warsuka and other rivers, while a large cod and halibut fishery is carried on in the numerous bays of the Murmanian coast. An extensive seal-hunt continues from the beginning of February to the end of March on the east coast of the White sea and in neighboring regions, while the beluga or white whale, the walrus and the polar bear are objects of pursuit for men and vessels in summer. There is also a considerable seal and walrus hunt on the southern coast of Novaya Zemlya. Russia has control of the important fur-seal fishery of the Kurile islands and other localities on the Pacific coast of Asia. The Alaska commercial company of San Francisco and St. Petersburg leases the Commander islands, whence, in 1880, 47,000 fur-seal skins were taken. There are also important cod-fishing privileges in the Okhotsk sea, in which several California vessels have participated until 1882, when by the removal of the Russian custom house from Petropolovsk to Vladivostock they have been practically debarred from this privilege The inland fisheries of Russia are of great extent and importance, and are discussed in an extensive and finely illustrated folio work published by the government. Statistics are not to be had. The following estimate of the Russian fisheries was derived from the Russian commissioner to the Berlin fishery exhibition. The total proceeds of the fisheries, those of Siberia and of small fresh-water streams and ponds excepted, is estimated to amount to $22,059,000. About $2,950,000 of this is distributed to the Caspian, $735,000 to the Baltic, $735,000 to the White sea and those portions of the Arctic sea which border the province of Archangel, $735,000 to the Black sea, and about $3,685,000 to the great lakes and rivers. The total imports amount to about 3,000,000 pounds, chiefly herring and canned fish, while the exports, consisting only of caviar and isinglass, amount to about $1,470,000. The value of seal skins and oil taken by Russians amounts to about $250,000 annually. — GERMANY. The fisheries of Germany are of small statistical importance, owing to the limited extent of seacoast, and to the fact that the product of river, lake and brook can not be easily estimated, and is necessarily for the most part ignored. The streams have been depleted by over-fishing, and strenuous efforts are being made by the *Deutscher Fischerei Verein*, a powerful society, under governmental patronage, to restock them for the benefit of the inland population, to whom fish are of great dietetic importance. The annual importation of edible fishery products is valued at about $1,410,000, while the export is only $77,000. In 1872, 17,195 persons were employed in the coast fisheries, of whom 6,969 were professional fishermen, 5,011 assistants, and 5,215 occasional or semi-professional fishermen. There were 732 fishing stations and 8,140 boats. The most important single fishery is that carried on by the *Häring-fischerei Gesellschaft*, of Emden, which employed 11 "loggers" or fishing boats of a peculiar model, and in 1879 captured herring to the value of about $42,000. Other fisheries in the North sea are the shore-net fisheries, valued at about $16,000, the haddock fishery of Norderney, which employs about 400 men in 70 open boats, and in 1872 yielded from 1,000,000 to 1,200,000 pounds of haddock, worth, perhaps, $30,000. The fisheries of Heligoland, employing 400 fishermen and 32 "schaluppes" or open boats, yield annually some 600,000 haddock, worth about $25,000, and the fisheries at the mouth of the Elbe amount to perhaps $5,000 more. The Baltic fisheries of Germany are chiefly for flounders, cod, herring and salmon. The most important stations are Eckernförde, in Schleswig-Holstein, and Travemünde. The value of the Baltic fisheries is probably less than $200,000. There is also a small oyster fishery on the Schleswig-Holstein coast, the value of which can not exceed $10,000. It is to be regretted that the value of the German fisheries has not been appraised by any recent authority. An estimate based upon the most liberal interpretation of the data now before me would put their entire worth at less than $950,000, inland fisheries being, of course, excepted. This is slightly more than the worth of the fisheries of California, and much less than that of Connecticut, New Jersey and Virginia. — HOLLAND. According to statements furnished to Dr. Lindeman by Prof Buys, of Leyden, the herring fishery of Holland employs 127 seagoing vessels and 265 smaller craft, with crews in all numbering about 2,700. The total product amounted, in 1878, to 150,000,000 herrings, valued at $1,164,240. Many vessels of the herring fleet are engaged in winter in the capture of cod on the Dogger bank in the North sea. They fish with trawl lines, and a considerable portion of the catch is salted down in the holds of the vessels, as is done by our own Grand bank cod schooners. The value of this fishery in 1878 was $392,876. There is also a coast fishery for the capture of fish to be sold fresh in the markets, shrimps, anchovies, etc. The consumption of fresh fish in two important centres, mentioned by Prof. Buys, amounts to $232,177; more audacious than he, we venture to estimate the total local consumption at $462,000. The export of fresh fish, shrimps and anchovies amounts to 13,000,000 pounds, which, if the statements of Buys are correctly understood, is over and above the amount of local consumption. There is also an oyster fishery on natural beds along the coasts of Seeland and the island of Texal. This yield-

ed, in 1876, 36,580,000 oysters; in 1877, 9,769,200; in 1878, 7,193,200. The value of the product in the last year is placed at $198,757. In the same region are mussel beds; from which, in 1878, about 2,900,000 pounds of mussels were obtained. The total number of vessels and fishermen in Holland is given by Prof. Buys as follows: Great fishery (herring and cod) 127 vessels, with 1,886 men; coast fisheries (for herring, cod, etc.), 453 vessels, 3,309 men; fisheries of the Zuiderzee (herring, anchovy, scholle), 1,282 boats, 3,269 men; fisheries of Groningen and Friesland, 183 boats, 524 men; fisheries of Seeland, 472 boats, 1,026 men. Total, vessels and boats, 2,517; men, 10,014. The value of the fisheries is not summed up, and as usual it is necessary for the writer of this article to make a provisional total. It seems probable that this should not be less than $2,350,000. The exports of Holland to Germany amounted, in 1878, to 8,874,000 smoked herrings and 55,000 barrels of pickled herrings, 578,600 pounds of dried codfish, 1,326,000 pounds of fresh fish, about 792,000 pounds (in 1877) of anchovies, and 1,170,500 oysters. To Belgium, in the same year, were sent 24,435,000 smoked herrings, 741,400 pounds of dried codfish, 10,276,000 pounds of fresh fish, and an indefinite quantity of pickled herring, anchovies and oysters. England received, among other products, 1,294,000 pounds of shrimps and 2,859,200 oysters. — BELGIUM. Belgium, though on account of the fish-eating proclivities of its population importing foreign fishery products in considerable quantity, had, in 1879, sea fisheries to the value of about $425,000, or nearly as important as the commercial fisheries of the state of New York. About one-fifth of this amount is credited to the cod fishery, in which were engaged 109 vessels. The remainder of the product results from the coast fisheries, for turbot, herring, skate, cod, shrimp, etc. The oyster fishery at Ostende yielded, in 1876, about 10,000 bushels, of which nearly half were sent to Germany. About $73,000 worth of oysters were exported from England in 1878, and about $15,000 worth of lobsters, of which 252,000 pounds came from France, and 210,000 from Norway. — GREAT BRITAIN AND IRELAND. In 1877 England had 3,425 fishing vessels of over 15 tons, with a tonnage of 137,768, and 9,869 smaller sail boats and fishing boats of the second and third classes. Scotland had 2,940 first class, with tonnage of 51,039, and 10,629 smaller; Ireland 405, and the Isle of Man 254, first class vessels, with 5,819 and 134 respectively of smaller craft. In 1876 the number of men and boys in the Scotch fisheries was estimated at 45,890, the value of boats and gear at $5,703,514, while the Irish fisheries had 23,693 fishermen (15,340 being occasional fishermen). I can find no estimate of the number of men in the English fisheries, but it is to be inferred that the number can not be far from 50,000. This estimate gives an aggregate of fishermen for Great Britain and Ireland, of 120,000 men and boys; with 6,770 first class vessels and 26,317 smaller boats in 1877. — The herring fishery is prosecuted in Scotland, England and Ireland. That of Yarmouth, the most important in England, employed, in 1877, 493 first class vessels and 509 of a smaller size, and yielded 132,000 lasts of fish, or 249,480,000 individual herring. There is a smaller herring fishery at Lowestoft. When England has learned the art from the Maine fishermen there will doubtless spring up an extensive sardine-canning industry, based upon the herring fishery. The herring fishery is by far the most important fishery of Scotland. In 1878, 905,768 barrels, or perhaps 272,000,000 pounds, were salted, and the total catch may be estimated at fully 350,000,000 pounds. Ireland cures few herrings, exporting its fish in fresh condition to England or consuming them locally, and importing cured herring from Scotland. In 1876, 227,990,000 pounds were sent from Ireland to England, and the total product was doubtless much more than 350,000,000. The aggregate product of the herring fisheries is probably not far from 800,000,000 to 900,000,000 pounds of fresh fish. The export of herring in 1876 amounted in value to $3,546,439. — The cod fishery of England is located in the North sea, upon the Dogger bank and neighboring shoals, the principal port interested being Grimsby. Few cod are salted, and the greater portion of the catch is kept alive in well smacks, and a reserve of living fish for market supply kept in live-cars at Grimsby, Harwich and elsewhere. From 15,000 to 20,000 cod are kept alive at one time at the former port in the height of the cod season. The cod fishery thus constitutes a part of the great fresh-market fishery of Great Britain, another most important branch of which is the trawl-net fishery for turbot, soles and other bottom-loving species. In 1879 there were from 1,700 to 1,800 trawling smacks working on the coasts of England, (1,300 of them in the North sea), with crews aggregating 9,000 men and boys. In 1877, 505 of these hailed from Grimsby, while a still larger number came from the four channel fishing ports of Brixham, Plymouth, Hull and Ramsgate. In 1877. 88,752,000 pounds of fresh fish were sent from Grimsby by rail. The catch of the other large fishing ports would probably bring the total up to at least 400,000,000, worth, perhaps, $16,000,000. The export of cod in 1877 was valued at $214,813. — There is an important drift-net fishery for mackerel on the southern coast, and, according to Holdsworth, many thousands of tons of mackerel are yearly sent by rail from Plymouth and Penzance to London and elsewhere. This product is included in the total given above for the fresh fish business. — Pilchards, too, are caught in drift nets and seines in immense quantities, on the coast of Cornwall, and of late years these have been packed in oil and sold as "sardines," the sardines of the bay of Biscay being the same fish prepared in the same manner. 9,477 hogsheads of pickled pilchards were exported to Italy in 1877, and the total value of the pilchard export in that year was

$93,034. — Scotland, in addition to the "cod, ling, hake, sarthe (pollock) and tusk (cusk)," locally consumed in fresh condition, in 1877 produced 18,720,000 pounds cured dry, and 861,900 cured in pickle, representing, perhaps, in all, 58,000,000 fresh fish, and worth, perhaps, $1,160,000. — Ireland has a fresh-market fishery of much importance, as may be judged from the fact that she sent to England, in 1876, 243,742,800 pounds of fresh fish, valued at $2,441,601, including, in addition to the herring already mentioned, 15,930,000 pounds of mackerel and 11,013,800 pounds of cod.— The export of salmon from Great Britain and Ireland amounted, in 1877, to $189,162. From 400,000 to 600,000 lobsters are annually imported from Norway, and about 200,000 more from France. In addition, large quantities are obtained from the south coast, while the value of the lobster fisheries of Scotland is estimated at $1,452,000.— That the oyster fishery is failing is clear from the fact that the imports of oysters are yearly growing larger. In 1870, according to Lindeman, the value of oysters sold in London was $19,360,000. This estimate was doubtless based on retail prices. Exports in 1877 amounted to $121,227. — In addition to the fisheries already mentioned there are extensive industries in the collection of mussels, whilks, periwinkles, prawns, whitebait, and various minor products of the sea. No English authority has been so rash as to estimate the total value of the fisheries of Great Britain and Ireland. I hope I shall not be too severely criticized if I venture to express my belief that their total worth, whale and seal fisheries excluded, and local consumption counted in, will not fall below $40,000,000. — FRANCE. Lindeman quotes the value of the fisheries of France in 1877 at $17,031,636, the number of men employed being 81,230, and the number of boats and vessels, 21,565. The fisheries of France, if this estimate be reliable, are fairly comparable to those located on the coast of the United States between Long Island and Cape Florida—the middle and southern Atlantic states, the product of that district being worth $18,269,506, the number of men employed exceeding 55,000, of vessels, 4,000, and of boats, 26,000. Another comparison, which it is proper to make, is between the fisheries of France and those of New England, together with those of New Jersey, The product of this group of six states amounts to $17,446,982, employing 34,497 fishermen, 2,716 vessels, and 18,852 boats. France engages in distant sea fisheries to a greater extent than any other European nation. Since the sixteenth century there has been an important French cod fishery on the banks of Newfoundland, supported by a liberal bounty from the government, which has always regarded this as its best school for mariners. The yearly expenditure for bounties amounts to $600,000 or $800,000. In 1877 this fishery employed 179 vessels, from the ports of St. Malo, Granville, St. Brieuc, Fécamp and Dieppe, with crews numbering 7,731 men. The headquarters of this fishery is at the French islands of St. Pierre and Miquelon on the south coast of Newfoundland. In 1876 the yield of this fishery was estimated at 35,200,000 pounds of codfish, worth about $1,750,000.* Another cod fishery is upon the coasts of Iceland. The vessels are smaller but more numerous, there having been in 1877, 244, with 4,314 men. Part of these vessels hail from the northern ports of Dunkerque and Fécamp; others from Granville and La Rochelle. The value of the Iceland fishery in 1876 was about $1,368,000. The coast fisheries of France in 1876 were valued at about $14,061,000, and employed over 68,000 persons. The most important fishery is perhaps that for sardines on the coast of Brittany. There is also an extensive shrimp fishery along the eastern extent of the coast, a tunny or "horse-mackerel" fishery both on the Mediterranean and the Atlantic, a mackerel fishery in the gulf of Gascony, and shad, salmon, lamprey, mullet and eel fisheries at the mouths of the larger rivers. In France, oyster culture is more successfully prosecuted than in any other country. From Sept. 1, 1875, to April 30, 1876, 237,000,000 of oysters were taken from the oyster parks Their value is included in the figures already quoted.— SPAIN. The Spanish sea fisheries are much less productive than formerly. The marine department of Ferrol yielded, in 1870, about 75,000,000 pounds of sea fish, valued at about $1,281,000. The number of fishing vessels was estimated at 6,153, the number of men, 20,150. The most extensive fisheries were those of Vigo and Villaga Reia.—PORTUGAL. From statements made by Prof. Bocage, it appears that the most important fisheries of Portugal are the sardine and tunny fisheries, and that the total value of the sea fisheries is from three to four million dollars. The export of fishery products, in 1876, amounted to 19,000,000 pounds, worth $252,000, about 490,000 pounds of which, worth about $57,500, was prepared tunny, and 9,000,000 sardines, worth about $153,000. Portugal imported, in 1876, about 34,000,000 of dried codfish, valued at $1,454,000. If these statistics of production are reliable, the fisheries of Portugal are fairly comparable in value with those of the state of Maine. It is, however, more than probable that a careful census of the fisheries has never been taken, and that the fisheries of this country are far less important than the statement of Prof. Bocage would warrant us in believing.— ITALY. In 1870 Italy had 30,848 fishermen, and 11,566 boats. As nearly as it is possible to estimate from the partial statistics available, the product is valued at about $1,216,000, and the fisheries are comparable in value to those of Delaware, or of Rhode Island and Pennsylvania combined. The chief fisheries of Italy are: sardines, tunnies, swordfish, precious coral and sponges. There are extensive fisheries for eels and other

* See article by M. Ed. de Luze on "Les Peches Maritimes de Terre Neuve et d'Islande," in the *Bulletin de la Société de Géographie Commerciale de Paris*, June, 1879

fresh-water fish in the great lagoons along the coast. The total exportation, in 1878, amounted to 88,000 pounds, valued at $629,000, and the importation to 97,000,000 pounds, valued at $4,147,000. — AUSTRIA. The Austrian fisheries in the Adriatic, from April 23 to October 22, 1878, yielded $550,000. 2,796 boats were employed, and 10,973 men. The most important fisheries are for the sardelle, mackerel and anchovy. Many species of crustaceans are prized, as well as various snails, mussels and oysters. The coral fishery on the Dalmatian coast yields about $4,500. The sponge fishery, in 1874, employed about 200 men and 100 boats, and its product was valued at $9,000. — GREECE and TURKEY. The only commercial fishery of Greece and Turkey appears to be that for sponges. There are no satisfactory data available for estimating its extent. Lindeman states that in 1876 two ports, Patras and Lyra, exported sponges to the value of at least $110,000 — MALTA. According to Lindeman, Malta has 200 boats and 800 men employed in the fisheries. Their product is locally consumed. — ALGIERS. Algiers, in 1877, had 4,330 fishermen, with 974 boats. The product was estimated to weigh 15,000,000 pounds, worth $512,000. The production of coral on the coast of Tunis and Algiers has been placed at $500,000. The export of fish, pickled or preserved in oil, from Algiers, in 1876, amounted to 11,638,000 pounds. The sardine industry alone had, in 1877, 50 curing establishments, employing 386 men. — TUNIS. The value of the fisheries is estimated at about $58,000, the principal exportable products being tunnies, cuttlefish and mullet roes In addition to the regular fisheries there is coral fishing, and a sponge fishery which yields yearly from 220,000 to 295,000 pounds of sponges, valued at $110,000 to $130,000. The yield of cuttlefish amounts to about 130,000 pounds, worth, perhaps, $20,000. — TRIPOLI. Tripoli has about 40 boats, with 150 fishermen, and the value of its product, as reported to Lindeman by the British consul, Mr. Drummond Hay, amounts to about $17,000, in addition to $150,000, the yield of the sponge fishery. — AUSTRALIA. Queensland has an "oyster fishery" at Morelin bay, yielding, in 1878, about $6,000, and in the same year exported pearl mussels and trepangs to the value of about $340,000. Victoria exported, in 1876, products worth about $125,000, and imported almost an equal amount. The city of Melbourne consumes yearly about $125,000 worth of fresh fish. In 1879 there were estimated to be 398 fishermen, and 261 boats. New South Wales imports great quantities of fish, chiefly from the United States: in 1876 the imports amounted to $800,000. The local fisheries are unimportant. South Australia offers no statistics. In the decade ending 1878, 50,000 bags of oysters were taken at Coffin bay. West Australia has a pearl fishery of some importance. Tasmania has a small local fishery, and a whale fishery, valued at about $150,000. New Zealand also has a whale fishery, which employed, in 1877, 13 ships, of 3,525 tons, and yielded products worth about $200,000. — EAST INDIES. British India has important local fisheries, and has an export trade of some extent in fish oil and shells. The pearl mussel fishery of Ceylon produced, in 1877, 6,849,720 pearl oysters, valued at 189,011 rupees. There is also a valuable pearl oyster fishery in the Persian gulf. The Dutch East Indies have immense local fisheries. In 1872, 49,469 fishermen were recorded in Java and Madura alone. There are extensive captures of tortoise shell throughout the entire region. There is a very extensive and profitable fishery on the north coast of Java for the trepang or beche-de-mer, which is dried and exported to China. The Philippines have also immense local fishery interests. The most important exports are trepangs, pearl shells and sharks' fins, sent to China. — JAPAN has a fine salmon fishery, particularly in the north, and its markets are abundantly supplied with fresh and dried fish of local production. — CHINA has a large coast population of fishermen. The immense inland population consume fishing products in greater quantity than can be supplied by the home industry, though the cuttlefish fishery of Ningpo alone employs 1,200 boats The imports in 1878 amounted to at least $2,300,000. The pearl oyster fishery of the Pak-hoi archipelago yielded, in 1875, about $45,000. — POLYNESIA. The islands of the Pacific produce considerable quantities of pearls, trepang, and tortoise shell, the value of which can not well be estimated. — GENERAL CONSIDERATIONS. Usual "estimates" place the value of the fisheries of the world at $120,000,000; but my "estimate" would be $225,000,000, upon the basis of the last fishery census of the United States —The nation most extensively interested in the fisheries is the United States, with a product of $44,870,252; next, Great Britain, with $40,000,000 or more; then British North America, with $27,000,000; Russia with $22,000,000; France with $17,000,000; and Norway with $12,000,000. — The number of active fishermen in North America may be estimated at 160,000; in Europe, at 520,000. It is needless to draw lengthy deductions. In the United States the yield to each man is about $435, in Canada, $413; in Great Britain, perhaps $330; Holland, $240; Norway, $210; Denmark, Spain and Portugal, perhaps $100; and in Italy and Germany very much less, the fisheries being carried on with no capital, and little regularity. For more extended information upon the subjects discussed in this article, see Moritz Lindeman's *Die Seefischereien in den Jahren*, 1869–78, in whole No. 60 of *"Petermann's Mittheilungen"*; Holdsworth's article, *Fisheries*, in the *Encyclopedia Britannica;* Bertram's *Harvest of the Sea;* the Reports of the *Internationale Fischerei-Ausstellung*, Berlin, 1880; and reports of *U. S. Fish Commission*, Parts I.–VI. An extended report on the fisheries of the United States, prepared by the Fish Commission and the Census Bureau, is now in press. For a discussion of the political aspect of the fisheries, see TREATIES, FISHERY.

G. BROWN GOODE.

FITZPATRICK, Benjamin, was born in Greene county, Georgia, June 30, 1802, and died in Alabama, Nov. 21, 1869. He was admitted to the bar in Alabama in 1821, was governor of his state 1841–5, and United States senator 1848–9 and 1853–61, and in 1860 received and declined the democratic nomination for the vice-presidency.

FLAG, The (IN U. S. HISTORY). I. COLONIAL. While the colonies were a part of the British empire, their recognized standard was naturally that of Great Britain, and, though minor modifications were sometimes made, the retention of the "union," with its two crosses of St. Andrew and St. George, marked all of them as essentially British. The "confederacy of 1643" (see NEW ENGLAND UNION) had a distinctive flag, but not till 1686. It consisted of a large upright red cross on a white ground, with the royal crown and cipher in the centre in gold. The sea flag was red, with a white "union," bearing an upright red cross, and in the upper left hand corner of the union a green pine tree. But, all through the colonial period, the real looseness of dependence on Great Britain was marked by a growing disposition to the use of individual colonial flags. Unfortunately there are but scant contemporary references to them, but such as exist will be found collected, with illustrations, in Preble's history, as cited among the authorities. It is certain that the Connecticut troops in 1775 had their own standard, with the colony's motto, *Qui transtulit sustinet.* The standard of New York was marked by a black beaver; but probably all had the British union in some form, since the colonists at first claimed to be loyal subjects of the king, resisting the usurpations of parliament and the ministry. It is very doubtful whether there was any flag in the American lines at Bunker Hill; certainly none was captured by the British. One tradition is that there was a red flag, with the legend, *Come if you dare;* another that the legend was *An Appeal to Heaven;* and another that the flag was blue with a white union, containing the upright red cross and the pine tree.— After the breaking out of hostilities, congress made no effort to fix upon a national standard; indeed the growth and development of a national standard was as natural as that of the nation itself. At first captains of privateers and military commanders generally followed their own fancy in the adoption of a flag, or used the state standard. The varying results may be divided into two classes, "pine-tree flags" and "rattlesnake flags," the former being rather of a New England nature, while the latter had some approach to nationality. The former was generally white, with a green pine tree in the centre, and the legend *An Appeal to Heaven;* this was formally adopted by the Massachusetts legislature in April, 1776, but the London newspapers, three months before that time, mention the capture of a similar flag on a privateer. The rattlesnake flag was also white, with a rattlesnake, either cut into thirteen pieces, each marked with the initial of a colony, and the legend *Join, or die,* below, or complete and coiled, with the legend *Don't tread on me;* another variety, later than the former, had a ground of thirteen stripes, red and white, with the rattlesnake extended across the field. A less common flag consisted of a white ground on which was depicted a mailed hand grasping thirteen arrows.— II. NATIONAL. Toward the end of 1775 the urgent need of a distinct national flag became very evident. The stripes seem first to have been used by a Philadelphia light horse troop in 1774–5, but only as a "union." Their use as the ground of a flag, originally suggested by the recognized flags of the East India company or of Holland, had been familiarized by one variety of the rattlesnake ensign; and congress adopted it, in December, 1775, on the recommendation of a committee consisting of Franklin, Lynch and Harrison. The "grand union" flag now consisted of thirteen stripes, as at present, but with the British "union" of two crosses, to mark continued allegiance to the king. This flag was first hoisted over the American headquarters at Cambridge, Massachusetts, Jan. 1 or 2, 1776. Paul Jones claims to have first raised it over his ship, the Alfred, some days previously; but his flag seems to have been the stripes and rattlesnake. Preble, in his history, has given a copy of a water-color drawing of the "grand union flag" in July, 1776, found by Dr B. J. Lossing among the papers of Gen. Philip Schuyler, which is the most satisfactory contemporary representation. It is noteworthy, however, that when the naval committee of congress presented a national flag to that body Feb. 8, 1776, they chose one of the rattlesnake variety.— In June, 1776, when independence had become a recognized probability, Washington and a committee of congress made informal arrangements for the substitution of a five-pointed star in the union. It was not until June 14, 1777, that congress formally ordered the royal union to be displaced by thirteen stars, as at present, symbolical of "a new constellation." The new flag was probably first used at the battle of the Brandywine, Sept. 11, 1777; and its introduction in Leutze's picture is an anachronism.— No change took place in the national flag until, by the act of Jan. 13, 1794, two new stripes, as well as two new stars, were added for Vermont and Kentucky. No further change took place for twenty-four years, even after the admissions of Ohio and Louisiana; and the war of 1812 was fought under a flag of fifteen stripes and stars. The impropriety of considering Kentucky and Vermont a part of the "old thirteen," and the cumbrousness of a flag with a new stripe for each new state, occasioned the passage of the act of April 4, 1818, by which the stripes were to be limited to thirteen in future, in memory of the thirteen states which had first secured for the flag a place among national emblems, while the number of stars should show the number of states in

the Union on the 4th of July, the day on which changes were to be made. Unfortunately the act neglected to fix the arrangement of the stars in the union, which has been very capricious, sometimes in straight lines, sometimes in a star, sometimes in concentric circles, and sometimes scattered at random.—The features of the national flag may be thus summarized: 1777–94, thirteen stripes and thirteen stars (generally in a circle); 1794–1818, fifteen stripes and fifteen stars (generally in three straight lines); 1818–82, thirteen stripes and from twenty to thirty-eight stars. (See CONSTITUTION, I.)—The revenue flag, by act of March 2, 1799, and the circular of the secretary of the treasury, Aug. 1, consisted of sixteen perpendicular red and white stripes, with the arms of the United States in blue on a white field as a union. This was changed in 1871 by substituting thirteen blue stars on a white ground as a union.—In addition to the national flag each state has its own flag, which is hoisted on its public buildings, or carried into battle or on parade by its volunteers, or militia, alongside of the national standard. These flags are too numerous for special mention.—III. CONFEDERATE. During the war of the rebellion the confederate states' forces carried the so-called "stars and bars," a flag consisting of three red and white stripes, the white in the middle, and a blue union with as many white stars as there were states in the confederacy. The more familiar battle flag was of red, traversed from the corners by a blue cross with white stars. Toward the end of the rebellion the three stripes were dropped for a flag half red and half white, the white nearest the staff; and some ineffectual efforts were made to further change it to a flag wholly or partially black. Individual states had also their own flags.—See 8 Bancroft's *United States*, 232; 3 Hildreth's *United States*, 177; 1 *Journals of Congress*, 165 (resolution of June 14, 1777); 1 *Stat. at Large* (Bioren and Duane's edit.), 678; 1 *Stat. at Large*, 341, 699, and 3 : 415 (acts of Jan. 13, 1794, March 2, 1799, and April 4, 1818; Hamilton's *History of the American Flag* (1852); Preble's *History of the American Flag* (1872). ALEXANDER JOHNSTON.

FLORIDA, a state of the American Union, formed from the Florida purchase. (See ANNEXATIONS, II.) East and West Florida were united into the territory of Florida by act of March 30, 1822. Several efforts were made by the people of the territory to induce congress to separate it again into East and West Florida, but without success. No enabling act was passed, but a convention of delegates, Jan. 11, 1839, "having and claiming the right of admission to the Union," formed "a free and independent state, by the name of the state of Florida." No boundaries were assigned by the state constitution, or by the act of admission, both referring for particulars to the treaty of Feb. 22, 1819; but that treaty merely described the ceded district as "the territories eastward of the Mississippi, known by the name of East and West Florida," and this vagueness of description gave rise to disputes with Georgia and Alabama as to the boundary line, which were not settled for some years. —The constitution was in the usual form. The governor was to hold office for four years, and to be ineligible for four years thereafter. The capital was to be Tallahassee. The legislature was forbidden to emancipate slaves, or to prevent immigrants into the state from bringing slaves with them. Under this constitution the state was admitted by act of March 3, 1845, Iowa being admitted by the same act. —In politics, national and state, Florida was whig by a small majority until 1852, when the democrats elected the governor and congressman by a close vote, 4,628 to 4,336 for governor. The remnant of the whig minority in 1856 took the name of the American party, but in 1858 this also disappeared, and but one party, the democratic, existed in the state. Jan. 10, 1861, a state convention passed an ordinance of secession by a vote of 62 to 7, and Feb. 4 the delegates from Florida took part in the first meeting of the congress of the confederate states. After 1863 Florida was left to its own defense by the confederate government; at the close of the rebellion it came early under control of the federal authorities. July 13, 1865, President Johnson appointed a provisional governor, who called a state convention for Oct. 25. This body "annulled" the ordinance of secession, Oct. 28, and adopted a new constitution, Nov. 7, which declared the abolition of slavery "by the government of the United States," limited the right of suffrage and the right to sit on juries to white persons, and defined the state boundaries as follows: "Beginning at the mouth of the river Perdido; thence up the middle of that river to the boundary of Alabama, in latitude 31° north; thence due east to the Chattahoochee river; thence down the middle of that river to the Flint river; thence straight to the head of the St. Mary's river; thence down the middle of that river to the Atlantic ocean; thence southwardly to the gulf of Florida and gulf of Mexico; thence northwardly and westwardly, including all islands within five leagues of the shore, to the beginning." The convention, by ordinance, repudiated the state debt incurred during the rebellion. Under this constitution an election for state officers and congressmen was held Nov. 29, a legislature was organized Dec. 18, and Jan. 16, 1866, the president relieved the provisional governor. The state remained under its own authorities until the passage of the reconstruction act of March 2, 1867, when it became part of the third military district commanded by Maj. Gen. Pope, Col. Sprague having command of the sub-district of Florida. Under this régime a state convention adopted a constitution Feb. 25, 1868, which was ratified by popular vote, May 4–6, state officers being chosen at the same time to hold until January, 1873. As the new constitution conformed in all respects to the act of congress (see

RECONSTRUCTION), and as the new legislature, in June, 1868, ratified the 14th amendment, Florida was recognized as a state by act of June 25, 1868. From this time the state remained under republican control until 1876, when the state government became democratic. This election was claimed "on the face of the returns" by both parties, and the truth will probably never be known. Outside of Baker county the returns made both parties almost exactly equal. From Baker county two returns were received, one being 143 rep., 238 dem. (95 dem. maj.), and the other, in which some precincts were cast out, 130 rep., 89 dem. (41 rep. maj.). The returning board finally took the latter, making 42 rep. maj. in the state. (For the electoral vote of the same year see ELECTORAL COMMISSION, I.) The state has since been democratic; though the majority is small and is liable to be reversed by immigration. — Considerable desire has always been shown in West Florida for annexation to Alabama, and in 1869 Alabama offered Florida $1,000,000 as the price of her consent to the proposed annexation. A popular vote upon the question was ordered in West Florida by the governor in that year, and showed a majority in favor of such annexation, but no further steps were taken in the matter. — The name of the state was first given to the entire territory by its discoverer, Ponce de Leon, in 1572, from the Spanish name of the day on which it was discovered, *Pascua Florida*, (Easter Sunday). — GOVERNORS. Wm. D. Moseley (1845–9), Thos. Brown (1849–53), Jas E. Broome (1853–7), Madison S. Perry (1857–61), John Milton (1861–5), Wm. Marvin (provisional) 1865, David S. Walker (1866–8), Harrison Reed (1868–73), Ossian B. Hart (1873–7), Marcellus B. Stearns (acting-governor) 1876, George F. Drew (1877–81), Wm. D. Bloxham (1881–5). — See French's *Historical Memoirs of Louisiana and Florida;* Fairbanks' *History of Florida;* Adams' *Florida;* Lanier's *Florida;* Poore's *Federal and State Constitutions;* Appleton's *Annual Cyclopædia*, 1861–80; *Tribune Almanac*, 1838–81. The act of March 3, 1845, admitting Florida, is in 5 *Stat. at Large*, 742.

ALEXANDER JOHNSTON.

FOOT'S RESOLUTION (IN U. S. HISTORY). Dec. 29, 1829, in the senate, S. A. Foot, of Connecticut, introduced a resolution instructing the committee on public lands to inquire into the expediency of limiting the sales of the public lands, for a certain period, to those which had already been offered for sale. This apparently innocent resolution was taken up, discussed at irregular intervals, and gave rise to an intermittent debate, which lasted until May 21, 1830, and which, from the pre-eminent ability of the debaters and the wide range of the discussion, is usually known as "the great debate in the senate." At first the debate consisted of allegations by western senators that the policy of the eastern states, Foot's resolution being an example, had always been to check western growth by limiting land sales, and of argument and denial by eastern senators. Southern senators were strongly inclined to espouse the cause of the west, and some of them suggested that the public lands ought to be given away instead of sold. Jan. 19, 1831, Robert Y. Hayne, of South Carolina, assigned, as an additional reason for the adoption of this policy, the necessity of preventing the growth of a permanent government revenue and the "centralization" of the government. The debate then took a new turn, centering upon Hayne and Daniel Webster, of Massachusetts. Hayne is commonly supposed to have been supplied with the substance of his brilliant arguments by Calhoun, who, as vice-president, could take no part in the debate; Webster's share has never been attributed to any one but himself. Webster's first reply to Hayne, Jan. 20, claimed the growth of the western states as the legitimate fruit of the New England system of land sale and surveying, there adopted, and of the ordinance of 1787, drawn and introduced by Dane, of Massachusetts, Jan. 21 and 25. Hayne replied, and in his reply seized upon the circumstance that Dane was a member of the Hartford convention as a basis for a general attack upon New England and upon the loose construction or "centralizing" theory of government. Jan. 26, Webster delivered his second speech, known by eminence as *The Reply to Hayne*. In the second part of this speech he stated fully his views upon the nature of the government, and also what he understood to be Hayne's views. (See NULLIFICATION.) As his statement of Hayne's views amounted to a mere right of revolution against insufferable oppression, Hayne interrupted him with the first public declaration by a responsible authority that the asserted right of "nullification" of objectionable acts of congress by state authority was not a mere "right of revolution, but a right of constitutional resistance." Webster having thus obtained a foothold, proceeded, with extraordinary eloquence and force, to the demolition of the new doctrine. This portion of his reply, with his final answer on the following day to Hayne's reply, make up the strongest presentation of the "national" theory of the constitution which had then been made. It is, however, faulty, in modern view, in one point: he defined the constitution as, "not a compact, but an instrument resting on compact"; and his great antagonist, Calhoun, in all his subsequent speeches struck persistently at this one vulnerable point. The power of Webster's speech was so striking that Calhoun was forced, in December, 1832, to take Hayne's place in the arena, and accepted the senatorship from South Carolina, resigning the vice-presidency to do so. After Jan. 27, the other senators, who had stood aside, with the exception of Benton, of Missouri, for the battle between Hayne and Webster, resumed the debate, which drifted off upon questions of slavery, the tariff, and the judiciary, until it died away without action of any kind. Its real im-

portance lay in the speeches of Hayne and Webster. (See ORDINANCE OF 1787, NULLIFICATION, CONSTRUCTION.) — See 10 Benton's *Debates of Congress*, 418; 1 Benton's *Thirty Years' View*, 130; 3 Webster's *Works*, 248, 270; 1 Calhoun's *Works;* 1 A. H. Stephens' *War Between the States*, 347; 1 Von Holst's *United States*, 470.

ALEXANDER JOHNSTON.

FORCE BILL. (See NULLIFICATION, RECONSTRUCTION, KU-KLUX KLAN.)

FORESTRY. Under this general term is included whatever relates to woodlands, their preservation, maintenance, cutting off and renewal. In the English legal sense, a forest is a tract of land, whether wooded or not, that is held by the sovereign for the maintenance of game, and subject to peculiar laws differing from the common law of England. A *chase* differs from a forest in being capable of being held by a subject, and in being under the common and not the forest law. As applied in the American sense, a forest is synonymous with *woodland*. Small woodlands are sometimes called *groves*, and their care and management is termed *sylviculture*. The term *arboriculture* is applied to the cultivation of trees, whether singly, in avenues or groups, and is sometimes, although improperly, restricted to fruit trees. We find that forests left to nature are very unequally distributed, some regions being densely wooded, while others are wholly destitute of trees. This distribution is influenced by latitude, elevation above sea level, and especially by the amount of rainfall in a given locality; and the latter is largely determined by the prevailing winds, and by the character of the surface over which they pass. — As a general rule, ocean winds are humid, and as they pass over the land they tend to become cool, and to deposit the excess of moisture as rain, or in winter as snow. This is especially true where they pass over mountain ranges, where they must necessarily become cooled down to a low degree, and cause copious showers of rain. After passing over and descending into the lowlands beyond, the air being dry can no longer produce showers, and the region may be arid, on the leeward side, while it is heavily wooded on the opposite. We see such contrasts along the Andes, in Peru, where there is a belt of rainless and treeless country between these mountains and the Pacific, while eastward the trade winds bring heavy rains, that fall upon dense forests. On our Pacific coast we find even stronger contrasts in the densely timbered region along the coast, which first receives the prevailing westerly winds from the Pacific, and the dry and in some places utterly arid region to the eastward of the mountains. — In rainy regions within the tropics we invariably find forests, very generally with perennial foliage, and dense and highly colored wood. In exogenous species the rings of growth are indistinct and uncertain; they often afford choice products from their juices, gums, essential oils, dyes, medicinal qualities, fibres and fruits, but are generally too solid and heavy for carpentry, although often prized for cabinet work. As we pass into the temperate zones the deciduous species become prevalent; the palms, which form characteristic trees in the tropics, disappear, the broad-leaved perennials gradually dwindle out, but the coniferous evergreens, relatively few within the tropics, become common, and often the prevailing and almost exclusive kind These various species become fewer in number and smaller in size as we pass into the arctic zone, where the poplars and the willows dwindle to shrubs, and finally disappear. In ascending from sea level to great altitudes we may pass through all these ranges of climate in a few hours, until we reach an elevation at which trees disappear altogether. This is called the *timber line*. It is some 14,000 or 15,000 feet above sea level in the tropics, about 11,800 in the Himalayas, 6,400 in the Alps, from 9,000 to 12,000 in the Rocky mountains, in Colorado, and becomes lower as we go north, till it comes down to the plains. There is often a heavy forest growth a few hundred feet before reaching this line, when the trees begin to appear short, spread out wide, leaning with the prevailing winds, and finally disappear entirely Above this it becomes bald and barren to the summit, or to the perpetual snow. — In comparing the forest growth of the northern hemisphere we find a remarkable resemblance between the native species on the eastern borders of Asia and North America. In some instances the forest trees of Mantchooria, northern China and Japan, are of the same species as those found in our northern states; in others, they are of the same genera but of different species, and in the great majority of cases they may be readily transferred from one continent to the other; presenting opportunities for obtaining a great variety for ornamental planting, and perhaps for profitable forest growth. On the other hand, the eastern and western borders of North America present a strong contrast in their forests; the former including a great number of deciduous species, and the latter chiefly the coniferous evergreens. Although the latter in very many cases grow to immense size, they do not prosper in the Atlantic states, probably from the absence of distinctly wet and dry seasons, and because the wood ripens but imperfectly before winter. — It has been found by experience in Europe that the supply of timber and wood in various forms, for meeting the innumerable uses of civilized life, can only be maintained by cultivation. In most European countries upon the continent, large tracts of land belong to the government, not in continuous blocks, but in parcels more or less interrupted by other tracts that belong to local communities or municipalities, to public establishments, or to private owners. Over all of these lands, excepting those belonging to individuals, the state extends its protection, and so far as these lands are covered with woodlands, it assumes the control. Over private property it never attempts

to interfere, unless a public interest is endangered. The owner is allowed to plant or to clear off his lands, as a general rule, whenever it suits his interests to do so. But where the forests are needed for protection, as for example, on a shore liable to drifting sands, or on a mountain liable to erosion from torrents, or on a frontier, he is restrained from a general clearing, and must not use his timber excepting as allowed. — For the management of these interests, forest administrations have been established, generally in connection with the ministry of finances, or that in charge of agricultural and industrial interests; and for the training of skilled agents for the service, *schools of forestry* have been established. In these, there is usually required a preparatory course of study equivalent to that implied in graduation from a gymnasium or real-school, and the special studies of the course extend through two or three years. Instruction is generally imparted by lectures, reviews, oral recitations, practical exercises and excursions under the guidance of the professors. The studies include mathematics, physics, meteorology, climatology, natural sciences, (especially botany, zoölogy, geology, and mineralogy), chemistry, drawing, the practical use of instruments for surveying and all kinds of measurements, the application of all of these studies to the wants of the forest agent, and so much of the common law and political economy, history and general literature as appears directly applicable to the profession. The formalities of legal prosecutions, of transactions with superior and subordinate officers, the construction of roads, and of various mechanical structures employed in the cutting, extraction, transportation and manufacture of forest products, form a particular class of these studies. Besides these there are rules of management, methods of planting and of restocking the land with trees after clearing, and a wide range of practical details to be learned, both theoretically in the class-room, and practically by labors and in subordinate grades of supervision, before the candidate is thought to be worthy of a separate charge. — As hunting is deemed in Europe an object of especial interest, in connection with forestry, it is taught as a science and an art in schools of forestry. Of late years fish culture has also been introduced as a subject of practical instruction in the Prussian schools. The terms "*forst und jagd*," are constantly associated in German literature, and "*eaux et forêts*" in France; indicating the connection between forests and hunting in the former, and the supervision of inland waters by the forest administration in the latter country at a former period. The term is still in common use, although no longer applicable. — After passing examinations, and a certain probationary term of service, the graduate of a school of forestry may be appointed in charge of a revier or district, in one of the lower grades of the service, and may rise by successive promotions, somewhat like those of the military and naval service. In fact, these grades have generally their equivalent rank in the army; in many cases military instruction is given in schools of forestry, and in case of war the forest officers may be called into active military service. Finally, after a fixed period of active duties, these agents may retire on a pension. — Besides these schools of forestry of a high grade there are a great number of schools of forest guards, and forest schools of lower grade and of very practical character, where the elements of forestry are taught, with so much of literary instruction as is needed for these subordinate duties. Occasionally these agents are assembled, at a leisure season, for the revision of their studies, and the examination of practical subjects. — The principal schools of forestry in Europe are as follows: In *France*, at Nancy; a school of forest guards at Barres; a course in sylviculture at three agricultural colleges, and a special course at the "*Institut Agronomique*" in Paris. In *Denmark*, at Copenhagen* (in connection with agriculture). In *Sweden*, at Stockholm; and elementary forest schools at seven other places. In *Finland*, at Evois. In *Russia*, at St. Petersburg, at Lissino, and with agriculture at Moscow;* and at Nova Alexandria* in Poland. In *Germany*, at Eberswalde and Münden in Prussia; at Giessen* in Hesse; at Tharand in Saxony; at Aschaffenburg and Munich in Bavaria; at Tübingen* in Wurtemburg; at Eisnach in Saxe-Weimar; at Carlsruhe* in Baden. In *Austria*, at Vienna,* Eulenburg, Weisswasser, Lemberg, Graz,* Aggsbach, Schemnitz,* and other places. In *Italy*, at Vallombrosa. In *Switzerland*, at Zurich.* In *Spain*, at Escorial. In *Portugal*, at Lisbon.* In some of the above places, (those marked with a star) forestry forms a part of some larger institution, such as a university or a polytechnic school.— As a general thing students not aspiring to the state service are allowed to attend these schools, and may receive diplomas. In many cases state students receive aid, and in some they are held to service for a certain period after graduating. No school of forestry has hitherto been established in Great Britain, but those seeking forest service in India and Australia obtain their professional training in France or Germany. It will undoubtedly be found to the interest of our agricultural colleges and our universities to provide means for instruction in the practical duties of forestry in the United States, although from the tenure of our lands in private owners, we can not offer certain appointments in any way comparable with those in European countries The instruction should chiefly relate to the details of planting and management, and a knowledge of the conditions best calculated to secure success. It would include mathematics, as applied in surveys, measurements and various calculations; chemistry, both organic and inorganic, especially as applied to soils; geology and mineralogy, the natural sciences, physics, meteorology; in short, whatever enables the careful observer to anticipate success from a knowledge of requirements,

or to avoid failures by knowing their causes. As an essential means of instruction, schools of forestry, besides the apparatus for scientific illustration, must have collections of tools and implements, models of machines and structures, cabinets of woods for showing their structure, qualities and uses, geological, mineralogical and botanical series, and especially gardens and plantations, including labeled specimens of living trees, of as many species as the soil and climate will allow. As a first requisite in tree planting we should understand the capacity of soils and the requirements of different trees with respect to them. But as the roots of trees penetrate much deeper than those of agricultural crops, the nature of the subsoil is often an important matter; and as both of these are principally derived from the disintegration of rocks, the study of geology finds a direct practical application. It is not unusual to find certain rocky strata distinguished by some particular kind of forest growth. The chestnut, for example, can not be made to thrive on a calcareous soil, but prefers the silicious, and especially that from decomposed granite. The pines prefer a sandy soil, if the subsoil is suitable; and the oaks generally require a moderately compact and strong clay soil. Neither a purely silicious, calcareous or aluminous soil is entirely suitable for trees, but a mixture, and especially a portion of vegetable mould is generally preferred. — It is a peculiar advantage in forest tree growth that it may often be secured very successfully upon broken and rocky surfaces altogether too rough for cultivation, as the roots insinuate themselves into crevices, wherever there is soil and moisture, and act as powerful agents in promoting the decomposition of rocks, and their conversion into soil. Although the presence of moisture in the soil is generally necessary to vegetation, its excess is injurious; hence drainage becomes necessary for successful planting. The roots of plants absorb moisture from the soil, and give it out by evaporation from the leaves. By this means the planting of certain trees, such as poplars and willows, on the borders of swamps, has the effect of drying them. Trees are also found to intercept or absorb malarious emanations from marshes, and hence their cultivation may become an act of public utility, as a sanitary measure, for the protection of cities and towns against insalubrious exposures. — There are several different modes of management of woodlands, each of which has its advantages in certain localities. 1. *Selection;* or the taking of trees here and there, leaving the younger to take the place of those removed. This is the common practice in reserved wood-lots, and is generally a wasteful and ruinous one, because in such forests the trees are of all ages and sizes, the amount of timber is less than by some other methods, and vacant places are very apt to form, that tend continually to become larger. Still in some places it is the best and indeed the only one that can be practiced, as, for example, in places where it would be unsafe to clear off all the timber at once, on account of loose drifting sand or steep declivities that might suffer from erosion of torrents. If done at stated periods it is also the best practice in spruce and cedar woodlands, where trees below a certain size are left for future cutting. — 2. *Coppice growth.* By this method, all the trees worth cutting are taken off at once, and a new growth springs up from the stumps and roots. It is allowed to grow to the period fixed for cutting, which depends upon the kind of tree, the goodness of soil, the climate, and the uses to which the wood is to be applied. It can be used only in deciduous woodlands, for the conifers do not generally thus reproduce, and is especially useful in the management of woodlands kept for supplying charcoal to furnaces. Although trees in such cases will generally grow if let alone, there are certain measures that should receive attention in order to secure the greatest yield. They must be carefully guarded against fires, and fenced against cattle, and especially against sheep, at all times. Their injury from browsing, and breaking down of young sprouts, will do a great deal more harm than the profit that could be realized from pasturage. The trees should be cut as close to the ground as possible, *and always in winter, or before the sap starts in spring.* Care must be taken not to injure the bark on the stump, as the sprouts come out along the line of junction between the bark and wood, and the stumps should be rounded off with an adze, so that the rain will not settle upon them. The sprouts may sometimes be bent down and partly buried, a notch being cut where they are covered, and thus a tree with an independent root may be started, and when rooted, these sprouts may be cut apart from the native tree. Coppices should sometimes be thinned out, where the growth is too dense, and may be cut off at intervals of from ten to forty years. The kinds of trees that grow best in coppices are the oaks, chestnut, poplars, cottonwoods, locust, ailanthus, willows, catalpa, soft maples, linden, elms, ash, birch, hickory, alder, etc. The beech, hard maple and some others do not grow successfully in this manner, and, as a general rule, the reproduction is more successful in a deep rich soil, with a moderate degree of moisture, and in a humid climate. It becomes more uncertain as the soil becomes hard, and the climate dry. In cutting off a coppice growth, it is a profitable practice to reserve some of the more thrifty of the young trees, to grow on to a second or even third or fourth period of cutting, when they will have acquired much greater value for timber than they would be worth for firewood. This is especially the case with the oak, ash, hickory, black walnut and other kinds valuable for manufactures. Such trees, when left exposed to the air and light, are apt to become covered with branches along the sides, that would become large, to the injury of the timber if left. They should be cut off late in summer or early in

autumn, at which season they will not be likely to sprout again. For hoop poles, the cuttings may be made once in five or six years; for fencing, the trees may be suitable in ten or twelve years; for posts, in fifteen or twenty years; and for railroad ties, in from twenty to thirty years. Where oak is raised for supplying bark for tanning purposes and for dyeing, it is usually cut off when from twenty to twenty-five years old. As this cutting must be done when the bark will peel, it is delayed till vegetation has started in the spring and early summer, somewhat to the prejudice of the future growth, which becomes feebler as the season advances, and is lost altogether when the wood has ceased to form for the season, and the buds for the next year are set.— 3. *Full forest growth.* By this form of cultivation the forest is started by planting or sowing, and so dense that it will shade the ground while still young, and until which time it may be cultivated, sometimes with some farm crop, partly to keep the ground mellow, and partly to kill the grass and weeds. As the trees become too dense, so that their branches interlock, they should be thinned out; and this thinning process should be continued from time to time, usually at intervals of five or six years, but more seldom as the trees become large, until forty or fifty years old. In countries where timber is valuable, the profit from these thinnings will more than pay the whole cost of cultivation. The first will furnish hoop poles, vine props and stakes; the next, poles; and the later ones, small timber for a great variety of uses. In all of them the top wood is cut into firewood, and the twigs are bound into faggots and sold for oven-wood. In such a forest, properly managed, the trees being a little crowded grow tall and straight, they are all of about the same size and age, and under the best management they will yield at full maturity from three to five times as much in volume and in value as trees growing naturally and without care in our forests.— As trees gain in size they become relatively more valuable per cubic foot, because the wood is harder, stronger, and adapted to more uses than small wood. In all trees the wood is of greatest worth at full maturity, and although they may still keep alive and continue to form new wood on the outside many years after they have begun to decline, they are apt to become hollow and unsound within, and may finally be almost good for nothing before they fall of old age. It is best, therefore, to cut them when fully ripe, and before any part has decayed. The forester has not performed his whole duty in bringing the woodland to maturity; it is not finished until this timber has been cut off, and a new crop has been started in its place. In this, modern forestry has achieved great success, at almost nominal cost, by so managing the cuttings that nature does this work of restoration of itself. In a dense forest the surface of the earth is deeply shaded, and nothing will grow on the ground. The few seeds that sprout soon perish, and in a crowded forest few seeds will grow on the trees. As the period for cutting approaches, a part of the trees are taken out, leaving fifteen or twenty to an acre, more or less, about equally distributed over the surface, and of the kinds desired for the new growth. These, now freely exposed to the air and light, will probably the next year bear an abundance of fruit, which, falling upon the litter, and covered by the leaves of the same season, will soon spring up, covering the whole surface with a carpet of young trees. These require some shading, and would all perish in an open field. This shade they get from the parent trees, and with the sun shining on them a part of the time, and a part of the time shaded off, they grow rapidly in the soil that has been forming for a long period from the annual fall of leaves. As the young trees get larger, they need more air and light, and a part of the old trees are taken out, and finally the remainder, leaving a new forest fully started, to grow on perhaps for one or two hundred years.— The profits of planting in this manner are very large, but the long period required for returns renders it not very inviting for investment. Most proprietors can not afford to wait so long for their money, and hence it is generally employed by governments, to secure the heavy timber needed for their navies and other uses. In such a forest, after a few years, cattle may be pastured without injury, and in beech and oak woodlands they become valuable for the fattening of swine. The privilege of pasturage and feeding is sometimes sold at auction, and in others it is a right enjoyed by communes and villages. Whenever allowed, the herds of cattle or swine are generally in care of keepers—not their owners, but persons appointed for the purpose, who have no motive for preference, and who will allow all the animals in their care an equal chance. It is sometimes claimed as a right, to gather litter from woodlands, for fertilizing lands, or for bedding cattle in stables. The practice is always bad, and should be prevented where possible. It tends to impoverish the soil, and eventually to check the growth of the trees. This method of cultivation is the only one applicable to coniferous trees, as they can be grown only from seed. As they require particular care when young, they should always be started in seed-beds, and be transplanted in nursery rows three or four years before being finally set where the trees are to grow. In extensive operations, nurseries should always be established as near as may be to the intended plantations. For small planting it is advisable to purchase the young plants from nurserymen, who can generally sell them cheaper than an unskilled planter could grow them. When wild coniferous trees are used, they should be taken up in a damp time in the spring, the roots dipped in a puddle of rich soil, and they should be placed in boxes, not too closely packed nor covered so as to exclude the air, and they should be set in nur series and cultivated two or three years before final planting. In deciding between sowing and

planting, we must be governed by circumstances. In the case of oak, and the nut trees generally, as also in that of pines on a very light sandy soil, the young roots strike deep, and can not be extracted without great injury. They should therefore generally be planted or sown where they are to grow. There is an advantage from planting in rows, because they can then be cultivated while young. If there is a little uncertainty as to what trees are best suited to the situation, they may be planted alternately, of different kinds, as in Scotland the *Pinus sylvestris* (Scotch pine) and the larch. At the period of thinning, one or the other may then be removed, leaving all the trees of one kind, as found most promising, or some of each may be left as thought best. As a general rule, a mixture of species produces more quantity and greater value than all of one kind. — As to the density of growth, much depends upon the soil, slope, aspect, elevation, climate and other causes. It may be more dense on a hillside than on a plain, and at greater elevations than at those of less height. In planting trees on a hillside, the rows should run horizontally, at the same elevation, following the contour of surface, without regard to allignment in any other direction. The reason of this is, that the soil is not so liable to wash when worked in this manner. On very steep slopes it is injudicious to disturb the soil more than can possibly be avoided, and upon a northern slope it is sometimes best to sow seeds upon the snow. They would be more likely to perish, if sown on a southerly slope; in fact, trees are in such places much more difficult to start than in any other, and, under equal conditions otherwise, a southern exposure is more often treeless and arid than one fronting to the north.—In collecting seeds of trees for planting, it should be remembered that they are liable to heat and mould if placed in heaps while still fresh. They should therefore be spread evenly, and stirred from time to time until somewhat dry. Those that are thin and chaffy, like the birch, may be kept in papers or sacks till the next spring. Those with a hard shell, like the locust, acacias, coffee-tree, etc., should be scalded slightly and soaked in warm water until they swell, and then should be immediately planted. Those that ripen late in spring, or early in summer, should be planted at once. The willows, poplars, cottonwoods, elms and soft maples are of this kind. The hard shelled nuts may be planted in the fall of the same year in which they were grown, or early the next spring. They may be kept over winter by spreading on the ground in a dry place, covered loosely with straw and boards, but exposed to the weather, or they may be placed in alternate layers with sand in boxes or barrels, and thus left in the open air till spring. It may be said of nearly all forest-tree seeds, that they lose their vitality in a relatively short time, as compared with the grains. Some can scarcely be kept over winter, and must be planted at once. Indeed in some soils and climates, fall planting is preferable to planting in spring, but in this no rule of general application can be laid down. In doubtful cases and untried conditions no extensive operations should be undertaken without first experimenting, not only as to the season and manner of planting, but also with respect to the kinds most likely to succeed in a given locality. —In planting tree seeds, whether in the large way, where they are to remain, or in seed beds, the soil should be thoroughly mellowed, by plowing and harrowing; and if in new prairie land, it is idle to expect success unless the sod be first thoroughly broken and rotted, and afterward the ground plowed as deeply as may be before planting. It is generally advisable to cultivate the land with some field crop a year or two after breaking The breaking can only be done early in summer, when the vegetation is most active. The ground becomes too hard, later in the season, and the sod will not decompose. For early spring planting the ground may be plowed the fall previous — In prairie planting it will generally be best to plant the seeds at equal intervals in rows, so as to admit of after cultivation by horse power. To secure accuracy in this, the ground, after plowing and harrowing, may be marked off into rows It is absolutely necessary in the more arid climate westward from the Missouri river, and a good rule almost anywhere, to plant rather closely together, so that the trees will shade the ground early, and afterward to thin out as they become dense. This forces the trees to run up straight, and secures a fine body to the trunk. Almost all trees, when planted with a free exposure on all sides, tend to grow low and wide The distance most frequently adopted is four feet between rows and two or three feet apart between rows.— On level ground the trees should generally be planted in rows running east and west, because they sooner shade the ground in this direction. Upon hillsides they should be in horizontal lines, for reasons already mentioned. Seeds may be planted and cultivated the first year like corn. The ground must be kept mellow, and it is a good practice to run a cultivator between the rows from time to time, in the early part of summer, whether there are weeds or not, and this practice is especially useful in a dry season.—In some trees, such as the oak, when set from nurseries, the stem becomes hard, and the growth slow and imperfect. It is sometimes best after the first year, when the roots have become well started, to cut down this stem close to the ground. A new and strong one will then spring up, and very probably outgrow, in a year or two, those that have not been cut back. A fire running through a young plantation will sometimes apparently ruin it altogether, by killing all the young trees. The roots will however be often found full of life, and by cutting off the dead stem, others will spring up from them. In such cases only one should generally be allowed to grow. Such an accident in a plantation of coniferous woods would be fatal, since they never

sprout from the root, nor can they survive the loss of their leaves. In some regions where from annual fires the trees have been killed off, and at the time of first settlement the surface shows nothing but herbage, the ground is found full of the roots of trees, which everywhere spring up when these fires are prevented. These "grub prairies" become, with no other care than a little protection, groves of trees that in twenty years or more afford an abundance of fuel, and wood for various other uses. In the southwestern states these roots continue to grow as the opportunity of foliage permits, until they become of large size, affording much material for firewood, and even for charcoal, in places where there was apparently no timber. — Besides rearing forest trees from seeds, they may be in some cases propagated with great success from cuttings taken from the young wood, or from the roots, and placed in ground previously well prepared as already described for planting. This may be done to great advantage with the willows, the poplars and the cottonwoods; and with some of these that do not readily produce fertile seeds, it is the only means by which they can be made to grow. It is generally best to cut these sprouts late in the fall, or during the winter, but never while they are in leaf. They may be kept till wanted for use, by burying them in trenches, where they are not exposed to standing water, or to frost, or by keeping them in cellars, tied in bundles, and with the ends covered with damp sand or moss. They should not be exposed to the dry air more than is absolutely necessary, and when cut, the incision should be made obliquely across the lower end, without loosening the bark. When kept in a damp place, a callus will form along the edge of the wood under the bark, and from this the roots will spring. For willows these cuttings may be one or two inches thick and two feet long. They are usually much less when taken from the poplars, being ten to twelve inches long, and from the last year's growth. They should be pressed obliquely into the ground, with the ends to the north, as being in this position less liable to dry up at the end, and more exposed to the sun. They should not project much above the ground. Although cuttings are usually set early in spring, in ground prepared the fall before, they may sometimes be set in autumn, or, if the weather permits, in winter. They will need cultivating and thinning, as already described for planted trees. — In the prairie regions of the west, where from an arid climate the cultivation of trees becomes difficult, the native cottonwoods that spring up by millions on the sand bars of rivers, may be plowed up, or pulled up in moist places without plowing, in great abundance, and are preferable to cuttings. They may be plowed in, by laying obliquely down in a furrow and covering with the plow. In these dry prairies the cottonwoods or the willows may be planted with great advantage alternately with the more valuable kinds, for sheltering them from the sun and the drying winds, until they get well started and able to protect themselves. Among the kinds worth cultivating for profit in these regions may be mentioned the black walnut, ash, oaks, locust, mulberry, western catalpa, honey locust, ailanthus, osage orange, box elder, hackberry, elms, soft maple, and native red cedar. As a general rule the conifers do not succeed, and it has been found impossible to raise the beech, chestnut or sugar maple, except in particular localities, and by a combination of circumstances that is rare. — The osage orange is used as a hedge plant about as far north as Chicago, but along its northern limit it becomes liable to winter-kill. Further north the white willow forms an excellent hedge when closely planted. Both this willow and the cottonwoods grow with great rapidity, and at the age of eight or ten years they may have a diameter of as many inches at two feet from the ground. When cut in summer and peeled they dry very easily, and furnish poles for fencing and other uses that will last many years when not in contact with the ground. At twenty or thirty years the cottonwood may be sawn into boards suitable for inside joinery, and planks for bridges and other uses. — In a prairie region trees become of great utility to agriculture, when planted in belts, from four to ten rods or more in width. They protect grain and fruits from drying winds, and tend to mitigate the severity of drouth. In winter they afford shelter from the fierce north winds that have at times proved so destructive to property and to human life. There can be no doubt but that if a fifth or a fourth part of the prairies were covered with such belts of timber, the amount of grain that could be raised upon the remainder would be as much as would be realized from the whole, without them. As the public land surveys are run with the cardinal points, these necessarily become the direction of farm lines, and very naturally of timber belts. They perhaps afford the greatest protection when planted in east and west lines, but it would be still better to have them around every prairie farm, and at intervals of a quarter of a mile or so throughout the prairie country. If neighbors could agree to each plant on two sides of their farms, these belts would afford shelter to both, and the whole would be mutually benefited. The first benefit from shelter belts would be, protection against hot and dry summer winds so liable to prevail in the western states. The cultivation of fruits may be said to depend for success upon their presence; and even in the older states, where fruits were formerly raised with more certainty than at present, it would be found that the want of shelter from adjacent woodlands is a principal cause of modern failures. Another benefit is derived from the prevention of drifting snows in winter, especially along public highways and railroad cuts. This has been so completely proved upon the line of the Northern Pacific railroad, that the company has undertaken to plant

with belts of trees, the exposed places along the whole line. For plantations of this kind, from six to eight rows, four to six feet apart, should be planted on the side most exposed to the wind, and one of fewer number on the other side, some seventy-five feet from the track. The ground must be thoroughly prepared by breaking the sod, back-setting and deep cultivation beforehand. About one month can be devoted to planting in spring and one month in autumn. The trees must be carefully cultivated three or four years, and will need to be protected from cattle, and from prairie fires. The best means for guarding against these fires is to plow several furrows on each side of a strip of land outside of the belt, one or two hundred feet apart, and carefully burn off the grass between the furrows as soon after the first autumnal frosts as the fire can be made to burn. A similar precaution taken along the sides of the track, between the timber belts, would render accidents from fires almost impossible, and the danger becomes every year less as the country becomes well settled. By preventing the snows from drifting, they protect the ground against frost, and when they melt, the water settles into the soil, and keeps it moist for a longer time. This is one of the reasons why the north sides of ravines and of mountains are usually better wooded than those which have a southern exposure. In regions where the conifers, such as cedars and spruces, can be cultivated with ease, they might save infinite trouble from the drifting of snows along the highways, and screens in these places become almost as important an object of public expense as bridges. Such evergreen belts should be in double rows, the trees in each being opposite the spaces in the other. Their density and distance between rows depend upon the local circumstances, and can only be determined by knowing the conditions. Great success has been obtained in Russia from planting along railways; and with deep cultivation beforehand, and careful attention afterward, they have succeeded in places that appeared utterly beyond hope of improvement from aridity of the soil and dryness of the climate. — The importance of timber as a material of indispensable want, and the rapid exhaustion of our native forest supplies, being admitted as facts, it becomes an important question as to what can be done by governments toward maintaining, regulating and restoring these supplies. — Our settled lands all belong to private owners. There can be no planting done upon them at public cost, and it is not in the least probable that the title will ever be recovered by government, for the purpose of planting. The public lands belonging to the national government are remote from the great body of our population, and we scarcely find it possible to protect the timber upon them from being cut to supply the wants of adjacent settlements. The law, in fact, now gives them this right in certain cases, and moreover these supplies are so remote from the great markets that they can not be made generally available, by any existing mode of transportation, and at present prices. — The states own some lands that have been given for educational and other purposes, but they are being sold as fast as opportunities offer, and systems of forest management can scarcely be organized under state laws with any prospect of success. It must be admitted that these conditions present great difficulties, and the most probable result will be, that growing prices will sooner or later force upon our people the realization of the fact, *that there is profit in growing timber*. Whenever this comes to be believed and felt, the owners of land will very probably plant for this profit, just as they now raise grain. The kinds best suited for given localities will be carefully sought out, and the best methods of management will be studied and practiced. The sooner we begin this work the less we shall feel the inconveniences of scarcity and high prices. There can be no doubt but that if one-quarter of the whole area of the United States were planted in timber, the shelter and protection which these woodlands would afford to the remainder, would enable us to raise the same amount of grain that could be got from the whole surface without woodlands There are waste grounds and exhausted lands in almost every part of the country, that might be used for planting with the greatest advantage, and nothing will so restore fertility to an old worn out field as a crop of timber. — The government can aid in this measure in various ways. It can also, while some considerable tracts of timber land remain in its possession, adopt measures tending to economize present resources and provide for future wants. These may be briefly stated as follows: 1. It may reserve from future sales, selected bodies of timber land, and put them under management tending to use the timber already grown to best advantage, and to reserve and protect the young growth for future supplies. This is being done successfully and with profit in British India, Australia and other colonies. The system of leasing timber-rights upon ground rents, premiums at auction sale of rights, and a rate or tariff on the timber taken, as long practiced in Canada, deserves our most careful study. 2. It may cause to be planted young forests, upon lands still owned by the government, and in situations that have been found best adapted for timber growth. 3. It may establish *experimental stations*, for determining questions in forest culture that can never be done by individuals. These stations should have reference to the acclimatization of species, the adaptation of particular kinds to given localities, the best methods of cultivation, and all scientific questions involved in the general subject of forestry. These stations should be judiciously chosen, widely distributed, and carefully managed, all the results of practical value being published for the information of the people. 4. It may cause to be prepared and published the latest and best of the results of researches in other countries, that afford results of practical value in our

own country, and it should do its share in the advancement of our knowledge upon these questions, by aiding in carefully conducted researches. 5 In respect to the existing timber-culture acts, they should be so amended that when an entry is once made under them, the land should never after be liable to entry under any other form, at least not unless its unfitness for tree culture has been proved by proper evidence. It is a very common practice for persons to make these entries, hoping to sell out the privilege of homestead entry or pre-emption by abandoning them. 6. It has the power to couple a condition of planting, or of maintenance of a certain amount of woodland (if now timbered), in all future conveyances of public lands. — As to the power of states to encourage tree planting, it might be exercised in the following manner: 1. By laws encouraging and protecting trees along highways, and by rewarding such planting in exemptions from highway taxes. They might authorize local highway authorities to plant screens and timber belts where needed for a public benefit. 2. By exempting lands planted in timber from taxation, or from the increased value thus given them, for a term of years. 3. By premiums given through the agency of agricultural or other societies, to be awarded for best success in planting or greatest areas planted. 4. Reports of facts worth knowing should be published, and prizes for approved essays should be offered, and the best published for distribution to those who would be most benefited by them. 5. An interest should be awakened in educational institutions and especially in our agricultural colleges. Experimental plantations, lectures and other means of instruction should be provided. 6. The distribution of seeds and plants at cost is provided in some countries, with great success, and without burden to the public. It might be done in some localities witl great advantage in our own country. 7. A state board of forestry or a commissioner of forestry might be created by law, for the collection and diffusion of information upon all matters relating to the subject. 8. Efficient laws might be passed for preventing forest fires, by adequate penalties against the careless use of fires, and strict regulations tending to their prevention and control when started. 9. Model plantations, on the plan of model farms, or in connection with them, might be established. 10. When waste lands unfit for agriculture are sold for taxes, the title should be vested in the state, and the lands, if possible, reserved for timber culture under such regulations as should tend to best results. In cities and villages the local governments might promote a taste for sylviculture, and illustrate some of its principles by ornamental plantations and the planting of parks. To give these most value, collections of living trees, properly labeled, should be established at points where they would be of most interest, and especially near schools and public institutions. FRANKLIN B. HOUGH.

FORMOSA (Tai-wan), a fertile island 90 miles distant from the coast of China, which is about 240 miles long and 70 miles wide, intersected by a chain of mountains along its length. The eastern half of this island was from the fifteenth century claimed by the Japanese; the Chinese, as their maps made by the Jesuits show, claiming only the western half. The Dutch were, in 1662, driven from their settlements at Zeelandia on Formosa by the Japanese half-breed Koku sen-ya ("Coxinga"), and Dutch and Japanese Christianity on the island was extirpated. In March, 1867, the American brig *Rover* was wrecked off the southern shore, and the crew put to death by the natives. In June, 1867, Commodore Bell with the United States steamships *Hartford* and *Wyoming*, by orders of our government, landed a force to chastise the savages (Botans), but was repulsed. Unable to obtain redress from the Peking government, which disclaimed responsibility over eastern Formosa, our consul at Amoy, Gen. Charles Le Gendre, visited the chief of the eighteen tribes, obtaining from him a promise to protect the lives of shipwrecked Europeans and Americans. On June 8, 1874, a Japanese force of 1,300 men, under Gen. Saigo, occupied for six months a point at Liang Kiao bay, with the object of punishing the Botan savages who three years before had massacred the crew, numbering fifty-four men, of a vessel from the Riu Kiu (Loo Choo) islands. The Chinese government demanded the withdrawal of the troops, and war was imminent. Okubo, the mikado's representative in Peking, firmly demanded that proper indemnity should be paid, and China agreed to assume responsibility over eastern Formosa. The Chinese paid the indemnity of 700,000 taels, and the Japanese on the 3d, having lost 700 men and spent $5,000,000, disembarked, having accomplished something for the benefit of the world. The fertility and position of Formosa make it a desirable island for European powers ambitious of influence in the East, but as yet China has not shown any evidences of a willingness to part with it. W. E. G.

FORTUNE BAY OUTRAGES. (See TREATIES, FISHERY.)

FORTUNES, Private. The private fortune of every person consists of the possessions whose management and enjoyment are attributed to him by the laws. At all periods the formation, growth and destruction of private fortunes have been intimately connected with the economic and political prosperity or decline of empires. — Among the peoples of antiquity of whom we have record, private fortunes consisted, especially at the beginning, of flocks and herds, and of land. The inequality of fortunes is noted in the book of Job. The partial inventory of Job's estate declares that he had 7,000 sheep, 3,000 camels, 500 yoke of oxen, 500 she-asses, and numerous slaves. At that remote period great fortunes were acquired by usurpation. Job speaks

of people "who remove landmarks," rob the flocks of others, "take away the ass of the fatherless and the ox of the widow"; and says that such people will reap the field of another and gather the vintage of those whom they oppress; and will take away the garments of the poor man and leave him naked and exposed to the rigorous cold and the mountain rains. Hence, some great fortunes were acquired by economy and labor, others by robbery and violence.— The evil consequences of extreme inequality of fortunes had already become very great among the Jews, when they were remedied by the institution of the Sabbatical year and the jubilee. (See Leviticus, chap. xxv) Every seven years, debts were remitted; every fifty years, lands, whatever may have been the previous stipulations, reverted to their former owners. Houses in walled towns were the only exceptions to this law. — All the legislators of antiquity prescribed regulations intended to prevent inequality of fortunes or to diminish it. According to the Mosaic law (so called), the lands divided among the tribes and families became inalienable. Minos in Crete, and Lycurgus in Sparta, had established similar laws. "In the time of Lycurgus," says Plutarch, "there existed so great an inequality between citizens, that most of them, being debarred from any settled occupation, and reduced to poverty, were a burden to the city; while all the wealth was in the hands of the smaller number * *. Lycurgus divided the lands of Laconia into 30,000 parts, which he distributed among the inhabitants of the rural districts; and he made 9,000 parts of the territory of Sparta, for as many citizens." At Athens Solon proceeded by the abolition of debts: he did not touch the lands, because among a commercial people landed property is only an accessory. — At Rome we find that there was originally a partition of land which assigned to each citizen about one and one-fourth acres. Later, as conquest extended the national territory, the portion allotted was increased to three and a half times this amount. Confiscation of the lands followed closely every division. Then came laws fixing the rate of interest on debts, and agrarian laws limiting the quantity of land a citizen could possess. The laws of Licinius Stolo, which were operative at Rome for from two to three centuries, provided that no citizen, under any pretext whatever, should in future possess more than about 315 acres, and that the surplus should be gratuitously distributed or secured for a low price to the poor citizens; that in this division at least four acres apiece should be assigned to the citizens; that only a designated number of slaves should be allowed on these lands, to cultivate them; that the number of flocks and herds should be also limited and proportioned to the quantity of land a person occupied; that the richest persons should not send to the commons or public pastures more than 100 cattle and 500 sheep. At the same time that these laws were rigorously enforced, every agriculturist was placed under the direct surveillance of the censors, who took note of any one whose lands were neglected or badly cultivated. Under this strict regimen the Roman republic attained the highest degree of prosperity, and found itself able to maintain wars against the Latins, the Gauls, and Carthage. At that time, as Horace says, private fortunes were moderate, and the republic was opulent. — The aim of the agrarian laws and of all the laws designed to restrict the inequality of fortunes, is evident. In all the states of antiquity the very defective organization of the judiciary made it unable to prevent confiscations, especially when war and pillage were the means most employed for the acquisition of property. Now, the inevitable and immediate effect of the concentration of property was to destroy the greater part of the free population, to dry up the sources from which the armies were recruited, and thus to prepare the way for the downfall of the state. In the interior the multiplication of indigent citizens, a result of the concentration of fortunes, was a perpetual danger to the constitution; these men, who considered all industrial labor as servile, had no other means of existence than the gratuities of the public treasury, and they incessantly conspired to elevate a tyrant over the heads of the rich. These motives acted with greater force among exclusively military people, such as the Spartans and Romans. Elsewhere, at Athens, for example, commerce, manufactures and free colonization diminished the extreme inequality of fortunes and its disadvantages.— Whatever may have been the reason, the laws designed to maintain equality were everywhere powerless. Among the Hebrews, in the times of the kings, the difference in fortunes was notable. The prophets could not utter maledictions enough against the confiscations of the rich and against the luxurious habits introduced by foreigners, after the conquests of David and Solomon. At Sparta the treasures imported after the taking of Athens, and the right to make a will, which was introduced in spite of the laws of Lycurgus, led to the concentration of fortunes. In the time of Agis III. "there were," says Plutarch, "not more than 700 native Spartans, of whom scarcely 100 had preserved their inheritance; all the rest were only an indigent multitude, who, languishing at Sparta in opprobrium, and weakly defending themselves against enemies from without, were constantly spying for an opportunity for a change which should relieve them from a condition so despicable" Agis, when he attempted the restoration of the old laws, had immense patrimonial estates, to which he joined a sum of money estimated at about $600,000. The failure of his enterprise is well known.— At Rome the Licinian laws also became obsolete, under the influence of the same causes that had overthrown the agrarian laws ascribed to Moses and to Lycurgus. "Macedonia having been subjugated," says Polybius, "people thought they should be able to live in entire

security and enjoy tranquilly universal empire. The greater part lived at Rome in a strange bewilderment." The pillage of Africa and Greece profited only a small number; they employed the wealth acquired by war in destroying the constitution of their country. The tragic end of the Gracchi, who attempted to restore the Licinian laws, as Agis had attempted to restore the laws of Lycurgus, is well known. After their death the usurpations of the great had no longer any restraint. "The rich," says Appian, "caused the greater part of the undistributed lands to adjudged to be themselves, flattering themselves that long possession would prove an unassailable property right; they purchased or took by force the small inheritances of their poor neighbors, and thus made their fields vast domains. Military service drawing the free men away from agriculture, they employed slaves to take care of the flocks. These very slaves were most profitable property to them, because of their rapid multiplication, favored by exemption from military service. What happened in consequence? Powerful men enriched themselves beyond measure, and the fields were filled with slaves; the Italian race, worn out and impoverished, perished under the weight of poverty, imposts and war. If, perchance, the free man escaped these evils, he became ruined by idleness, because he possessed nothing of his own in a territory wholly invaded by the rich; and because there was no work for him on the land of another, in the midst of so great a number of slaves."— Then arose at Rome the colossal fortunes of such men as Lucullus and Crassus, and in their train followed the civil wars and the establishment of the despotism. At the time when Cæsar took possession of the dictatorship, 2,000 rich men alone possessed almost everything, and 320,000 indigent heads of families participated in the gratuitous distributions made by the public treasury. The maintenance of such a condition of things was impossible. The imperial régime lived by the confiscation of these great fortunes, and it created others, those of the freedmen, the publicans and the courtesans. It encouraged, besides, manual labor, and enrolled everybody into a sort of administrative community: this régime, completed by the confiscations, was the agrarian law of the time, when the imperial domain absorbed most private fortunes.— The middle ages had their great feudal fortunes founded on conquest and pillage, and their great ecclesiastical fortunes obtained by donations and testaments. In the twelfth century, in France and in England, the nobility and the clergy shared the soil in nearly equal portions. They likewise shared, in nearly equal portions, the serfs of the ancient imperial domain, which constituted the total laboring population.— Italy and Germany had states where great fortunes arose from commerce and manufactures. Everywhere wealth consisting of personal property tended to break up the territorial monopolies: the conquest of America, by establishing in the new world landed estates like those of ancient Rome, reduced the influence of the ancient territorial fortunes. Later, the invention of machines and commerce created new fortunes, while the financial and political revolutions tended to level the old ones. If it be true that, since the time of Cæsar, there have been no more agrarian laws in the west, it is certain that the revolutions and confiscations, and the civil and foreign wars, have taken the place of them. — To-day, in France, there are not many fortunes which much exceed the average, though there are many of moderate size. In England, Spain, Italy and Russia exceptional fortunes are more numerous, and the middling class less important. In England, in spite of the maintenance of feudal laws, and despite the concentration of landed estates brought about by Pitt, the middle class of society has acquired immense influence. It is this class, which, in our time, has created and possesses the largest fortunes, and these fortunes are enormous. In the United States there is a marked difference in the condition of society in the northern, the western and the southern states. In the northern and western states large fortunes have been created by trade and by mining industries; but there is in them nothing exclusive or oppressive; they are only the last step of a ladder of which all the intermediate rungs are filled.— The most superficial examination suffices to make one perceive the fundamental difference between the private fortunes of ancient times and those of to-day. In the former times the wealth produced by manufacturing and trading people was a prey for warlike nations, and the latter, exposed to the brutalities of the military spirit, saw the confiscations of the great prepare the way, by the spoliation and corruption of the weak, for revolutions and civil wars. All the efforts of legislators proved powerless against that fatal consequence of the ideas which controlled ancient communities, ideas which were immoral, and radically contrary to the very foundation of property, labor.— Among moderns, on the contrary, the theory of private property is founded on labor, and the security of property is an uncontested fundamental principle. Ownership being made more secure, colossal and rapid fortunes have become more rare: it has been easier for the poor person to defend his property against fraudulent and violent confiscations Finally, France has in the civil code an agrarian law of sure effect in the institution of equal inheritance. In England and the United States the greater security of property, and a more complete freedom of capital and labor, have produced more advantageous economic results with a very different proportion in the distribution of fortunes. Among the ancients small farming, insecurity, and the imperfection of industrial processes rendered accumulations slow and difficult. Among moderns, on the contrary, the invention of machines and the improvements

in industrial processes, a social organization less infected with a military spirit, a more secure condition of property, and especially better moral aims, have rendered legitimate accumulations more easy and more rapid. For the rest, political economy has singularly simplified the problems relative to the proportions of private fortunes. It is little concerned to know whether it is advantageous for fortunes to be equal or unequal, large or small: it is sufficient for it that they be created, as far as possible, by the labor of the one who possesses them. The greatest fortune that can be imagined, if it is the product of labor, without fraud or violence, is an increase of wealth and a benefit to society. Far from being injurious to the poor man, it furnishes him implements of labor, the means of building up, in his turn, a private fortune. The smallest fortune which is the result of fraud or violence, is a public scandal. — One single point is important. It is, that laws, customs and tribunals should resist the establishment of private fortunes by other means than by labor. All the efforts of civilization should tend to this end: this would be real progress. As to the fortunes acquired and held, they are few in comparison with those which the movement of affairs constantly raises up, and they can henceforth never constitute a monopoly. — Let capital and labor be free and secure: then there will arise few sudden fortunes, but there will arise a great number of fortunes. The number of great fortunes will increase, but the number of small and middling fortunes will increase still more rapidly. This rising movement of wealth will be slow and general; but its very slowness will prevent it from corrupting morals, and its generality will preserve the poor from oppression by the rich. — Economic freedom is the only agrarian law adapted to modern society. It favors at the same time the increase of wealth, and a real equality, viz., that which makes fortunes proportional to industrial aptitudes. It will also do away with the attraction which great capital, and fortunes too large for the person who possesses them to administer well, now exercise. Let us never fear that human works will last too long, especially when the matter concerned is private fortunes. COURCELLE SENEUIL.

E. J. L., *Tr.*

FOURIERISM. François-Marie-Charles Fourier, the socialist, and founder of the phalansterian school, was born at Besançon, France, April 7, 1772, and died at Paris, Oct. 10, 1837. — The family of Fourier was one of the oldest and most honorable commercial families of Besançon. His father, who died in 1781, left a fortune inventoried at 200,000 livres (over $38,200), after deducting liabilities and doubtful credits. He had, by will, made his son Charles heir of two-fifths, and each of his three daughters of one-fifth of his property. — Fourier was brought up for commerce. After having received the usual school education, he worked as a clerk in several cities of France, notably at Rouen and Lyons. He traveled in that capacity in Germany, Holland, and inland. In 1793 he came into possession of his patrimonial fortune; and, wishing to do business on his own account, he invested nearly all of it in colonial goods, which were dispatched from Marseilles to Lyons about the time of the siege of the latter city. Fourier lost his fortune there, and incurred also the risk of life and liberty. About the same time he found himself included in the great requisition, and passed some time in the army. Having procured a discharge on account of illness, he obtained employment in a mercantile house, and was charged, in 1799, to throw into the sea a cargo of rice, which his house had allowed to spoil in consequence of not having been willing to sell it during a time of scarcity. In 1800 he became an unlicensed broker at Lyons. — It was during this period of his life that he conceived his project of social reform, of which he gave the first formal statement in his "Theory of the Four Movements," published at Lyons, under the imprint of Leipzig, in 1808. A man of the eighteenth century, he had adopted its method and general scientific conceptions. He put aside all authority, traditional, moral, religious or political, and undertook to solve the problem of social destiny by a sort of scientific revolution. He treated society by the method of induction appropriate to the physical sciences, and maintained that the actions of men are controlled by one single, constant and universal law, to which he gave the name of *passional attraction.* In the "Theory of the Four Movements" this doctrine was not yet very clearly formulated, but its germ was there. This work contained a lively, spirited and sensible critique on the vices, defects and antagonisms which exist in our social state. From the time of the conception of this work Fourier had no other real occupation than to complete, publish and propagate his doctrine. Although he still kept in view, and, later, resumed, commercial occupations, all the live forces of his intellect were absorbed by this fixed idea. It was his constant companion in his various sojourns, in the bosom of his family, among his friends, in the country, at Besançon and at Paris, and when among his disciples. — In 1822 he published at Paris his "Treatise on Domestic and Agricultural Association." Until that time Fourier had had scarcely more than the one disciple, M. Just Muiron; about 1825 he found himself at the head of a small school. In 1826 he took up his permanent residence at Paris, and there wrote his "New Industrial World," which appeared in 1829. From this time to his death Fourier was employed in the propagation of his ideas by speaking and writing, and in a continual struggle against the silence or the railleries of contemporary criticism. He directed a violent polemic against Owen and the Saint-Simonians, in a pamphlet entitled: "Snares and Quackeries of the two sects of St. Simon and Owen, which promise Association and Progress," (1831); and in a weekly publication, "The Phalanstery or In-

dustrial Reform," (1832). An attempt at a phalansterian colony was undertaken at *Condé-sur-Vesgre* under his direction, but was soon abandoned. Finally, in 1835 and 1836, he published two volumes entitled: "False Industry."—Fourier not only undertook to formulate an economic doctrine; he aspired also to make over morals; in a word, to change all the relations of men, and to determine in advance, in detail, the material with which society must operate. We borrow from a work by M. Auguste Ott a summary of Fourierite doctrine, especially in matters of political economy.—"Fourier laid down as a fundamental principle that the end of man is happiness." In what consists this happiness? "True happiness consists only in satisfying one's passions. * * * The happiness about which people have reasoned, or rather failed to reason, so much, consists in having many passions and many means of satisfying them." Man should then follow only the natural attractions he finds in himself. "All those philosophic caprices, called duties, have no relation to nature; duty comes from men, attraction comes from God. We should study the attraction, nature alone, without any regard to duty. Consequently, if in present society, when men abandon themselves to their passions, there follow results which are disastrous (*subversive*, in the language of Fourier), this fact only proves that society is badly organized, that hitherto man has not taken account of the laws which govern him, with the laws of the material order."—"The problem being to find a social form in which all the attractions, all the passions of man, should be entirely and fully satisfied, the first thing to do is to analyze these attractions. This analysis demonstrates to Fourier that the passions of mankind may be reduced to twelve fundamentals: 1. Five appetites of the senses, which tend to the pleasure of the senses, to *internal* and *external* luxury: the passions of taste, touch, sight, hearing and smell. 2. Four passions of the affections, which bind mankind together and tend to form groups. These are friendship, ambition (tending to form corporations, communities), love and familism (the paternal feeling). 3. Three distributive or mechanizing passions, whose functions we will give, namely: the *cabalistic*, a passion which leads to intrigue, and makes one take pleasure in rivalries and cabals; the *butterfly*, a passion which incites to change, and to variation of pleasures; and the *composite*, a blind transport, an irresistible influence which carries away the senses and the soul. This arises from a combination of many pleasures — From the combined satisfaction of all these passions, arises *unitism*, the sentiment of universal affection, as white is the result of the combination of all the prismatic colors. The passions of the senses lead to enjoyments from the senses and to labors which tend to satisfy them. Thus the sense of taste is a coach with four wheels, which are, agriculture, conservation, cooking, and gastronomy. He who likes to eat cabbages, for example, will also find pleasure in cultivating them and having them cooked. These passions are then the mainsprings of pleasure and of labor. But if they acted without connection with other passions, labor and pleasure also would have few attractions. The quantity of attraction will be much more considerable if the passion of taste is at the same time accompanied by the satisfaction of the affectional passions. The passions will then combine men into groups, bound together by friendship, love, the spirit of association, and family feeling; and new energy will be given to human activity. But it is not everything to satisfy these passions. They are partially satisfied in the present state of civilization — very incompletely, it is true — and yet man is not happy. It is because the three essential passions have been misunderstood, disgraced and condemned; and these very passions are the fundamental springs of the social mechanism; they are the composite, the butterfly and the cabalistic. The composite tends to unite the small groups into numerous associations, in which the action of all may be combined, and where irresistible enthusiasm arises from the multitude of efforts. To give satisfaction to this passion, it is then necessary that the groups be organized by *series*, each composed of a certain number of groups of the same kind, which devote themselves to similar work; and that the series be co-ordinated among themselves. The cabalistic passion, the passion for intrigue, rivalry, emulation, ought likewise to be satisfied. It is consequently necessary that the series and groups be brought into competition, that is, that they be so arranged that there may be rivalry, emulation, between the various groups of the same series, and between the various parts of the same group. The series of the pear-cultivators, for example, will be composed of a certain number of groups, each cultivating a different variety of pear. Rivalry will spring up between these groups; each will determine to give the best products, and labor will acquire an activity of which civilized people have no idea. Finally, the butterfly passion demands that one often vary his labor, and that he be subjected only to short sittings. It is then necessary that the groups and series be so fitted together that every individual may belong at the same time to several series and several groups; that he may be able, when any particular labor fatigues him, to leave this labor and the group devoted to it, and go to another kind of work in another group or series. Thus the monotony of labor is made to disappear: the series, being continually renewed, manifest always the same ardor, and the individual, passing constantly from one kind of labor to another, is ever experiencing a new charm. — All these conditions would be realized by the following organization: The workers should be combined in associations (phalanxes) of about 1,800 members, men, women, and children of all ages. Each phalanx, organized by groups and series, should work in common a square league of land. The

living should also be in common. Each phalanx should inhabit an immense building called a *phalanstery*, arranged in the most agreeable and most convenient manner, where, at the same time, the special branches of manufacturing industry would be brought together. Fourier estimates that the energy given to labor by the proposed organization, added to the economy resulting from the consumption in common, would immediately triple the present production. Great comfort and luxury will then be at once brought within reach of all. The total product will be distributed as follows: one-third will form the dividend on the capital, and will belong to the proprietors of the phalansterian establishment; five-twelfths will be assigned to labor; one-fourth to talent. (Fourier varied sometimes from these proportions.) The same individual will be able to share in the product, under these three heads, as capitalist, laborer and capacity. But a minimum of consumption will be guaranteed to simple laborers. This distribution will not require any exchange transactions. Each individual will participate in the consumption in proportion to the dividend to which he is entitled. There will be various classes of tables, lodging, and enjoyments of every kind: each one will consume according to his income, and a simple balance of account will be sufficient to determine his condition each year. Each phalanstery will cultivate the products best adapted to its soil and climate, and the phalansteries of the different parts of the world will interchange their products. There will, besides, be established industrial armies, which will travel over the globe and execute all the great labors of general utility. Thus will universal harmony be established. The mechanizing passions will harmonize the five springs of the senses with the four affectional springs, and man will be able to give free course to all his passions without there being any danger of conflict. On the contrary, everything which, in civilized life, is reproved as vicious inclination and condemned by moralists, becomes a means of emulation and a source of activity. The passions, brought into competition by the cabalistic passion, exalted by the composite, made to supplement each other by the butterfly, will inspire the individual to incessant labors and pleasures, so that people will be eager to rouse from their sleep to receive the increased enjoyment which every phalansterian day holds forth.— Such is an outline of Fourier's system; and, it must be said, this system always remained in an outline condition, at least as to its whole. Nevertheless, as Fourier elaborated some parts of it, and as he attached great importance to the details of its execution, we should give our readers a nearer view of the details of the organization he proposed. He was chiefly possessed by two ideas: the first, for which we find no special term in this author, we call the idea of *symmetry;* the second, the idea of *series*. Symmetry, according to Fourier, constitutes one of the greatest laws of nature; it is also one of the fundamental laws of social organization, and all the groups and series of which we have spoken must be symmetrically disposed. This disposition consists in the formation of a centre and two extremities, two wings. Thus, in a group of seven persons, (the smallest number which can form a group), three persons form the centre, and two, each of the extremities. The centre will represent the general character of the group, the passion or the labor which constitutes it, (the *dominant* or the *tonic*); the extremities will represent the oppositions or contrasts which this general character will present. Between the extremities there will be rivalry, emulation; the centre will maintain the balance, and unity will be thus established between the differences. This arrangement may be applied in all the groups, whatever be the number of individuals of which they are composed, and likewise in the series of groups. Only, in the most numerous groups, new divisions and subdivisions are established, but always according to the same principle. Thus, each wing forms itself into a new centre and two new wings; the transitory characteristics hold between the centres and the wings, etc. Symmetry has an intimate connection with what Fourier calls *series*. It sometimes takes its name; for the word *series* in his theory has an altogether different sense from what it has in ordinary science. The idea of series, newly arisen in science, immediately played a great part there. It was in fact identical with growth, progress. In this sense it was the principle of *progressive* classifications in geology, botany and zoölogy. At the same time that it caused rapid advances to be made in these sciences, it demonstrated the progressive creation of the universe. In Fourier, wholly different series were treated of. Besides the progressive series, nature presented still others, like the series of musical tones, the series of colors In general, all things which presented resemblances and differences could be ranged in series. But, hitherto, these relations, so far as pertained to series, had given rise to no important scientific discovery, and there resulted from them only wholly secondary classifications. However, Fourier attributes to this principle of classification a wide significance, and by combining it with the principle of *accord* which musical sounds and the white light arising from the combination of the colors of the spectrum furnish him, he makes it the basis of his whole plan of organization.— According to Fourier, then, every passion, as, in general, every object in nature, is presented under a series of manifestations, of modes, which, contrary to the real series of botany, geology, etc., goes on increasing at first, arrives at a maximum, and then decreases. The increase is marked by the increasing number of springs or motives which act in each mode. Several springs, in fact, may act in each passion; friendship, for example, depends either on the spiritual motive of affinities of character or on the material motive of affinities of industrial inclinations; love, on sexual attraction,

or on spiritual affinity, the bond of the heart, which Fourier calls *celadony*. When one spring alone is in action, the manifestation is incomplete, mean and bare, good at most in civilization. Every passion, every enjoyment, every pleasure, ought to be *composite*, that is to say, the result of the play of several springs. Thus, the pleasures of the table are only complete when to the enjoyments of taste are added agreeable conversation and the charms of friendship; labor becomes a pleasure only when it is enhanced by the simultaneous satisfaction of other passions. The increase then in each series is determined by the increasing number of simultaneous enjoyments of which each passion is susceptible. Taking the musical scale for a type, Fourier consequently divides these series into eight principal modes. The first three (from 0 to 2) express the simplest satisfactions, those which civilization furnishes; the four following (3 to 6) offer complete enjoyments, harmonized, as the phalanstery will present them; the last ones do not exactly express a decrease; but they are rare and exceptional manifestations, endowed, moreover, with a high power in harmony. The eighth mode is the *omnimodal harmony:* it results from the organization and simultaneous play of the seven inferior modes. It corresponds with white in the scale of colors, or with the octave in the musical scale. It is the *pivot* which is in harmony with all the terms of the series. It is of itself divided into two: the direct harmony (corresponding to white), and the inverse harmony (corresponding to black). The three inferior modes are only secondary springs in harmony; the four subsequent modes will be the mainsprings, properly so called, of the organization of the phalanstery. The superior modes, the *high*, *most puissant moduli, the infinitesimal moduli*, will have for their function to establish a bond between the different phalansteries, and to bring about unity and universal harmony.— Taking these hypotheses for a starting point, what was the problem Fourier propounded to himself? In virtue of his general principle, the social organization can not be perfect save on condition of not leaving one single human desire without satisfaction, or one single sentiment without complete development; and, moreover, the desires and passions are the necessary mainsprings of social organization; so that, if a single one of these springs were neglected, the organization itself could not arrive at its perfection. The problem laid down is then this: to create satisfaction of every kind in all the series at once, by the satisfaction given to each passion in all its modes without exception, and by the effect of a mechanism which embraces at the same time all these passions and all these modes. A mechanism which permits all the passions to be satisfied, and the necessity of giving free play to all the passions in order for this mechanism to be able to perform its functions: such are, then, the fundamental conceptions of the phalansterian organization. Such is, clearly, also the idea of Fourier. The organization must be integral; all the wheels of the mechanism should be put into operation simultaneously; otherwise there could be no progress. Moreover, he becomes indignant at the moralists, who, by condemning this or that human passion are breaking the mainsprings of his machine. He stands strongly against the ideas of equality which the revolutionists preach. The inequalities of every kind constitute one of the principal mainsprings of human activity: the differences of rank, power, influence and fortune, are indispensable stimuli to the phalansterian mechanism. 'The societary system is as incompatible with equality of fortunes as with uniformity of character.' This shows why Fourier expressly maintains that capital should have its due share in the distribution of the products; and those of his pupils who aimed to diminish or cut off that share completely failed to understand the fundamental idea of their master. The gratification of the passion of love, which Fourier, in his first work, represented as a bait which must infallibly seduce civilized people; which he preaches with less boldness in his second work, and of which he postpones the organization for 100 years in his later writings, — this passion of love, to which, nevertheless, he can not help continually reverting, and which his disciples wished to cover with a veil, forms one of the indispensable mainsprings of his system. 'The passions,' says he in his "Treatise on Domestic and Agricultural Association," 'are not a mechanism of which one can weigh separately any particular part, according to the caprices of each reader and the restrictions of each sophist. Their equilibrium must be *integral* and *unitary;* each of the parts there has a correspondence with the whole; and if one falsifies the balance in love, it will be indirectly falsified more or less in the other branches of the societary mechanism.' — Fourier has then propounded a problem whose solution is not easy; but it must be said that its solution is not to be found in his writings. A mechanism so admirable was worth the trouble of being described in its smallest details: Fourier has not done it. His works are composed only of fragments, of detached notices. Particular parts are developed with a certain care, but the whole plan is nowhere found. We are told that the *domestic* characters are 810, neither more nor less, and that a phalanstery should be composed of 1,620 persons. We are given the division of the phalanstery into sixteen tribes, classified according to age. We are informed that the industrial functions are of seven kinds: domestic, agricultural, manufacturing, and commercial labor; teaching, study and the employment of the sciences; and the fine arts. But the enumeration and determination of the characters, the subdivision of the seven general functions and the determination of the series are completely lacking. The agreeable and comfortable arrangements of the phalanstery are carefully described. We are

shown, by many examples, how indispensable the multiplicity of passions and of enjoyments is to the action of the mechanism. Thus, the refined tastes of the *gourmand*, by the variety of products they call for, are in exact accord with the necessity of introducing a great variety into the groups and series. Thus, vanity and pride are the most powerful stimulants to activity and emulation. It is known how Fourier turned to advantage the dirty habits of some children, to secure the accomplishment of certain disgusting labors; and the delicacy and conceit of certain others, to utilize them in ornamentation and articles of luxury. The phalansterian education is carefully described. Fourier shows how, by letting children walk around in the workshops, by giving them practice in small labors, twenty industrial talents will be developed among them: how also the railleries of their comrades and their self-respect will impress them with an ardent love of work. Fourier quite often refers to what he calls *rallying*, that is to say, the means of harmonizing the natural antagonisms, such as those which exist between the rich and the poor, between youth and old age, between princes and subjects. He shows how the population will be reduced to 600 inhabitants a square league, by the extension of *phanerogamous* morals (harmony of the sixth), and of the enrollment of two-thirds of the women in the corporation of *bacchanals*, *bayadères*, etc. In a word, all the supposed results of phalansterian organization are described with much spirit and intelligence, and with a faith as real as blind, but nowhere have they been demonstrated." (*Traité d'Economie Sociale*, by Aug. Ott; Paris, 1854; Guillaumin, publisher.)— It is evident that the doctrine of Fourier has a faulty basis. If, in fact, human society is subject, like inert matter, to constant and immutable laws, it is impossible for humanity to escape the control of these laws, and we can not say, with the phalansterian school, that "men have hitherto gone in the wrong path, and that the laws which they have made should be condemned and cast aside." The truths in the physical sciences, *attraction* among the rest, are truths only because facts constantly and invariably confirm them. If one single fact afforded an exception to the laws recognized by the physical sciences as general, these laws would be at once considered as untrue, and relegated among the more or less ingenious hypotheses which have often been hazarded on the phenomena of nature. For the rest, although Fourier constantly declared that he adopted the method of the natural sciences, that he enunciated the laws written by nature herself, he never employed the language and method appropriate to the sciences. In the place of proving and deducing, he affirmed, drawing his demonstrations from vague and remote analogies, the importance of which was over-estimated by his mind, over-excited as it was by continued labor. What could be more opposed to a scientific habit of mind than to pretend to know the past without regard to historic testimony, and to divine the future and reveal the whole of a cosmogony, without relying upon any constant fact? And yet this is what Fourier did. "The world," according to him, says M. Reybaud, "will have a duration of 80,000 years; 40,000 of rise, and 40,000 of decline. In this number are included 8,000 of apogee. The world is scarcely adult; it is 7,000 years old; it has hitherto had only the irregular, feeble, unreasoning existence of childhood; it is going to pass into the period of youth, then into maturity, the culmination of happiness, afterward to decline into decrepitude. Thus saith the law of analogy: the world, like man, like the animal, like the plant, must be born, develop and perish. The only difference is in the duration. In regard to the fact of creation, God made sixteen species of men, nine in the old world, seven in America, but all subject to the universal law of unity and analogy. Nevertheless, in creating the world, God reserved other successive creations to change its face: the creations will extend to eighteen. Every creation is brought about by the conjunction of the austral and the boreal fluid."— In what pertains to economic matters, the affirmations of Fourier are not only barren of proof, but they are contradicted by the observation of every day. Labor is, to be sure, necessary to the contentment of man, and absolute idleness is suffering as well as a vice; but it does not follow from this that labor is attractive, that its attractiveness is sufficient to give rise to industrial activity. As M. Ott observed, Fourier, who so carefully analyzed the vicious inclinations and assigned to them a place in his phalanstery, forgot in his nomenclature the worst of vices, the most attractive and the most dangerous to his system, indolence. It has been said, it is true, that in a harmonious world indolence would not exist; but it is only a gratuitous affirmation, contrary to the experience of all human society up to this time. The same experience must inspire great mistrust of the glorification promised to the sensual appetites. Hitherto, the easy satisfaction of these appetites, far from being a stimulant to labor, has impelled men to idleness. Nothing less than a subversion of the ordinary laws of human nature would be necessary for the same cause to produce the opposite effects. These objections are taken from the standpoint of the Fourierites themselves. From a moral point of view, doctrines which are the negation of morality itself can be neither approved nor excused.— Since Fourier's death, important modifications have been made in the ideas of his school. Without condemning the doctrines of the master, his disciples neglected the better part of them, and devoted themselves to various financial and economic problems. Thus, his school has sometimes, by the talent or personal consideration of some of its members, taken the appearance of an organized and powerful body. But, in reality, the Fourierites have produced nothing useful, in the economic line or in any other, except by de-

parting from the school, and abandoning the fundamental ideas and the hypotheses of the master. For a long time the utopia of Fourier has been, to those acquainted with it, and to impartial men, only a rallying word, one number more in the long catalogue of human aberrations.— BIBLIOGRAPHY. *Théorie des quatre mouvements et des destinées générales*, Leipzig (Lyons), 1808, 8vo, 425 pages; *Traité de l'association domestique et agricole*, Besançon and Paris, 1822, 2 vols., 8vo; *Sommaire de la théorie d'association agricole, ou attraction industrielle*, Besançon, 1828, 8vo; *Le nouveau monde industriel, ou invention du procédé d'industrie attrayante et combinée, distribuée en séries passionnées*, Paris, 1829, 4 vols., 8vo; *Pièges et charlatanisme des deux sectes de Saint-Simon et d'Owen, qui promettent l'association et le progrès*, Paris, 1831, 8vo, 80 pages; *La fausse industrie morcelée, repugnante, mensongère, et l'antidote, l'industrie naturelle combinée, attrayante, véridique, donnant quadruple produit*, Paris, 1835–6, 2 vols., 12mo. A second edition of the *Théorie des quatre mouvements* appeared in 1841 (1st vol. of the *Complete Works*); the *Traité d'association domestique et agricole*, in 1841, under the title of *Théorie de l'unité universelle*, in 4 volumes, forming II., III., IV., and V. of the *Complete Works*. The *Nouveau monde industriel* appeared in 1846 (vol. VI. of the *Complete Works*). The two volumes of *Fausse industrie* were not republished. A part of the manuscripts left by Fourier were printed in the *Phalange*, a monthly review which appeared from 1845 to 1849, 10 vols., gr. 8vo. Some volumes of these manuscripts were published in 18mo, under the title, *Publication des manuscrits de Fourier*. Fourier wrote, besides, a great number of articles in the *Phalanstère, ou la Réforme Industrielle*, a weekly, and, later, a monthly paper, which appeared from June, 1832, to February, 1834.

E. J. L., *Tr.* COURCELLE SENEUIL

FOURTH ESTATE. The expression "Fourth Estate" (*vierter Stand*) was first used in Germany, and in contradistinction to the "Third Estate." The contrast between these two estates was apparent even in the time of the French revolution of 1789, when the Girondists, who represented the third estate, proceeded against the "Mountain," which was supported principally by the lower classes of the people. Nevertheless, the difference was not then entirely clear, as political rather than social causes seemed to separate the masses into parties. The restoration placed the great classes of the people entirely in the background, and only the old estates appeared again to have any political importance The revolution of July, 1830, was principally the work of the third estate. The new king, Louis Philippe, appeared, so to speak, as the personification of the third estate, with which he shared the government of France. The entire fourth estate, during the period of the charter of 1814, was deprived of all right of suffrage and of all participation in public affairs. — The revolution of February, 1848, now suddenly broke out. A domestic quarrel between the "citizen king" and the liberal friends of reform of the third estate was the occasion of it. But as soon as the revolution commenced, it extended beyond the third estate. The fourth estate made itself for the moment the ruling power. It desired to restore the republic and the democracy, which was the first to guarantee it political rights. But it was at variance with itself. Its lowest strata were the most violent; the communistically disposed proletarians even sought a social transformation, inasmuch as they desired employment and wages guaranteed by the state. All property, all credit, all civilization, seemed now to be threatened by the wild passions of the crowd. In defense of property Gen. Cavaignac ventured a bloody struggle. He conquered in the three days fight of June in the streets of Paris, because he cleverly caused his *garde mobile* to be recruited from the fourth estate itself. In the legislative assembly, which was newly elected, the greater number of seats fell to the lot of the third estate, which indeed alone had the capacity and leisure to manage the affairs of the state. The fourth estate, which had to devote all its time and energy to daily labor and the earning of bread, saw, that representative democracy, at least in France, necessarily exalted the third estate, which it viewed not without mistrust. Prince Napoleon, who had been elected to the presidency chiefly by the fourth estate, aided by the belief of the masses in the Napoleonic genius and traditions, now undertook a campaign against the third estate, which at the same time was a campaign against representative democracy. Greeted and supported by the acclamation of the great masses of the people, the peasants and the workmen, he ascended the restored imperial throne. But universal suffrage, which put the deciding power in the hands of the masses, was and remained the basis of the imperial power, and the third estate was unable to resist it. — In Germany also similar differences existed, and led to the idea of a fourth estate, distinct from the third in its social position and its political character. The name is certainly badly chosen, for even German constitutional law of the present day no longer rests on estates, but rather upon classes In Germany the great classes of the people are indeed better educated than in France. They are also, on the whole, more disposed to follow with confidence the guidance of the more cultured middle class. But, at the same time, the authority of the government, of the civil officers and of the church exercises a far stronger influence over them than over the independent and critically inclined third estate. — In fact, on the contrast between the work of the head and the work of the hand, that is, between intellectual and physical activity, is based the difference, which is of great importance in the organization of states and in their political life. Indeed, the

distinction itself is not absolute; the shoemaker and the woodcutter work badly, if they work with no head, and the thinker can not dispense with his hand, which transcribes his thoughts. But, in general, callings are distinguished from one another according as mental or physical activity predominates in them. For the liberal pursuits of the third estate a higher education is an indispensable requisite, and for this reason generally these persons only have the capacity and leisure to use their intellect in the service of the state. The great classes, employed more with the material cultivation of the soil, with hand work, with retail trade and with manufactures, are wanting in the necessary education and leisure to devote themselves to affairs of state. It is of much more importance to them, then, that the administration should be a good one, than that they themselves should be called to take any part in the administration. — The fourth estate, therefore, embraces also all the great classes of the people, which have not the characteristic marks of the third estate. Its strength lies in the mass of the lower middle class in the cities, of workmen, shopkeepers, petty tradesmen, servants and peasants in the country. — The proletariat is chiefly only the refuse of the fourth estate, but it may also be of the other estates, and must not be confounded with the former. There is a proletariat of the nobility and of the higher middle class, as well as of the fourth estate. The proletariat is an unavoidable evil, which is connected with all classes and ranks of society. It forms no estate by itself. The expression proletariat is borrowed from the old Roman census-constitution. The undomiciled and poor Romans, those who had less than 1,500 *ases* of taxable property, were not included in the five classes, and were therefore not liable to taxation nor bound to do duty in war, like the domiciled citizens (*assidui*), although they were required to perform subordinate duties for the army. Their property consisted chiefly of their children (*proles*), and hence they obtained the name. Modern proletarians are also people without property, no matter what estate or what class of the people they may belong to through birth, education or profession. But the absence of property is not in itself decisive, and nothing would be more dangerous than to divide the entire population into property owners and non-property owners, and incite them to hostility against each other. The sons of well-to-do parents, when they establish a household of their own, may be entirely without property, but they are by no means proletarians. People without property, then, are only proletarians, if, through isolation and a precarious means of existence, they are in a dangerous position, and when their entire existence in society appears unsafe. The task of politics is to work for this end, that there may be as few proletarians as possible in the land. — The fourth estate is the foundation of the modern state, and likewise the chief object of its care. It is chiefly from the fourth estate that the state draws its financial and military power. From its obscure ranks start up constantly a multitude of individuals, who acquire for themselves education, a name, and a rank in society. It is the source from which all the other classes are renewed and fed. So long as the fourth estate of a nation is healthy and strong, the life of the nation is safe; it can recover from the worst maladies and losses. But if the fourth estate is seized with decay, there is no salvation for the nation. — The fourth estate needs the care of the state more than all the other classes, which are in a better condition to help themselves. In individual cases, certainly, the persons of the fourth estate must provide for themselves by their own labor and economy. But it is surely the state's care, that the fundamental conditions of common life and common welfare shall be well established. For this end particularly the country has need of good laws and institutions, and a capable administration. This the fourth estate can not obtain of itself. The better educated classes must work for it. — The fourth estate has neither the capacity nor the inclination to govern or to take part in the higher branches of civil administration. But it has the desire and the need to be well ruled and governed. That done, it is contented, and entirely free from any desire of innovation or revolution. There is no greater error than that of Stahl, who thinks that the fourth estate is desirous by nature to overthrow the ruling power. Quite the contrary. The aristocracy is naturally inclined to share power with the monarchy: the third estate is from the beginning inclined to exercise criticism and control, and prefers representative democratic forms. The fourth estate has in Europe, on the other hand, a natural bias, not toward the aristocracy, which has too long oppressed, despised and lived on it, nor toward the representative democracy, in whose principal work it can not participate, and whose views are for the greater part not intelligible to it; but toward the monarchy. — The fourth estate is in no way insensible to the ideal goods of humanity, and it is readier than any other estate to do and dare for these goods. But only high ideas, not medium ones, attract it, and it comprehends only the great outlines of the case, not its detail. The history of the world has irrefutably shown, that these great classes of the people, which think generally only of their daily earnings, and appear exclusively engaged in material pursuits, have defended with self-sacrificing determination, religious interests, and, in more modern times, political ideas and ends, and have often turned the scale by their impetuous onslaught. BLUNTSCHLI.

FRANCE is the most westerly portion of central Europe, and is bounded on the northeast by Belgium and the grand duchy of Luxemburg; on the east by Alsace-Lorraine, Switzerland and Italy; on the south by the Mediterranean and Spain; on the west by the Atlantic ocean; and

on the northwest by the English channel and the straits of Dover. The islands in the immediate neighborhood of the coast of France measure only 419 square kilometres, but adding to them the more distant island of Corsica, with its 8,747.41 square kilometres, the area of the European portion of the French republic is increased to 528,573.04 square kilometres. Excluding Corsica and the smaller neighboring islands, continental France is situated between 42° 2′ and 51° 5′ north latitude and 7° 7′ west longitude and 5° 51′ east longitude, reckoning, of course, from the meridian of Paris. The geometrical form of the boundaries resembles a hexagon, of which the western and eastern sides are somewhat indented, and the outlines of which are clearly indicated by the following measurements Brest to Antibes, 1,098 kilometres; Bayonne to Cirey, 868 kilometres; Brest to Cirey, 940 kilometres; Dunkirk to Céret, 965 kilometres; La Rochelle to Geneva, 542 kilometres. The 5,230 kilometres perimeter of the boundaries, inclusive of sinuosities, are subdivided in the following proportion 1,333 kilometres on the channel, 862 kilometres on the Atlantic, 570 kilometres on the Pyrenees, 625 kilometres on the Mediterranean, 720 kilometres on the Alps, 290 kilometres on the Jura, and 790 kilometres on the northeastern boundaries; the continental boundaries, therefore, comprise 2,520 kilometres, and the maritime coast line 2,710 kilometres. The centre of the country is at St. Amand, south of Bourges, at a distance of 450–520 kilometres from the most extreme points of the boundaries. Of the entire 5,230 kilometres perimeter only 790 kilometres on the northeast are unprotected by natural boundaries. Altogether the natural circumstances of location are very favorable for the defense of the boundaries and for the self-sustenance of the state. Notwithstanding all this, France is not insulated; it is in close contact with the German centre of Europe; it commands the mountain passes which lead to Italy and Spain; it keeps a vigilant eye on the fortified coast of England; its western coast line is open to free communication with all parts of the globe, while the south shares in the domination of the Mediterranean. France has her continental and her maritime phases, and the union of both elements gives her a commanding position among the powers of the earth.— *Formation of French Unity.** When the Carlovingian dynasty descended from the throne, the kingdom of France covered from north to south an area at least equal to that of the present territory of France, but all the land lying to the east of the Meuse, the Saone and the Rhine was dependent on the German empire. The duke of

* The development of France to its present dimensions was very slow, and extended over many centuries. At the end of the ninth century France was divided, like Germany, among a large number of independent princes and lords. But the territorial development of the French empire took an altogether different course from that of Germany, for, while in Germany the princely power gradually superseded the empire, until nothing was left of the latter but the mere name, in France royalty gradually absorbed the power of the princes. Under the last of the Carlovingian rulers the possessions of the crown extended no farther than the districts of Sossionais, Laonais, Beauvoisis and Amiénais. Hugues Capet added to them the duchy of Francien with the cities of Paris and Orleans, making the former the capital of the new kingdom. At that time the feudal system had been established in France. The larger feudal lords acknowledged no other authority than that of the king These immediate vassals of the crown had themselves a large number of lesser vassals, and these in turn lorded it over the still lesser tenantry. Among the immediate vassals were the dukes of Aquitaine, Burgundy and Normandy, the counts of Toulouse, Flanders, Vermandois and Champagne, the lords (sires) of Coucy and Beaujeu, etc. In the course of time all these territories became possessions of the crown, partly by donation and by marriage and inheritance, and partly by the right of conquest, and were embodied into the duchy of Francien. Out of the union of these crown lands and the territories acquired by conquest from neighboring states, grew the political division of France which was maintained from the time of Louis XIV. until the year 1790. – The first king of France who successfully attempted territorial expansion was Philippe I., who in 1094 bought the province of Berri from the counts of Bourges and united it with the crown lands. The next large territorial acquisition was made under King Philippe Auguste, who in 1204, after a successful war against Richard Cœur de Lion and John of England recovered not only the counties of Anjou, Maine, Tourraine and Poitou, but also the duchy of Normandy from these his most powerful vassals Although these provinces were reconquered by England in the following wars for the succession between that power and France (which covered a period of over 100 years), and were for some time taken possession of by the former, they were, under Charles VII., again and permanently reunited with France. Philippe Auguste acquired, besides, the county of Artois, which he received in 1199 as dowry of his wife, also the counties of Vermandois, Alençon, Auvergne, Evreux and Valois In 1208 he enfeoffed his cousin Philippe de Dreux with Brittany, thereby establishing a branch of the dynasty in this province. Further progress in territorial acquisition was made under Louis surnamed the Saint, who in 1229 compelled the counts of Toulouse not only to recognize the authority of the king, but also to cede a considerable portion of their estates, stipulating that the whole of this country was to fall to the crown in case of their family becoming extinct. Louis' son and successor, Philippe III., after the demise of the last of the house of Toulouse in 1272, took possession of this beautiful country, but not until 1361 was it solemnly joined to the crown. Philippe IV. also made some new acquisitions. Besides the viscounty Soule in 1306, he acquired in 1307 the county of Lyonnais, which Peter of Savoy lost, refusing to take the oath of allegiance); and by his marriage with Jeanne of Navarre gave rise to the hereditary claims of France to the provinces of Champagne and of Brie, both of which were in 1361 forever united with the crown. Although with the accession of the house of Valois to the throne the duchy of Valois was returned to the crown in 1328, and Philippe in 1349 received Dauphiny as a gift from Humbert II. upon condition that every lineal successor to the throne should be called dauphin, the long and bloody war that ensued in consequence of this change of dynasty between England and France for the possession of the latter country, put a stop for over 100 years to territorial acquisition by the French kings, and even resulted in considerable retrocession; for Jean, made prisoner in the battle of Poitiers in 1356, could only purchase his liberty with the treaty of Brittany in 1360, by which the king of England was acknowledged in the possession of Guyenne and Limousin and received besides Poitou, Aunis, Saintonge and Angonnais. The French kings, with the expulsion of the English under Charles VII., regained their old possession Under Louis XI., son and successor of Charles VII., the already powerful state added considerably to its territory. This ruler succeeded in 1477, after the death of Charles the Bold, in uniting the duchy of Burgundy with the French crown.

France bore the title of king, but he had no authority, so to speak, over other lands than his own. Six great fiefs, the duchy of Normandy, the duchy of Burgundy, the earldom of Flanders, the earldom of Champagne, the duchy of Aquitaine and the earldom of Toulouse, formed about his duchy so many independent realms, owing nothing to the crown except homage. Within each of these states the great feudary held by feudal tenure a number of fiefs of the second order, the possessors of which in their turn were suzerain lords of rere-fiefs, divided

By bequest of Charles, the last count of Anjou, Louis XI. in 1481 inherited the district of the Provence; he conquered in the same year Boulonnais and united Picardy with France. With his son and successor Charles VIII. ended, in 1488, the direct male succession of the dukes of Brittany. The last duchess of Brittany, Anna, became the wife of Charles VIII., and afterward of Louis XII ; and her daughter Claudia married Francis I., thereby securing that powerful state to France. Under Francis I. the French founded their first non-European colony, in Canada. — The subsequent pause in territorial expansion was caused by the religio-political agitation of the sixteenth century. The next important acquisition comprised the three bishoprics of Metz, Toul and Verdun under Henry II. With the accession of Henry IV. the rest of the kingdom of Navarre situated on the French side of the Pyrenees, part of which had been taken in 1512 by the Spanish, came, together with Béarn and Foix, into the possession of France; Henry IV. also acquired the territories of Bresse and Bugey, which the duke of Savoy was compelled to cede in 1601. Under Louis XIII. the islands of St. Christopher, Martinique and Guadeloupe, also Cayenne in Guiana, were colonized, the conquest of Arras in 1640 secured Artois for the crown (confirmed in 1713 by the treaty of Utrecht), and in 1641 the territories of Cerdagne and Rousillon were conquered. Louis XIV. secured the possession of these latter dominions as well as the cession of Charolais by his marriage with Infanta Maria Theresa. By the Westphalian peace treaty he acquired the whole of Alsace with the exception of a few towns, and was confirmed in the possession of his former acquisitions, the bishoprics of Metz, Toul and Verdun. He united Dombes and Nivernais with the crown, took in 1667 so-called French Flanders from the Spanish, conquered in 1668 and 1674 the Franche-Comté, in the possession of which he was confirmed by the treaty of Nimeguen in 1678; he took Strasburg in 1681, and established colonies on the islands of Marie-Galante, St. Barthélemy, Bourbon and Grenade. He obtained a footing in the western part of Domingo and on the Senegal, increased the transatlantic colonies by the settlement at Fort Dauphin in Madagascar, by the island of St. Martin, by New Orleans and Louisiana, a territory of about three million square kilometres; he declared the vast plains contignous to Lake Michigan a French possession, and acquired the island of Cape Breton. He established the first settlement at Mauritius; laid the foundation for the East Indian colonies by his acquisition of Pondichéry and the establishment of the factories at Chandernagor, and left to his grandson a realm of 522,830 square kilometres in Europe and almost 4,400,000 square kilometres outside of Europe While during the more than fifty years of his reign the European possessions of France were increased by Lorraine, in accordance with the preliminary treaty of Vienna: by the island of Corsica from Genoa in 1768, and several border districts of the duchy of Savoy, altogether about 27,500 square kilometres, almost all the American possessions, as well as the possessions on the Senegal, were, in accordance with the first treaty of Versailles in 1763, ceded to England. After the subsequent cession of Louisiana and New Orleans to Spain in 1769 the colonies outside of Europe were reduced to 102,748 square kilometres, while the European territory was increased to 549,570 square kilometres, with twenty-five million inhabitants. By the second treaty of Versailles in 1783 France recovered the possessions on the Senegal, the free fisheries at Newfoundland, and the islands of St. Pierre and Miquelon: it acquired the island of Tabago, but sold St Barthélemy to Sweden, increasing the colonial area to 105,940 square kilometres. In 1789 the national assembly proclaimed Corsica an integral part of the French empire, as likewise in 1791 the districts of Avignon and of Venaissin, till then under the authority of the pope. — During the twelve years duration of the French republic (1792 to 1804) France acquired: Belgium (in 1792), Savoy and Nice (in 1793), the Batavian territory on the left bank of the river Scheldt and the territory on both sides of the Meuse river south and inclusive of Venloo (in 1794), the Spanish part of San Domingo (in 1794), the Ionian islands (in 1797), the entire left bank of the Rhine, Elba, Guiana to the mouth of the Amazon (in 1801), Louisiana (in 1800, but in 1803 sold to the United States), and Piedmont (in 1802). The conquests of Napoleon I. as emperor in 1812 had increased the area of the immediate French territory to 770,000 square kilometres, with 42,500,000 inhabitants, and with the mediate dependencies of Italy, the Rhenish confederation, Switzerland, Naples, Warsaw and Dantzig, the supremacy of the French emperor extended over 1,624,000 square kilometres, with more than seventy three million inhabitants. The first treaty of Paris in 1814 reduced the boundaries of France to their limits on Jan. 1, 1792, with the addition, however, of Quiévrain, Philippeville, Marienburg, Saarlouis and Saarbruck, Landau, the district of Gex and a part of Savoy, confirming the annexation of Avigron, Venaissin, Montbéliard and the former German districts; and with the reduction of the colonial possessions to the limit of Jan. 1, 1792, by the session of Tabago, St. Lucie and Isle-de-France to England. In the second treaty of Paris (1815), France lost her claims to the aforenamed concessions. In consequence of the Italian war of 1859 and in accordance with the treaty of March 24, 1860, the king of Sardinia ceded to France the whole of the duchy of Savoy and the western part of the county of Nice. While Savoy was divided into two departments, Savoie and Savoie Haute, Nice, together with two parishes of the principality of Monaco (Mentone and Roquebrune), was added to the department of the Alpes Maritimes. The area of these new acquisitions amounted to 15,142 square kilometres, with 669,000 inhabitants. In accordance with the preliminary treaty at Versailles, of February, 1871, the definitive treaty at Frankfort, of May 10, 1871, and the supplementary convention of Oct. 12, 1871, France ceded to the German empire: the entire department of the lower Rhine, most of the department of the upper Rhine (only Belfort with its immediate surroundings remained with France), parts of the departments of Moselle and Meurthe, and of the department of the Vosges the two cantons of Schirmeck and Saales, altogether 14 arrondissements, 97 cantons, 1,689 parishes, 14,492 square kilometres, with 1,597,228 inhabitants (according to the census of 1866). — The acquisitions of France during the nineteenth century, outside of Europe, comprised: in 1830, the gradually extended territory of Algeria; in 1842, the protectorate over the Marquesas islands in Oceanica, of which, however, according to the treaty of June 19, 1847, the islands of Huahine, Raiatea and Barabora were excepted. in 1853, New Caledonia and the Loyalty islands: in 1859, Adulis on the Red sea; in 1862, Obok on the straits of Bab-el-Mandel, also in 1862, lower Cochin China, and the island of Condoré, and, in 1864, the protectorate over Cambodia. The colonial possessions of France therefore extended, in 1876, over the following territories: 1 In Asia: Pondichéry, Karikal, Mahé, Yanaon and Chandernagor in Hindostan; with 509 square kilometres and 266,300 inhabitants, and lower Cochin China with the island of Condoré, with 56,244 square kilometres and 1,292,220 inhabitants. 2. In Africa: Senegal, Gorée and dependencies, establishments on the Gold coast (Assinie) and Gabun in South Guinea, with a total population of 213 340 inhabitants; the island of Reunion, with 2,512 square kilometres and 211,525 inhabitants; near Madagascar, the islands of St. Marie, Mayotte and Nossibé, with 679 square kilometres and 26,000 inhabitants. 3. In America: French Guiana, with 121,413 square kilometres and 28,800 inhabitants; Guadeloupe, Marie-Galante, Désiderade, Les Saintes, one-third of St. Martin and Martinique among the Antilles in the West Indies, with 2,833 square kilometres

into baronies, castellanies, and the fiefs of viscounts of cities. Under these latter lords were all the cities and villages. The system of military clientage descended thus step by step from the king of France to the lowest baron. No other tie bound these fiefs together, and for more than a century a state of warfare was the life itself of the nation, divided into some thousands of gross tyrannies. All that the first kings could pretend to do was to remain kings, and to transmit the crown to their heirs. While they had themselves crowned in the hereditary order each during the lifetime of the other, a sort of order was established within the great fiefs, and the dukes and counts of the first rank established for themselves a real authority over their vassals. Finally, under Louis the Fat, royalty began the same work of organization for itself, by making war against the lords and barons, who lived by brigandage upon the territory of its ducal fief. Feudal obedience once established in the duchy of France, the king set to work to regulate the hierarchy and the laws of the feudalism of which he was the chief, and by vigorous measures he caused his great vassals to respect his authority as military commander and sovereign dispenser of justice. As soon as there was some order and tranquillity in the different duchies and earldoms of France, agriculture and commerce received a slight impetus, and communes were formed, some through successful insurrection, others through the purchase of municipal liberty. The king encouraged, wherever he could, the organization of the city *bourgeoisie*, and at the end of the twelfth century, by thus weakening the power of his vassals, he had everywhere established and caused to be respected his right of actual suzerainty. Having then at his command the forces of the nascent state, he was able to fix its boundaries by conquest. Marriages, treaties, confiscations, battles, equally promoted this new policy. It was necessary first to weaken the Norman monarchy, which, being a part of France, had taken possession of England, but which, by its right of proprietorship and by its family alliances, had remained or become mistress of all the French coast on the ocean. Philip Augustus dismembered its domain, after his policy had divided it. But the English kings, in order to defend themselves, commenced to excite coalitions of its former vassals against French royalty. Philip Augustus triumphed at the victory of Bouvines over the barons of the north, and this was the first great battle gained in France in favor of national unity.—The great feudaries soon tried to break this nascent unity, but St. Louis, whose minority was the cause of such great perils to the state, regained in 1242, upon the battle field of Taillebourg, the power and prestige of his grandfather, Philip Augustus. Advantageous treaties and temporary concessions gave the sanction of right to the violent conquests, the heritage of which the pious king accepted; but the appanage system again dismembered this kingdom, which each day was becoming more solidified; no longer, it is true, without hope of reversion to the crown, and perhaps even for the good of France; for before restoring it to royalty, made permanent by the disappearance of transient races, each of the appanaged dynasties increased its domain and made power more thoroughly respected there than it would have been possible for the central chief to attempt. They were branches of the same trunk, which grew larger every day.—At the same time St. Louis reformed the laws, and prepared the early union of the three classes of the nation into the states general. He made himself, by his pragmatic sanction, temporal head of the French clergy; he connected, by means of the right of appeal, the seignioral courts with his own tribunals, and placed the municipalities of the south as well as the communes of the north under the judicial and military authority of his officers. He did more: by suppressing the féudal right of hostility in the political order, and judicial combat in the civil order, he desired justice to be the only rule, the only sanction of social relations; and the new judges, in becoming the arbiters of society, formed a body which, for the purpose of instructing itself, sought out and awakened the memories of antiquity, and gave to all the science of the universities an impulse unknown till that time.—A new division of the kingdom was begun while these reforms were going on. The institutions of royal justice, by establishing a hierarchy among the tribunals, gave rise to four great bailiwicks, upon which all the seignioral courts depended, and which themselves, as well as the courts of the great fiefs, were subject to the royal court, which afterward became the French parliament. This court, composed only of great vassals and officers of the crown, had followed royalty everywhere and had not yet had a fixed seat; but when procedure by writing and the multiplication of laws rendered it necessary to admit therein clerks or educated laymen, it changed its character, and soon jurists alone composed it.—From justice, as St. Louis established it with so much authority, sprang all the political structure of the state. The func-

and 327,500 inhabitants; in St. Pierre and Miquelon, near New Foundland, with 210 square kilometres and 4,383 inhabitants; altogether, 124,456 square kilometres, with 360,680 inhabitants. 4 In Oceanica: New Caledonia and the neighboring Loyalty islands, with 19,720 square kilometres and 59,200 inhabitants; and the Marquesas islands, with 1,239 square kilometres and 10,000 inhabitants; a total of 20,959 square kilometres, with 69,200 inhabitants The total colonial possessions of France in 1876, therefore, amounted to 205,400 square kilometres, with 2,186,000 inhabitants. Adding to this the province of Algeria, with 669,000 square kilometres and 2,414,000 inhabitants, the immediate possessions of France outside of Europe amount to 874,400 square kilometres, with 4,600,000 inhabitants.—The territories under French protectorate are: in Asia, Cambodia, with 83,860 square kilometres and 1,000,000 inhabitants; in Oceanica, the archipelagos of Tahiti, Tubai, Tuamotu and Gambier (Society islands), with 8,083 square kilometres and 23,500 inhabitants; altogether, 91,943 square kilometres, with 1,023,500 inhabitants.

tions of the seneschals, bailiffs, provosts, representatives of the royal law, and bearers of the royal sword, were made more definite; their power was increased, and, dependent on the crown which no longer invested them with hereditary offices as the Carlovingian monarchy had done, they worked zealously to destroy everywhere the authorities of feudalism, from this time divided and incapable of successful revolt. — Royalty then at last represented the nation and disposed of its forces. Up to that time it could only alternately conquer or administer; henceforth it advanced more confidently, and increased or regulated the kingdom, as favorable occasions for action offered themselves. Philip the Fair attempted to drive the English from Guyenne and to seize Flanders, and he deprived the empire of Lyons, thus penetrating into the valley of the Rhone, which was not yet French territory. At the same time he applied to the whole of the kingdom his grandfather's (Louis IX.'s) system of bailiffs; that is to say, he made the lords everywhere subject to the king, and he fixed the seat of the itinerant parliament, which was divided from this reign, into a chamber of accounts, chamber of inquiry and grand chamber. During a century and a half, this parliament was the only supreme court of the kingdom; some of its members were then delegated to decide appeals in the countries where customary law was prevalent; those of Champagne in the *Grands Jours* at Troyes; those of Normandy in the *Exchequers* at Rouen, and those of countries where statute law was prevalent in the *Chambre de Langue d'oc* established at Paris itself. — The bourgeoisie, by this enlargement of the functions of justice, obtained positions which they alone were capable of filling. They still more quickly became of importance in the state, when it was necessary to ask them to open their purses to provide for public expenditure. Royalty of the house of Capet, so long as it was simply feudal, found in its own treasury, that is, in the revenue of its domains, the money necessary for its seignioral duties; but when it reigned, governed, made laws, embraced a policy, it needed an army, it needed subsidies. Philip the Fair neglected no means of becoming rich, not even the most iniquitous and most dangerous. He suspended the right which the feudaries had of coining money, and speculated upon the melting and recoinage of the royal moneys. Whether they were guilty of usury or not, he made the Jewish and Lombard bankers, who were enriching themselves by developing national commerce, periodically disgorge; he seized the property of templars condemned to death; he sold their freedom to serfs and slaves; he established the first custom houses known in France; he imposed a tax on salt; and, growing ever more eager to amass gold, which he needed for the promotion of his plans, he finally assembled in a common session the three classes, the three orders of the kingdom: the clergy, the nobility and the third estate. — An attempt to re-establish feudalism, encouraged by the depressed state of the whole country, broke out shortly after his death, and a great number of nobles were again reinstated by royal charters in the privileges and prerogatives of their fathers; but the judiciary of St. Louis was too well established, and too much in accordance with the spirit of the times, not to resist these attacks, and by resisting, it assured the existence of the political and financial system which has since been established upon its foundations. — A supreme crisis even now threatened royalty and the kingdom; the hundred years war began, and in this duel to the death, which must either destroy the future of France to the profit of English monarchy, or drive away forever English monarchy from continental soil, a thousand startling events, a thousand misfortunes occurred, but also miracles, which cast the whole French nation, king and people into a sea of blood and tears, but which finally saved it; and the destiny of France triumphed. — Already the single question of the inheritance of fiefs had nearly compromised the state. Philip the Fair, in order to keep the appanages within reach of the crown, had decided that males alone could inherit them; but as to the crown itself, it was uncertain if, the case occurring, the daughters could not lay claim to the seignioral manor and title of their father. The legists declared that France should exclude women from the throne, and supported their argument by the custom of the Salic Franks, which, in fact, under the first race, had been applied to the inheritance of the royal power, and which, under the name of Salic law, has been famous in French history. But if males alone thus had the right to reign over France, it was because one of the English kings once found himself nearer the throne of France than the legal heir, that the hundred years war had broken out and the massacre of the two nations had begun. — New taxes, new confiscations were the first resources of the kings of France; but, since England furnished more regular support to her forces and had better disciplined troops, the French at first appeared on the field of battle only to be vanquished. When John the Good was made prisoner at Poitiers and dragged as a captive to London, a general insurrection assailed on all sides the establishment of the monarchy. In those times of misfortune and ignorance the light of patriotism did not illumine the minds of men, and the bourgeoisie, which later showed more experience and wisdom in its devotion, was at that time the most terrible enemy of the tutelary authority, which was shaping the kingdom for the battles of the future. In 1356, the republican spirit of the municipalities of Italy and Flanders inspired the states general, in which the deputies of the cities wanted to grasp the power, and not only to fix the taxes, but to collect and distribute them, and in financial matters to entirely reform the administration. The attempt was premature, and

Etienne Marcel, who was the promoter of it, soon found himself compelled, in order to maintain it, to undertake to change the dynasty and to have recourse to foreign assistance. Then, abandoned by some of his own party, he succumbed, while the revolutionary agitation, having spread into the rural districts, took the form of a war of extermination, directed by the peasants against the seignioral nobility. These very excesses proved the cause of the safety of royalty, which, sustained by the threatened nobility, and represented by the dauphin, who afterward became Charles the Wise, little by little gathered together the scattered elements of national unity. — The revolution had given to the kingdom a financial organization, by charging the delegates and general commissaries with the levying of money for the "aid" voted by it. From that time dates the commencement of *élections* and *généralités* (French districts), which, later, became the civil divisions of France. This was not the only trace of its passage which the revolution was destined to leave behind it. The principal character of its acts was the attestation of the already inchoate homogeneity of the nation; if it exposed the cause of French unity to dangers, it served it by revealing it. — Charles V. established the administration upon its bases, and, profiting by the lessons of the revolution itself, he above all perfected the management of the finances. More successful than his father in the war with England, he repaired some of the disasters the state had undergone during his regency, and, by the creation of companies of ordnance, he formed the first nucleus of a permanent army, which up to that time had been unknown in France. — The minority and then the folly of his successor endangered the progress already accomplished, and again plunged France into an abyss of misfortune. The foreign enemy this time found a new auxiliary in the appanagist princes, descended from King John, who did not wish to destroy royalty, in abeyance through the imbecility of the monarch, but to exploit it themselves. Never did France see worse days; her capital, the heart of the country, had fallen into the hands of the kings of England, and the legitimate heir to the throne was wandering beyond the Loire, almost without an army. Finally, the patriotism of some of the nobility and the sublime devotion of Joan of Arc delivered the country from its incomparable misery. Strengthened by the struggle, which had almost destroyed it, royalty rose above so many perils never to sink again. The soil of the fatherland was free for the first time in five centuries, and on this land which had drunk so much generous blood before becoming independent, the institutions of the state could be organized as parts of one great whole. — Charles VII. had created a parliament at Poitiers, when he was living in exile at Chinon. Victorious, he wanted the judicial organization of his predecessors to answer the needs of France, liberated and enlarged. A second parliament was granted to Languedoc, and a third promised to Guyenne. The crown inherited Dauphiny, in the person of the eldest sons of future kings; this new province had also its parliament, and at the end of the century there were parliaments at Dijon, at Rouen and at Aix, when Burgundy and Provence became integral parts of French territory. Brittany did not obtain hers till 1553. — One after another, taxes had been levied, at first provisional, afterward regular: the customs of Philip the Fair, the *gabelles* of Philip of Valois, and the taxes levied upon liquors and various articles of consumption by the republican states general of 1356. Abolished for a time on the accession of Charles VI., these taxes were re-established, and their collection subjected to fixed laws. From the establishment of two courts of taxation dates the separation of ordinary justice from the administration of justice in matters of finance. The oldest of the taxes, the *taille*, grew in importance in proportion as the object for which it had been established, the support of the army, became more considerable. — For a century, the division of old France into *généralités* and financial *élections*, had been an accomplished fact; but as old France extended its frontiers, the countries which were added to it claimed the right of retaining, as regarded taxes, the privilege of consent and distribution which they possessed. They did retain this right, and as it was in the several states general that this privilege was exercised, the name of *pays d'états* was given to them in administrative language. — By obtaining from the states general of 1439 the establishment of a personal *taille*, the king everywhere suppressed the feudal *tailles*. The royal *taille* was voted for the levy of a permanent army of 2,500 men at arms and 4,000 archers. Up to this time royalty had not had at its service a standing army, and had carried on wars only by appealing to its vassals and the people of the communes. But now it was at the head of the first of modern troops, and although cavalry occupied the chief position, artillery soon appeared; it made war a science, and the infantry increased in number as the nation became more securely organized. The *ban* and *arrière-ban* became from this time only languishing remains of the military customs of feudalism, which did not disappear till the time of Louis XIV., as the exercise of seignioral justice existed, continually losing strength, till the states general of 1789. — Thus we come to the light. Through justice commenced the formation and regular division of France, the castellanies and provostships of the king were the seats for justice and the police in the first instance; the bailiwicks in the north and the seneschals' courts in the south, ruled the castellanies and provostships, and were at once seats of justice and military offices. Supreme jurisdiction was vested in the parliaments. Through the organization of the finances the kingdom was enabled to increase in strength. Financially, France was divided into *pays d'états*, which voted

and distributed their taxes, and *pays d'élections*, in which were established receivers general, delegates, receivers of domains, collectors of *gabelles*, and soon a whole army of collectors, treasurers and comptrollers, whose hierarchy and functions foreshadowed the administration and regulation of accounts of the coming centuries. Finally, France had an army, and for military purposes the country was divided into twelve great governments given to officers of the crown. — We have only just mentioned the rôle and the situation of the church under the monarchy of the house of Capet. St. Louis began the loosening of the bonds which attached the church in matters temporal to Rome, and supported it in its right of election. Rome soon regained all its empire; but Charles VII., following in the footsteps of St. Louis, ordered the French clergy to pay no more tributes to the holy see, and to preserve its republican constitution. It is true that, in the following century, Francis I. put an end to the existence of a democratic clergy, and by a *concordat* concluded with the holy see, constituted himself the only elector of the members of the royal clergy. — The time had come when France must be entirely united under the sceptre of her kings. Louis XI. completed the work of the feudal monarchy. It only remained to do away with the appanagists, with the very blood of the dynasty itself. It is known with what skill, what decision, what constancy, his cruel genius was applied to this work, and how he contributed more than any other king, except Philip Augustus, to the material formation of the kingdom. — The construction of the new national edifice occupied five centuries; but what centuries of violence; the imagination can hardly light up with a ray of chivalric poetry those sombre years of ignorance, of famine, of pestilence and of intestine strife. — The sixteenth century inaugurated a new policy. France was prepared for it, when the west of Europe was refreshed by the breath of the Greek and Latin renaissance. Antique art mingled its brilliancy and elegance with the naïveté, rudeness and gayety of the Gallic spirit, and French genius began its glorious career. But it was not until the seventeenth century that its supremacy dethroned the old fame of the German empire and the holy see. Francis I. was the first to commence the foundation of this future fortune, and it was by his struggle with the house of Austria that he forced the nations to think of the balance of power. His son increased the national inheritance; his grandsons came near losing it; but through the struggles of religious reform, the human mind kept its onward progress The civil laws were purified through the injunctions of the representatives of France, and under the inspiration of her magistrates and in the political debaucheries of the league, the instincts of liberty rose up constantly, and hid the shortcomings of patriotism. — Under Henry IV an order of things was inaugurated which approaches that of the present day. Sully accustomed the nation to desire to have men of integrity in power, he made the practices of economy popular, and elevated the whole nation by proclaiming the excellence of agriculture. Colbert completed his work by giving new life to industry and commerce. — Till the middle of the sixteenth century the crown had its councilors, when it was pleased to take them, an abbé, Suger; a soldier, Joinville; a legist, Juvénal des Ursins; a barber, Olivier le Daim — With secretaries of state came the creation of ministries. The action of the governmental machinery was thus continually rectified, but suddenly, powerful shocks stopped and disorganized it. Every minority of a king was the signal for the old feudal and communal régime to raise its head, and make an effort at revolt. The iron hand of Richelieu was necessary to lower the most powerful rebel heads, and the glittering sceptre of Louis XIV. to make them all bow down before him. — Still, the balance of power in Europe was fixed by France in the treaties of Westphalia, and she herself, under her king, the last of her conqueror kings, extended her frontiers on all sides. The literature and art of the century made France the arbiter of Europe, even at the time of her misfortunes; and although they only adorned general and often servile ideas, they prepared the way for the unexpected reign of philosophy in the next century. Louis XIV himself unwittingly contributed toward giving to the *bourgeoisie* an importance which writers of the eighteenth century carried to the highest point. When he humiliated the remnants of the nobility in his pompous antechambers, and would employ in important matters only the common people, he was the first, by the caprice of despotism, to instil into his people that idea of equality which the revolution employed in the name of justice. But we now come to the time when old France ceased to exist, and new France appeared. — The author of this article will be perhaps permitted to recall that, in a work entitled "*Etat de la France en* 1789," he drew up, for that memorable date, the inventory of the system which the states general overthrew and transformed. Even the slightest sketch of this can not be given in a few lines. The extent of territory was about the same as at present, the population numbered about 26,500,000, of which about 6,000,000 were in the cities and towns, and about 680,000 in the capital. The average length of life was estimated at twenty-eight years and nine months. — The institutions of feudalism had fallen one by one under the blows of monarchy; but it was only their vigor and their vitality which had disappeared, their forms, their names, their connections existed. Till 1789, all France was only an assemblage of fiefs, arriére fiefs and plebeian estates, placed under the tenure of the king, who, according to the law of the middle ages, was the supreme lord of the land, as well as the irresponsible head of the state. Without doubt, it had for a long time been impossible to realize rigorously such a principle in actual transactions; but the principle

existed none the less. It was the corner stone of the old régime. The revolution was needed to uproot it from the soil, in order that France should be really free. — It is doubtful if there were many more than 80,000 nobles in 1789; but how few were actually descended from the companions at arms of Clovis, or even from the officers who, under the Carlovingians, became hereditary proprietors of their offices. The great majority were only recently of noble rank, obtained in the offices of the magistracy. The clergy embraced about 200,000 individuals, and enjoyed a considerable revenue, the amount of which has been variously estimated. Together with the king, who still enjoyed a large domain, these 80,000 nobles and 200,000 members of the clergy possessed three-fourths of the soil. One-fourth remained for 26,000,000 of men, but at the most there were but 450,000 landholders in France. — As the desire to manage its own affairs had become the ruling passion of France, the experiment was tried of giving to the *pays d'élections* provincial assemblies, which with some liberty, should play the same part which the states general were supposed to play in the *pays d'état*, the list of which is as follows Artois, Cambrésis, Brittany, Walloon Flanders, Burgundy, Languedoc, earldom of Foix, Marsan, Nébouzan, Quatre Vallées, Bigorre, Béarn, Soule, Lower Navarre, Labourd, Dauphiny. These institutions only made the nation more impatient to effect the union of the provinces and the regulation of the laws, and this impatience was legitimate, for royalty, after having materially established the kingdom, was capable only of tyrannizing over it, and, of a feudal nature after all, it was not willing to melt down the iron system of feudalism to forge the body of a new nation. — Parliaments had in the course of time arrogated the right of remonstrance, because they enjoyed the privilege of the registration of the ordinances and edicts. This right, which, substantially, always yielded to force, appeared to them to be the fundamental law of the country, and to be worth a constitution by itself; but after the thinkers and politicians of the eighteenth century had spoken, it was impossible for these chimeras to exist. The revolution effected what kings could not, what the parliaments would have wished to prevent them from doing. Those declarations of the constitutions of 1791 and 1793 were not vain words · "The kingdom is one and indivisible." "The French republic is one and indivisible." Even the misfortunes of France have not been able to destroy this unity and this indivisibility, which nations admire and envy.

PAUL BOITEAU.

—*The Third Republic.* The Franco-German war of 1870–71 early revealed the weakness of the second empire. Immediately after the first defeats and in consequence of a vote of distrust of the legislature, the Olivier ministry resigned; one of the deputies even demanding the abdication of the emperor (Aug. 10). The new cabinet, presided over by Palikao, made every effort to increase the means of defense and to supply Paris with provisions. Meanwhile the French army had been annihilated in a succession of great battles; the whole of Alsace and Lorraine was occupied by German troops, and only Strasburg and Metz still held out. Napoleon III. himself surrendered at Sedan and went into captivity in Germany; the prince imperial, who had accompanied his father, had previously gone to England. On receipt of the news of this catastrophe, Paris rose in rebellion; during the night of Sept. 3, Jules Favre proposed in the legislature to depose the imperial dynasty. Palikao did not dare to vigorously resist this agitation, as the army and national guards could not be depended on. On the afternoon of Sept. 4 a mob stormed the hall of the legislature, the senate dissolved, and while Gambetta proclaimed a republic amid tumultuous excitement, the empress, together with the heads of the imperial party, were fugitives on their way to find shelter in England. On the very evening of Sept. 4, 1870, a "provisional government of national defense" constituted itself in the Hôtel de Ville, composed of deputies of the left only (Arago, Crémieux, Favre, Ferry, Gambetta, Garnier-Pagès, Glais-Bizoin, Pelletan, Picard, Rochefort, Simon). Under their auspices all Germans were expelled from France. Gen. Trochu presided, and was entrusted with the office of commander-in-chief of Paris. Jules Favre became vice-president and minister of foreign affairs; he entered upon his functions with a diplomatic circular of Sept. 6, in which he declared that the government desired peace, but would not cede one inch of the national territory, nor a stone of a French fortress. He made the same claim in a personal conversation with Bismarck at Ferrières on Sept. 19–20; he thought of contenting victorious Germany with money only. Thiers undertook a diplomatic mission to London, Vienna, St. Petersburg and Florence to ask the intercession of the neutral powers, but without success. His negotiations with Bismarck on Nov. 1, at Versailles, resulted in nothing. When the German army advanced toward Paris, the French government resolved to share the fate of the capital, but appointed a delegation for the administration of the provinces at Tours, where Gambetta as minister of war and of the interior virtually assumed the dictatorship. On Sept. 19 the surrounding of Paris had been completed, and the Prussian king, William I., had taken up his headquarters at Versailles, the old residence of the French kings. Strasburg and Metz capitulated. In vain Gambetta continued to levy new troops to relieve Paris; the French recruits and the militia (*garde mobile*) were unable to offer successful resistance to the experienced German soldiers, and in the beginning of December the government delegations even had to remove further south to Bordeaux. The government at Paris, too, was in a

difficult position. All efforts of Gen. Trochu to break through the iron belt of the besieging army were unsuccessful, and want soon made itself felt. In addition to this, an extreme party existed in the city itself, which had its connection with the international society of workingmen and relied upon the armed population of the workingmen's quarters, Belleville, Montmartre, etc. Aside from minor revolts, this party attempted, on Oct. 31, 1870, and Jan. 22, 1871, (unsuccessfully, however,) to usurp the government and to establish the so-called commune.—Under these circumstances the "provisional government of defense" was compelled to sue for peace. On Jan. 28, 1871, Favre and Bismarck signed an agreement for a three weeks armistice on land and water, in accordance with which the German troops occupied, the following day, all forts around Paris. During this armistice, which was afterward extended to March 3, a national assembly was to be chosen by general election in order to negotiate peace. When Gambetta attempted to limit the freedom of election to those of pronounced republican tendencies, his decree was not recognized by either Bismarck or the Paris government; this, with the general desire of the French people for peace, compelled him to resign. On Feb. 8 the elections took place, and on Feb. 12 the national assembly held its first session at Bordeaux. The following day the government of national defense resigned the powers confided to it to the national assembly, and the latter appointed Thiers, on Feb. 17, chief executive officer; retaining Favre as minister of foreign affairs. On Feb. 26 the preliminaries of peace were decided upon at Versailles, between Thiers and Favre on one side and the chancellor, Bismarck, and the representatives of Bavaria, Würtemberg and Baden on the other side, in accordance with which France ceded the provinces of Alsace, except Belfort, and German Lorraine, including Metz, to the German empire, and bound herself to pay a war indemnity of 5,000,000,000 francs; part of the French territory to remain occupied by German troops until the indemnity should be paid. These preliminaries were ratified on March 1 by the national assembly at Bordeaux and March 2 by Emperor William I. The German troops, who had occupied several quarters of Paris, withdrew from the city March 3. Shortly afterward the Germans also left Versailles, and the national assembly, together with the executive, removed from Bordeaux to the former place March 20. On March 18 a fresh and successful insurrection broke out in Paris, and the so-called commune usurped control of the government. This outbreak, however, was confined to the city of Paris; the French army remained true to the government, and after great bloodshed the insurrection was quelled, and by May 28 order was restored in Paris. Previous to this, the treaty of peace with Germany had already been definitively ratified. In accordance with the preliminaries, French and German representatives had, on March 28, convened at Brussels in order to deliberate over the details of the treaty; the negotiations, however, progressed slowly, as no agreement could be arrived at concerning the financial questions. This created distrust in Germany as to whether the government at Versailles would and could honestly carry out the provisions of the preliminary treaty. In consequence, Bismarck used his personal influence; and in a meeting with Favre, the French minister, at Frankfort on the Main (May 6–10) all conflicting points were speedily decided. The treaty of Frankfort, of May 10, 1871, generally confirmed the preliminaries, but contained amendments regulating the future border more in accordance with the nationality of the inhabitants, and containing an additional article in relation to the possession of the French railways of the east in Alsace-Lorraine.—The elections of Feb. 8 had, under clerical influences and under the pressure of the situation, resulted in a preponderating majority of the "legitimist-Orleanist" party, so that every one looked with either fear or hope for an early restoration of the monarchy. The princes of the house of Orleans returned to take up their residence in France; Count Chambord (Henry V.) appeared for a long visit at his country seat. Chambord and the followers of both sides entered into negotiations in order to effect a fusion. This, however, was made impossible by Chambord's manifesto of July 5, wherein he declared that he could not sacrifice the white flag of Henry IV. Thiers tried first to secure for himself the good will of the monarchist majority by appointing an increasing number of Orleanists as members of his cabinet. The republican Jules Favre resigned, and on Aug. 3 Charles Remusat entered the foreign office; later, Casimir Périer (the son) was appointed minister of the interior. On Aug. 12 the left centre of the national assembly brought in a bill proposing the prolongation of the power of Thiers for three years, under the title of president of the republic, and the establishment of a responsible ministry. After a hot debate, Aug. 30 and 31, the bill was passed by a vote of 491 against 93. The bill provided that Thiers should exercise the executive power as president of the republic under the authority of the national assembly, until the work of the latter was ended; he should reside at the seat of the assembly and be heard by the latter at any time at his request. The president as well as the ministers (who are appointed and dismissed by the former), should be under responsibility to the national assembly. Soon after the passage of this bill the assembly adjourned from Sept. 17 to Dec. 4, after appointing a permanent commission of forty-five members to act during the interval of the adjournment.—The next object of the French government and national assembly was the earliest possible liberation of the country from the occupation of the German troops, and the improvement of the army after the Prussian model. For the paying of the first two milliards of war indemnity, Thiers contracted, in June, 1871, a loan of

2,500,000,000 francs, and for the liquidation of the balance a second loan of over three milliard francs in July, 1872. That for the latter loan a sum of more than forty-four milliards was subscribed, was evidence of the very favorable condition of French credit. Thus France was enabled by more speedy payments to bring about the end of the occupation at an earlier period than had been expected at the time of the treaty. In the last convention of March 15, 1873, it was decided that the last quarter milliard should be paid off on Sept. 5, thereby securing the complete evacuation of the French territory. The reorganization of the army was also vigorously pressed. The national assembly granted for that purpose any sum requested, and even offered to the government more money than the latter required. The law of July 28, 1872, concerning military service, established universal liability to arms, in such a manner that one part of the troops should be under obligation of five years active service, and the other part of six months exercise only. Besides this, a term of four years service in the reserve and eleven years in the territorial army was decided upon. This law was made complete by the organization law of July 24, 1873, and the *cadres* law of March 13, 1875. The former determined the number of regiments (144 of infantry, 70 of cavalry and 28 of artillery), and assigned them to eighteen *corps d'armée* for which the commanding generals were at once appointed; a nineteenth *corps d'armée* was established in Algeria and placed under the command of Chanzy, the governor general of Algeria. By the *cadres* law, the *cadres* of the battalions were increased in such a way that while formerly a regiment consisted of three battalions with a maximum of 3,000 men, a regiment of four battalions could now be formed, increasing the strength of the regiment to 4,000 men. This bill passed, the French infantry comprised 641 battalions. Such a law appeared of so much importance and so favorable for the early outbreak of the meditated war of vengeance, that in April, 1875, the question was raised at Berlin, whether "war was in view." All parties in France labored for the war of vengeance; even the plans of the Jesuits tended in the same direction. Under the guidance of the latter, humbled France should be raised up again, and the people stirred up for the national-clerical crusade against Germany. Miraculous fountains and apparitions, numerous processions, chanting of religious songs with refrain of vengeance, were intended to keep up the fanaticism of the populace. The clericals most favored by the government increased their demands more and more until the law of July 12, 1875, concerning public instruction, awarded them the privilege of establishing "free universities" and the participation in conferring academical degrees, whereby they hoped to secure a controlling influence in the higher grades of instruction, in addition to the management of the institutions for female instruction and education which they already conducted.

The proceedings instituted by the military commission against Marshal Bazaine were intended to relieve the "Grande Nation" from all responsibility for the disgrace of the last war, and to lay all the blame therefor to insubordination and treason. Bazaine was, by court martial, on Dec. 10, 1873, condemned to death, but the sentence was commuted to twenty years' imprisonment. Removed to the fortress on the island of St. Marguerite, he escaped on Aug. 10, 1874. — Less harmony existed between the parties in question concerning the framing of the constitution. The monarchists divided into legitimists, Orleanists and Bonapartists, and each of the three parties had its own pretendant; the republicans, too, formed three groups: moderate, decided and radical republicans. Not only the monarchists and republicans opposed each other, but even the several factions in the parties themselves often disagreed. Thus it happened that the "commission of thirty" which was to frame the constitutional laws, found much difficulty in arriving at a conclusion, and could not gain a majority in the assembly for its decrees On account of these difficulties several ministers were politically wrecked, and the constitution made no progress toward completion. It took four years before the republic became a fact and constitutional. Meritorious as had been the course of Thiers as president of the republic, he had gained the ill will of the monarchists because he would not support their plans and because of his preference for the republic. And as the supplementary elections mostly resulted in favor of the republicans, it could be foreseen with mathematical certainty that the monarchists would eventually lose the majority in the assembly. As Thiers, in forming his new cabinet on May 18, 1873, chose its members from the ranks of the republicans only, without regard to the majority of the monarchists, the latter proposed a resolution of censure against him. This was accepted on May 24, by a vote of 360 against 344. Thereupon Thiers and his ministry tendered their resignation and Marshal MacMahon was at the same session elected president of the republic. The latter formed a new ministry composed of legitimists, Orleanists and Bonapartists, presided over by the duke de Broglie as minister of foreign affairs. The new presidency promised to be of but short duration; for the legitimists labored more strenuously than ever to bring about a fusion; they had already secured the good will of many Orleanists, and proposed to recall Count Chambord and offer him the throne. The count de Paris, as head of the house of Orleans, visited Count Chambord on Aug. 5, 1873, at Frohsdorf, and recognized him as the chief of the united houses of Bourbon and Orleans, and as the chief representative of the monarchical principle in France. But since Count Chambord, in his letter of Oct 27, demanded an unconditional recall, and refused to make any binding declaration in regard to the flag (whether tricolor or white), or as to

the constitution, the Orleanists withdrew, and the attempt at fusion again proved a failure. MacMahon, however, demanded then the establishment of a strong executive power, and the assembly accordingly decided to fix the term of office of the president at seven years (septennate). Under the ministry of Broglie ultramontanism and Bonapartism made rapid progress. The pastorals of the French bishops outdid each other in their attacks upon the German emperor and his government, so that the minister of public worship, in a circular of Dec. 26, 1873, cautioned the bishops, and Bismarck called the French government to account. The Bonapartists gained several favorable results at the later elections, and found themselves in possession of most of the higher offices. Since legitimists and Orleanists had lost all ground with the people, the only question remained whether the third empire or the republic would come out victorious from the struggle of parties. After the death of the ex-emperor, Napoleon, on Jan. 9, 1873, the Bonapartists gathered around his son, who, on March 16, 1874, became of age. This latter event was celebrated at Chiselhurst, many followers of the empire doing homage to the prince imperial. Since the Bonapartists could hardly count upon aid from any of the other parties, they carried on their agitation all the more vigorously among the lower classes and awaited a favorable opportunity for a *coup d'état*. But this was what legitimists and Orleanists feared most, and as the agitation of the Bonapartists became too strong, the former declared in 1875 for the establishment of the republic. — After Broglie had succeeded in passing the law of Jan. 20, 1874, by which the appointing of the mayors was given entirely into the hands of the government, he proposed still another most reactionary law, limiting the general right of voting at elections for deputies. When the question was put whether the electoral law should have an immediate hearing, the assembly decided against Broglie. In consequence, he resigned on May 16, 1874, and the minister of war, Cissey, on May 22, formed a new cabinet, whose members were also chosen from the monarchical parties. Clericals and Bonapartists continued to be preferred. At the consideration in the assembly of the laws concerning the transfer of power, the elections and the authority of the senate, a decision was reached. The right and left centre united in their position in reference to the amendment to the first law proposed by Wallon, a deputy, and also to the new senate law drafted by the same, and in this way both laws were passed on Feb. 23 and 24 by the national assembly. One of the laws determined the position of the president of the republic in relation to the senate and chamber of deputies; the other one fixed the number of senators at 300, of which 75 were to be elected by the national assembly for life, while 225 were to be elected for a term of nine years by the departments and colonies, or the representatives of the latter, members of the general councils of the arrondissements and the communes. In consequence of these decisions the ministry under Cissey resigned, and on March 11, Buffet, who, since April 4, 1873, had been president of the national assembly, formed a new cabinet, which, however, did not fully agree with the majority which had passed these laws. These changes were followed, on July 16, by the adoption of the laws determining the relations of the public authorities to each other, and regulating the election of the 225 senators; on Nov. 30 by the adoption of the law concerning the election of deputies by voting in the arrondissements; and on Dec. 29 by the adoption of a stricter press law, and of a law concerning the state of siege, (which should only remain in force in Paris, Lyons, Marseilles and Versailles). The election of the seventy-five senators by the national assembly was accomplished in eleven ballots, and resulted in the complete defeat of the Buffet ministry. At last the assembly determined that the elections for the senate should be held on Jan. 30, 1876, those for the chamber of deputies on Feb. 20, and that the opening of both chambers should take place on March 8; then the national assembly dissolved, to return no more, as originally constituted. — In spite of all efforts of the government which controlled the press law, the state of siege, the voting in the arrondissements, the prefects and the mayors, and tried to use them in its own favor, the elections for senate and chamber of deputies resulted very generally in favor of the new constitutional law. Of the 300 senators, about one-third were said to be republicans (mostly moderate) and 40 Bonapartists; of the 532 deputies, about 360 were said to be republicans and 80 Bonapartists. These elections proved a complete defeat of the reactionists, and especially of the clericals, who had made such rapid progress under the former government. Buffet himself was not elected for either chamber (later, on June 16, he was elected as senator for life); he resigned on Feb. 21, 1876, and on March 9 a new ministry was formed from members of the left centre, presided over by Dufaure. On March 7 the new session was opened; the senate and the chamber of deputies proceeded to elect their temporary officers. On March 8 the functions of the former national assembly were transferred by its president, Andiffret-Pasquier, and the permanent committee to the newly constituted chambers, and on March 13 both chambers elected their permanent presiding officers, Andiffret-Pasquier in the senate and Grévy in the chamber of deputies. The republicans now demanded from the government the immediate dismissal of all legitimist or Bonapartist prefects and the abolition of the *maire* law and state of siege. The fulfillment of the two first-named points was delayed; the state of siege, however, together with some restrictions of the press law which Buffet had arbitrarily introduced, were abolished, in consequence of a motion made and accepted in both chambers. A motion,

offered on March 21 in the senate by Victor Hugo, and in the chamber of deputies by Raspail, to decree a general amnesty for political offenses and press transgressions, (consequently also for communists), was lost by a large majority, the government, however, promising to exercise all possible indulgence and consideration. The law proposed by Waddington, minister of public instruction, to alter the law concerning higher instruction adopted in 1875, to make the state alone competent to grant academical degrees, was, on June 7, confirmed by the chamber of deputies; in the senate, however, on Aug. 11, it was rejected by a vote of 144 against 139. The reactionary *maire* law, created by Broglie in 1874, was abrogated on July 11 by the chamber of deputies, and on July 12 a new bill was passed, whereby the election of *maires* was left with the municipalities, with the exception of the principal towns of the arrondissements and cantons in which the election was decided by the government. At the same time a bill was passed making it obligatory to elect a new common council before the election of a new *maire*. — On Aug. 11 the senate passed the *maire* law proposed by the chamber of deputies, but rejected the amendment; to which decision the latter finally agreed. The new election for *maires* took place on Oct. 8 in 33,000 municipalities, and resulted mostly in favor of the republicans; in 3,000 municipalities the election depended on the government. By refusing in several instances the customary military honors at funerals of knights of the legion of honor, the government came into conflict not only with the chamber of deputies but also with the entire non-clerical public opinion. To disembarrass itself in this dilemma, the government, on Nov. 23, proposed a law providing that in future military honors should be conferred on active soldiers only, and not on any other members of the legion of honor. This evident inclination of the government to clerical tendencies created such a storm that the cabinet under Dufaure could not maintain itself. The government was compelled to withdraw its motion on Dec. 2, and to consent to an order of the day providing that in the future application of the funeral regulation the two principles of liberty of conscience and equality of citizens before the law should be maintained. Since the cabinet had no majority either in the senate (for which it was too liberal) or in the chamber of deputies (for which it was too clerical), it tendered its resignation. After long deliberation a new ministry was formed on Dec. 12, in which Jules Simon, member of the moderate left, assumed the presidency and the department of the interior, and Martel the departments of justice and worship, while all other offices remained in the possession of their former holders. After the overthrow of MacMahon, Jules Grévy (Jan. 30, 1879) became president of the republic. — *Constitution.* The form of government in France is republican, based upon the constitution adopted by the national assembly on Feb. 28, 1875, and several amendments. The president of the republic is the chief officer, and is assisted in the government by the ministry, the senate and the chamber of deputies. He is under responsibility to the French people, with the privilege of appeal to the same. His power is executive. According to decree of the national assembly, of Nov. 11, 1875, the members of the chamber of deputies are elected by universal suffrage. Each arrondissement elects one deputy for every 100,000 inhabitants or fraction thereof. A voter must be a citizen and twenty-one years of age; a deputy, a citizen and twenty-five years of age. The chamber of deputies consists of 532 members, and the senate of 300 members, of whom 225 are elected by the departments and colonies, and 75 by the national assembly. The senators for the departments are elected by electoral boards for a term of nine years, (one-third of their number going out of office every third year), while the senators nominated by the assembly remain during their lifetime. A senator must be a Frenchman by birth and forty years of age. The senate and chamber assemble annually on the second Tuesday in January, provided the president of the republic does not convoke them sooner; their sessions must last at least five months. Both open and close their sessions at the same time. The president proclaims the close of the session, and has the privilege of convoking the chambers at any time; it becomes his duty to do so if one-half of the members of both chambers desire it. The president can adjourn the chambers, but for no longer than a month and not oftener than twice during the same session. The senate, in conjunction with the chamber of deputies, has the right of proposing and making new laws. Bills for the levying of taxes, or relating to the revenue, however, must first be presented to and accepted by the chamber of deputies. The president of the republic is elected by a majority of votes of the national assembly consisting of both chambers. His term of office is seven years, at the expiration of which he is again eligible. He, as well as the senate, has the initiative in legislation. He promulgates all laws adopted by both chambers, and insures their proper execution. He has the right of pardon, commands the forces, and appoints all civil and military officers, including the heads of the ministerial departments. The envoys and ambassadors of foreign powers are accredited to him. Every decree of the president must be countersigned by one of the ministers. The president may, with the consent of the senate, dissolve the chamber of deputies, but must in that case convoke the electoral boards for new elections within three months. The ministry is responsible to the national assembly for the general policy of the government, and each minister is personally responsible for his individual acts. The president is responsible only in case of high treason. In case of his death the united chambers must at once proceed to elect a new president. The seat of the ex-

ecutive and of both chambers is at Versailles.— *Administration.* The administration, as the emanation of the executive power in France, is rigorously separated from the legislative authority and from the administration of justice. It constitutes a system of the strictest centralization. Since June, 1875, nine ministries have been established: 1, the ministry of the interior; 2, the ministry of foreign affairs; 3, the ministry of finance; 4, the ministry of justice (keeper of the great seal); 5, the ministry of commerce and agriculture; 6, the ministry of worship and public instruction; 7, the ministry of public works; 8, the ministry of war; 9, the ministry of the navy. The chamber of accounts is independent. There is a council of state, presided over by the minister of justice, the functions of which are the giving of advice on bills and decrees as well as on all administrative and other affairs presented by the president of the republic and by the ministry, and the deciding of appeals in conflicting administrative affairs and annulments on account of errors on the part of the various administrative departments. Its ordinary members are elected by the national assembly for a term of three years; the extraordinary ones are appointed by the president of the republic. A special tribunal decides in cases of concurrence of jurisdiction between the courts of administration and of justice. In close connection with the central administration of the ministry is the departmental or provincial administration. Each department is presided over by a prefect, who executes all decrees, decisions, directions, etc., issued by the ministry to the lower courts. Aside from his position as a government officer, he is also the representative of the interests of the department, which is at the same time a part of the state and an individual sovereignty, with power to buy and sell. The prefect is assisted by the general council. The latter has as many members as the department has cantons, who are elected in the same manner as the members of the general assembly. The members of the general council, whose term is six years, must be residents of the department. Every three years one-third of the members retire, but may be re-elected. The general council levies the taxes in the districts, directs the financial affairs of the department, though its decrees are partly subject to confirmation by the higher authorities, and gives its opinion in all matters wherein its advice is required. Each general council appoints annually a departmental commission to assist the prefect. The subdivisions of the department, the arrondissements, are presided over by a sub-prefect, who is, in fact, merely the agent of the prefect. He is assisted by an elected council (*conseil d'arrondissement*) whose annual sessions are limited to fifteen days. The cantons of which an arrondissement is composed are administratively insignificant; they merely serve as a basis for the elections and for the levy of recruits. Every canton is the seat of a justice of the peace. Next to the administration of the police comes that of the commune. The commune being at the same time a part of the state and an independent corporation, the mayor has, in the same manner as the prefect, the double character of a governmental agent and municipal representative. As agent of the government his functions are to promulgate and secure the proper execution of all laws and ordinances, and to maintain the general and municipal police (except in towns of over 40,000 inhabitants). His decrees must in part be sanctioned by the prefect or sub-prefect. He has no judicial power, which rests alone with the police courts. As representative of the municipality he manages the parish property, regulates the receipts and expenditures, prepares the budget, represents the community in the courts, etc. He is also civil magistrate, keeps the civil list, officiates at civil marriages, though under the control of the courts of justice (*procureur d'état*). The mayor (*maire*) appoints most of the municipal officers. His assistant and substitute is the "adjunct," of which there are several in communes of over 2,500 inhabitants. The *maire*, as well as his assistant (whose functions are not specified), has no salary. The former is assisted by the municipal council elected by the parishioners. All Frenchmen twenty-one years of age, residing at least six months in a parish, are eligible. The municipal council consists of at least ten members; their number increases, according to the population, to the limit of thirty six. The municipal council passes ordinances concerning the administration of the common property, which must be submitted to the citizens as well as to the authorities, and which the prefect may veto, but which he can not alter. It deliberates on the budget, the purchase and sale of public property, the erection of buildings and repairs, the acceptance of donations, and matters of dispute, though its decrees must be submitted to the prefect or the minister of the interior for sanction; it furthermore gives its advice in all matters submitted to it, as church taxation, matters of public benevolence, etc. The sessions of the municipal council are not public. The ordinary annual session lasts ten days; extraordinary sessions may be convoked at the request of one-third of the members, with the consent of the prefect. — *Political Division.* European France is divided into eighty-six departments and one territory (Belfort), comprising 363 arrondissements, 2,865 cantons, and 35,989 communes. This division was made by decree of the national assembly, of Jan. 15, 1790, and proved very beneficial, as the difference in size of the historically defined provinces, with their frequently adverse interests, rendered their administration very difficult. Notwithstanding this, the old division into provinces has remained a favorite historical remembrance of the population, the more so as it corresponds more nearly to their physical, industrial and social relations. The correspondence of the provincial division with the present division into departments may best be shown, with a few exceptions, by the fol-

lowing summary: In the north—1. Lorraine (Departments—Vosges, Meurthe-Moselle, Meuse); 2. Champagne (Departments—Haute-Marne, Aube, Marne, Ardennes); 3. Isle de France (Departments—Seine-et-Marne, Seine, Seine-et-Oise, Aisne, Oise); 4. Flanders, Artois and Picardy (Departments—Nord, Pas-de-Calais, Somme). In the northwest—5. Normandy (Departments—Seine-Inferieure, Eure, Orne, Calvados, La Manche); 6. Brittany (Departments—Ile-et-Vilaine, Côtes-du-Nord, Finistère Morbihan, Loire-Inferieure); 7. Maine, Anjou and Touraine (Departments—Mayenne, Sarthe, Indre-et-Loire, Mayenne-et-Loire). In the west—8. Poiton Aunis, Saintonge and Angoumais (Departments—Vendée, Deux-Sèvres, Vienne, Charente Inferieure, Charente). In the south—9. Guyenne, Gascogne, Béarn and Navarre (Departments—Dordogne, Gironde, Lot-et-Garonne, Landes, Pyrenées-Basses, Pyrenées-Hautes, Gers, Tarn-et-Garonne, Lot, Auvergne); 10. Languedoc, Foix and Rouissillon (Departments—Pyrenées Orientales, Aude, Ariège, Garonne-Haute, Tarn, Hèrault, Garde, Lozère, Ardyche, Loire-Haute); 11. Provence and Nice (Departments—Vaucluse, Bouches-du-Rhone, Var, Alpes-Basses, Alpes-Maritimes); 12. Dauphiné (Departments—Alpes-Hautes, Drôme, Isère). In the east—13. Savoy (Departments—Savoie, Savoie-Haute); 14. Lyonnais (Departments—Loire, Rhône); 15. Franche-Comté (Departments—Saône-Haute, Doubs, Jura); 16. Burgundy (Departments—Ain, Saône-et-Loire, Côte-d'or, Yonne); 17. Alsace (District Belfort). In the centre—18. Orléannais (Departments—Eure-et-Loire, Loiret, Loire-et-Cher); 19. Bourbonnais, Nivernais and Berri (Departments—Nièvre, Cher, Indre, Allier); 20. Auvergne, Limousin and Marche (Departments—Puy-de-Dôme, Creuse, Vienne-Haute, Corrèze, Cantal). Isolated in the south, Corsica constitutes the 86th department. The largest department is Gironde (9,740.32 square kilometres), the smallest Seine (475.50 square kilometres), and the next smallest Rhône (2,790.39 square kilometres.)—*Administration of Justice.* The administration of justice is presided over by a special minister of state; it is divided into civil and criminal jurisdiction. The former is exercised by justice courts, circuit courts and courts of appeal. The justice court consists of a judge who need not be a jurist, and two substitutes who have no pay. The justice of the peace is really judge as well as mediator. No lawsuit can be commenced in the circuit court that has not first been tried before a justice of the peace, in order, if possible, to effect an agreement between the contending parties. The circuit courts (*tribunal d'arrondissement*) consist, according to the size of the arrondissement, of seven to ten or twelve salaried judges, and several substitutes without pay who are selected from among the lawyers. They take cognizance of all cases which can not be brought before any other court, and have summary jurisdiction in cases involving amounts not exceeding 1,500 francs. The appellate court consists of from twenty-four to thirty or forty members, which constitute three chambers; for civil proceedings, for appeals in error, and for indictments. The assizes have only jurisdiction in matters submitted to them by the court of appeals. The appellate court is generally of second resort. The commercial jurisdiction is exercised: 1, by tribunals of commerce, whose members are elected from among merchants and manufacturers for a term of two years, and are confirmed by the government; 2, by the *prud'hommes*, (experienced men) arbitrators composed of manufacturers, master workmen, journeymen and workmen who settle disputes by arbitration. The commercial jurisdiction requires no attorneys nor lawyers. The French judicial code distinguishes three degrees of infractions of the law: offenses against the police regulations, transgressions and crimes. The first come under the jurisdiction of the police courts, with fines limited to fifteen francs, or five days' imprisonment. If judgment amounts to more than a fine of five francs, the case may be appealed to the tribunal of appeals in error or to the court of cassation. The latter consists of three judges who pass sentence in the case of all transgressions that are not crimes, but which are subject to higher penalty than can be inflicted by the police courts. Appeal from its judgment may be taken to another tribunal of cassation or to any of the twenty-six courts of appeal. Crimes come under the jurisdiction of the assizes, which are held every three months in the principal town of each department, and consist of judges and a jury. Besides crimes, offenses of all kinds against the press laws, as well as political offenses (with the exception of high treason), are submitted to the court of assizes. In each of the 363 arrondissements is established a court of first resort, and in each of the 2,865 cantons a justice of the peace. The judges merely pronounce the legal punishment for a crime after an absolute majority of a jury of twelve men has rendered a verdict. A supreme court (*haute cour de justice*), the jury of which is composed of members of the general councils and whose judges are taken from the courts of cassation, decides in cases of high treason and crimes of the ministers, high dignitaries, senators and members of the council of state. Although special courts are against the constitution, there are several special tribunals provided by law, as probate courts, military courts, marine courts, disciplinary chambers of notaries and attorneys, and disciplinary magistrates, for matters concerning public instruction. The court of cassation never decides matters in dispute, but merely the proper application of the laws and proceedings. It has forty-nine members, and is divided into three chambers: civil chambers, criminal chambers and the *chambres de requête.* In some cases judgment is passed by the three chambers jointly. The judges of the circuit courts, courts of appeal and courts of cassation can not be deposed, but must be retired at a certain age (since 1852). In fact,

there are but two resorts in the French administration of justice. With the exception of the justice and commercial courts, councils of *prefecture* and *prud'hommes*, all courts have the services of the *ministère public*, which in the circuit and superior courts is represented by the state's attorney (*procureur de la république*). The state's attorney conducts prosecutions in criminal cases, gives advice in civil suits, or (in matters concerning the state or minors) appears himself as a party to the suit. With the exception of the probate courts, all legal proceedings in France are public and verbal. — *Education.* The progress of science, art and public instruction has corresponded with the high state of culture in the nation, although the middle schools have not attained a very high degree of excellence, and the public schools, properly speaking, are essentially affected by political and clerical influences. Public instruction, with the exception of a few special professional schools, is presided over by a special ministry assisted by a high board of education and eighteen inspectors general. The whole state is divided into sixteen government groups, or so-called academies. Each of these is presided over by a rector, who is responsible for all branches of instruction, though the primary schools in the single departments are under the superintendence of the prefect. The prefect appoints and dismisses the teachers and exercises immediate authority. The instruction in the higher schools comprises the five faculties of theology, law, medicine, science and literature, the latter two corresponding with the philosophical faculty of the German universities. Only in Paris are all five departments united in full universities, while in eighteen other places but single departments are represented. For instance: theology at Aix, Bordeaux, Caen, Lyons, Montauban, Paris and Toulouse; law at Aix, Bordeaux, Caen, Dijon, Douai, Nancy, Paris, Poitiers, Rennes and Toulouse; medicine at Montpellier, Nancy, Paris; science at Besançon, Bordeaux, Caen, Clermont, Dijon, Grenoble, Lille, Lyons, Marseilles, Montpellier, Nancy, Paris, Poitiers, Rennes and Toulouse; literature at Aix, Besançon, Bordeaux, Caen, Clermont, Dijon, Grenoble, Douai, Lyons, Montpellier, Nancy, Paris, Poitiers, Rennes and Toulouse. Besides these there are high schools for pharmacy at Lyons, Montpellier and Paris. Lately the government has given more particular attention to the higher grades of instruction in the lyceums (formerly *colléges royaux*) and in the communal colleges, and also to public instruction in the elementary schools, (for which male teachers are trained in eighty-one and female teachers in eleven normal schools). In 1872 but 51.75 per cent. of the total population was able to read and write, and but 10.45 per cent. was able to read only, leaving, therefore, 37.80 per cent. altogether illiterate. This percentage is of course subject to many local variations, as the different departments share very unequally in the diffusion of education. The proportion of the educated is highest in the northeast, and lowest in Brittany and on the western and northern terraces of Auvergne, Limousin, Berri, Nivernais and Bourbonnais. Of the schools for instruction in special branches of knowledge, the following deserve special mention: the school of fine arts at Paris, founded in 1648 by Louis XIV., with free tuition and three grand annual prizes, the academy of design at Paris, founded in 1766 by Louis XV., also with free tuition; the conservatory of music and declamatory art at Paris, established 1794, a celebrated preparatory school for the opera and the drama; the academy for instruction in oriental languages; the schools of Rome and of Athens; and the *Ecole des Chartes*. The polytechnic school at Paris was established in 1794. It is maintained under the supervision of the minister of war and the special management of a general of the army, and serves as a preparatory school for the artillery and engineer corps, as also for the schools of navigation, civil engineering, mining, etc. The schools for instruction of engineers of public works and the schools for miners at Paris, therefore, presuppose a course in the polytechnic school. A conservatory for the application of science to the arts and trades, a central school for arts and trades, and a superior commercial college, are established at Paris, and schools for arts and trades at Chalons-sur-Marne, Angers and Aix. Nancy has a school of forestry. Besides three superior agricultural schools at Grignon near Versailles, at Granjouan (lower Loire) and at Montpellier (1871), there are forty-seven estates with 995 pupils serving as minor farming schools. Of the military colleges the most important are: the school for the training of officers of the staff at Paris (*Ecole d'état major*), that of St. Cyr for the education of officers of the infantry, the cavalry school at Saumur, the *prytonée militaire de la flèche* for sons of officers, the artillery and engineer school (at Fontainebleau), and a school for the practice of firearms at Vincennes. While there are hydrographical schools in nearly all of the larger seaports, the naval academy at Brest is of special importance for the navy. — *Population.* The population of France after the cessions to Germany in virtue of the treaty of Frankfort, May 10, 1871, according to the census of 1866, was 36,469,836; according to the census of 1872 it was only 36,102,921; showing, aside from the territorial losses, a decrease of 366,915 souls, or 1.2 per cent. This decline of population was partly due to losses in the war, but principally to the ravages of small-pox during 1870–71, the decrease in marriages and the increase of the death rate over the birth rate. It affected almost the entire country. Only fourteen departments showed an increase of population. Chief among these were the departments of Allier, Loire, Nord, Pas-de-Calais, Seine and Seine-et-Oise, none of which belong to southern France. France has at present nine cities with more than 100,000 inhabitants. Their population,

with the exception of Lyons, Bordeaux and Toulouse, increased in the six years between the census of 1866 and that of 1872, although not in the same proportion as the larger cities of the German empire. The largest cities of France are, according to the census of 1876: Paris, 1,988,806 inhabitants (in 1866, 1,825,274), Lyons, 342,815 inhabitants (in 1866, 323,954): Marseilles, 318,868 inhabitants (in 1866, 300,431); Bordeaux, 215,146 inhabitants (in 1866, 194,241); Lille, 162,775 inhabitants (in 1866, 154,749); Toulouse, 131,642 inhabitants (in 1866, 126,936); Nantes, 122,247 inhabitants (in 1866, 111,956); Rouen, 104,902 inhabitants (in 1866, 100,671); St. Etienne, 126,019 inhabitants (in 1866, 96,620). Of the rest of the larger cities, some, especially affected by the Franco-German war and the consequent occupation, show a considerable increase, principally Rheims, 81,328 inhabitants (in 1866, 60,734); Versailles, 49,847 inhabitants (in 1866, 44,021); Nancy, 66,303 inhabitants (in 1866, 49,993). The average population is 70.6 to the square kilometre. But the great variations in numerical distribution will best be shown from the following: To one square kilometre the department of the Seine had, in 1872, 4,667 inhabitants, Rhône 240, Nord 255, Lower Seine 131, Loire 116, Pas-de-Calais 115, etc., while the department of the Lower Alps had 20, the Upper Alps 21, Lozère 26, Landes 32, Savoy 47, Corsica 30, etc. Leaving out of consideration the city of Paris, the most densely populated are the departments of the north and of the coast, and the most sparsely populated those of the mountains and of the interior, with the exception of the larger cities and manufacturing districts, as Lyons and St. Etienne. The number of populous cities in France is small. The city element of the whole population is about 25 per cent.*—Although historical researches into the descent of the population point to a diversity of races, there is not another country in Europe in which the different nationalities are so harmoniously blended as in France. It is only on the Belgian frontier, toward the Pyrenees and in the interior of Brittany, that a marked difference is perceptible, and this rather in the idiom than in national customs. The proportion of foreign elements is estimated as follows: the Walloons in the north, 5 per cent.; the Bretons, 3 per cent.; the Italians in the southeast, 1.1 per cent.; the Basques and Catalonians in the Pyrenees, 0.5 per cent.; the Israelites, 0.14 per cent.; the Gypsies and Cagots, 0 05 per cent. This leaves 90.21 p r cent. to the French race, *i. e.*, the mixture of subjugated Gauls, colonized Romans and Gallic tribes. According to nationality the population consisted, in 1872, of 35,362,253, or 97.97 per cent. Frenchmen, and 730,844, or 2.03 per cent. foreigners; and according to religious faith, of 35,387,763, or 98 per cent. Catholics; 580,757, or 1.6 per cent. Protestants; 49,439, or 0.14 per cent. Israelites; and 85,022, or 0.26 per cent of anti-Christian or unknown creed. From 1872 to 1876 there was an increase of 802,867 in the population of France, the total population at the latter date being 36,905,788.

—*Army.* The army of the second French empire had almost completely gone to wreck during the campaign of 1870; a predominant part of it was, after the surrender of Sedan, Strasburg, Metz and the other fortresses on war territory, in German captivity. With numerous new organizations France had offered resistance to the enemy during the last period of the war, so that after the victory over the "commune" at Paris, a new French army had to be created. This has been done by a course of legislation, which has abandoned the previously prevailing principles, and which corresponds in almost every respect with the Prussian system. This has made it possible to create an army, whose strength, notwithstanding the loss of Alsace and Lorraine, materially exceeds that of the army of the empire By the conscription law of 1872 the principle of universal liability to arms is laid down, in accordance with which every Frenchman is liable to militáry service; substitution or enlistment for money are prohibited, and every Frenchman, who has not been declared entirely unfit for service, must, from his twentieth to his fortieth year, be in the active army and its reserve; and only Frenchmen are admitted to the French army. This law further stipulates that members of the active forces shall not take part in political elections, and that every armed active troop is subject to the military laws, belongs to the army, and is subordinate to the ministry of war or marine. Thereby political agitation in the army is prevented, and the national guard abolished. The time of service in the active army is five years, in the reserve of the same four years, in the territorial army five years and six years in the reserve of the latter; making, in all, twenty years. Besides this, the system of volunteer service for one year only (*volontaires conditionels d'un an*) has been established. By the law of July 24, 1873, regulating the army organization, the permanent division of the army into *corps d'armée*, divisions, etc., has been decreed, corresponding to the Prussian provincial system, by which France, with respect to organization of the active army and its reserve, as well as that of the territorial army and reserve, is divided into eighteen districts, which again are subdivided according to the productiveness of conscription and the demands of mobilization. In each of the eighteen districts a *corps d'armée* is garrisoned; a nineteenth corps is maintained in Algeria. Each *corps d'armée* consists of two divisions of infantry with two brigades each, a cavalry brigade, an artillery brigade, a battalion of engineers, a squadron of the train, together with the staff and the necessary commissary department. Unlike the German system

* The population of France, according to the census report just issued, is 37,672,048, an increase of 766,260 in five years. The population of the four largest cities is as follows: Paris, 2,269,023; Lyons, 376,613; Marseilles, 360 099; Bordeaux, 221,305. 53 departments, chiefly manufacturing and commercial, show an increase; 34 departments, mostly agricultural, show a decrease. ("Times," Sept. 8, 1882.)

the active army does not recruit itself from the respective districts, but from the whole territory of France; but in case of mobilization the different troops are re-enforced by reserves from their own districts. One ordinance is peculiar: that in times of peace no commanding general of a *corps d'armée* shall occupy that office for more than three years, unless he has been expressly confirmed in it at the expiration of that time by decree of the president of the republic. The territorial army, similar to the German "landwehr" (militia) is formed of persons living in the district and not belonging to the active army; the reserve of the territorial army is only called upon if the present forces are not sufficient. The law of March 13, 1875, completes the reorganization of the French army, determines the number and formation of all classes of troops, regulates the grades of the military departments in peace and in war, and fixes the annual average peace footing of privates for every part of the army. According to this, the strength of the French army is as follows: Infantry, 144 regiments of the line, each consisting of four battalions of four companies each, and two *dépôt* companies for each regiment, altogether 576 battalions with 2,304 field and 288 *dépôt* companies (236,301 men), thirty battalions of chasseurs, of four active and one *dépôt* company each, altogether thirty battalions with 120 field and thirty *dépôt* companies (18,240 men); four regiments of zouaves, with four battalions of four companies each, and one *dépôt* company for each regiment, altogether sixteen battalions, with sixty-four field and four *dépôt* companies (10,320 men), three regiments of Algerian sharpshooters (*tirailleurs*) with four battalions of four companies each, and one *dépôt* company for each regiment, altogether twelve battalions, forty-eight field and three *dépôt* companies (8,505 men); one foreign legion of four battalions, having each four companies, altogether four battalions, sixteen active companies (2,529 men); three battalions of African light infantry, of six companies each, altogether three battalions, eighteen field companies (4,143 men); four companies of fusileers, and one pioneer penal company (1,560 men). This makes the total footing of the infantry: 641 battalions, with 2,575 field and 325 *dépôt* companies (281,601 men). Napoleon's army of 1870 had only 372 field battalions. The cavalry consisted of twelve regiments of cuirassiers, twenty-six regiments of dragoons, twenty regiments of chasseurs, and twelve regiments of hussars, each composed of four field and one *dépôt* squadron, making a total, therefore, of seventy regiments, with 280 field and seventy *dépôt* squadrons (58,100 men and 51,800 horses). To this must be added the African cavalry, with four regiments of chasseurs d'Afrique and three regiments of Spahis, with four field and two *dépôt* squadrons each. This makes the total sum of French cavalry seventy-seven regiments, with 308 field and eighty-four *dépôt* squadrons (65,725 men and 58,943 horses). In case of war and for the manœuvres nineteen squadrons of *éclaireurs volontaires* (one for each *corps d'armée*) are to be formed. Besides the foregoing there are eight companies of *remonte* riders, with 2,892 men. The artillery consisted, exclusive of the staff, of nineteen regiments of division, with three foot, eight field and two *dépôt* batteries each; nineteen regiments corps of artillery, with eight field, three mounted and two *dépôt* batteries each, comprising altogether fifty-seven foot, fifty-seven mounted and seventy-six *depôt* batteries, with 55,242 men and 29,944 horses. Instead of the 984 guns with which Napoleon III. should have nominally entered the campaign, France will in future go to war with 2,166 guns. Besides the above there belong to the artillery two regiments of pontoniers, of fourteen companies each, ten companies of artisans, three companies of pyrotechnists, and fifty-seven companies of the train, making a total of 10,000 men and 2,700 horses. The engineer corps comprises, besides the staff, four regiments of sappers and miners, of five battalions each, composed of four companies; to this must be added one *dépôt* company for each regiment, one company of railroad workers and one company of drivers, making a total of 10,960 men and 733 horses, in ninety-two companies. The train is composed of twenty squadrons of carriage train, with three companies each, and twelve companies in Algeria, making altogether 9,392 men and 7,380 horses, in seventy-two companies. Adding to this the commissary department and branches, with 20,833 men and 1,664 horses, and the gens d'armes with 27,014 men and 13,567 horses, we arrive at a total peace footing of the army of 490,322 men and 120,894 horses. — The strength of the army on a war footing would amount to nineteen *corps d'armée* and six independent divisions of cavalry, with 880,000 men, leaving about 50,000 men still disposable for Algeria, etc. The *dépôt* troops of the field army would number 220,000 men, making a total war footing of the active army, inclusive of its *dépôts*, of 1,150,000 men. The territorial army would consist of 145 regiments of infantry, with three battalions each, eighteen regiments of artillery, eighteen battalions of engineers, and eighteen squadrons of train; also a number of squadrons of cavalry, which are estimated at 560,000 men. The war footing of the French army will therefore amount to 1,710,000 men, and when the conscription law of 1872 has been in operation for twenty years, France will have 3,400,000 trained soldiers at her command. Besides the numerical strength, the tendency is to increase the moral value of the army; the new regulations give a degree of independence and responsibility to the subaltern officers, formerly unknown in France; the camp at Chalons, where formerly sham battles were fought, has lost its importance, for at present the French *corps d'armée* manœuvre after the Prussian manner, at various locations in their districts, and call in part of their reserves for the exercises — The system of for-

tification also has been materially changed. Before 1870 the fortresses of France comprised twenty-three of the first class, thirty-six of the second, twenty-nine of the third and forty-seven of the fourth class. A number of unimportant places have been abandoned, while the more important places have been enlarged and strengthened in accordance with the exigencies of the day, and a large number of fortifications have been built. The latter are to establish an entirely new system of defenses against an invasion from the east, while Paris is to be protected against bombardment, and, if possible, against blockade, by a second line of detached forts built in a wider circle around the city. A law of March, 1875, appropriated 60,000,000 francs for the fortification of the capital, and another law of July 17, 1874, made a further appropriation of 88,500,000 francs for the rebuilding of the defenses on the eastern border. The works around Paris have been pushed forward actively; the rest, however, are not so far advanced. The ordinary budget of the war department for 1876 amounted to 500,038,115 francs; it was a temporary budget, calculated for an extraordinary emergency. It was intended to facilitate the accomplishment of the organization law of 1873 and the *cadres* law of 1875, and to limit expenses as much as possible, in view of the financial situation. — *Navy.* The French fleet consisted, in 1876, of nineteen armor-plated frigates and nine armor-plated corvettes for battle on the high seas; six ironclads of the second class, seven floating batteries, ten gunboats of the first class and nine gunboats of the second class for coast defense; also eight screw steam frigates, twelve screw steam corvettes, nineteen first class aviso ships, eighteen second class avisos, (all principally for cruising service), twenty-seven transports, twenty-five third class avisos, thirty-nine gunboats, twenty sailing vessels, three schoolships, eleven sailing schooners, and one floating workshop. To these 243 vessels must be added thirty-nine in course of construction. Deducting from the total sum of 282 vessels those not available for active service, and supposing those in course of construction (in 1877) completed and equipped, a French fleet of twenty-two ironclads of the first and eleven of the second class, nine armor-plated sailing vessels, seven armor-plated floating batteries, twenty-one gunboats, forty-four cruisers and twenty-three avisos, therefore a total of 137 vessels, with 1,040 guns, would be ready for action. Besides this mobile fleet the republic would still have eighty-six cruisers, avisos, transports for port service, for administrative, exercise and training purposes, at her disposal. The fleet is generally divided as follows: The squadron in the Mediterranean comprises six ironclads, one cruiser, one aviso or dispatch boat, which also occupy the maritime stations at Algeria and Constantinople. The artillery squadron numbers two cruisers and one aviso; under the commander of this squadron are also the maritime stations at Newfoundland with one cruiser and two gunboats, at Martinique with one cruiser, at Guadaloupe with one aviso, at Guiana with two avisos and two schooners, and at Iceland with one aviso and one transport. The South Atlantic squadron is composed of six vessels, of which two are cruisers, three avisos and one transport; this squadron occupies the station of the Senegal with three avisos. The squadron in the Pacific ocean is composed of three cruisers, one aviso and one transport. In the eastern Asiatic waters, one ironclad, two cruisers, one aviso and one gunboat are permanently stationed. The Indo-Chinese squadron comprises one ironclad, seven gunboats, two cruisers, two avisos and one transport. In New Caledonia are one aviso, two transports, two gunboats, one schooner. Thirteen vessels are designed for port service in the five maritime arrondissements, and about the same number for foreign service. One vessel is engaged in hydrographical work along the coasts, ten are on experimental trips, eight are kept as reserves for extraordinary emergencies and to replace losses, and five are used as training ships. In the summer of 1876 there were seventy-eight vessels in reserve, of which seventeen were armor-plated vessels of the first and one of the second class, six ironclads, eight transports, six floating batteries, two gunboats, eighteen cruisers and eleven avisos. The administration of the whole navy and coast defense of France is divided into five maritime arrondissements, corresponding with the five principal ports of war, Cherbourg, Brest, Lorient, Rochefort and Toulon. They are presided over by five sea prefects (vice-admirals). The marine budget for 1875 amounted to 136,387,481 francs. The war navy of France was composed, at the end of 1881, of 59 ironclads, 264 unarmored screw steamers, 62 paddle steamers and 113 sailing vessels. — *Railways and Telegraphs.* The first attempts in the direction of railway building promised little in France. Though railways had been opened very early, the line from St. Etienne to Andrézieux as early as 1828, the line St. Etienne to Lyons in 1832, Andrézieux to Roanne in 1833, Montrond to Montbrison in 1836, and the Paris to St. Germain line in 1835, there were in 1841 no more than 200 kilometres of railroad in operation. They were then an object of speculation, and their management was not the best; they were not remunerative, and while a few profited by them, many met with heavy losses by investing in them. Not until the state itself took hold of them and placed them under its superintendence, did public distrust of them cease; thereafter the French railway system began to improve, and soon surpassed that of many other countries. On Feb. 7, 1842, De Teste, then secretary for public works, brought a bill before the assembly, based on the co-operation of the state, the communities and private enterprise, and proposing the building of several railroads from Paris to important points on the border. Although this was not

carried out as proposed, it nevertheless remained the foundation for the future network of railways, of which 2,220 kilometres were in operation as early as 1848. The financial crisis of 1847 and the political crisis of 1848 again impeded the progress of the railway system, and it was 1852 before its full development was secured through the fusion of single companies into six larger groups which made it their object to harmonize the interests of the state with those of the companies and of the general public. At the end of 1875 the railway lines of France had increased to 21,587 kilometres (19,784 kilometres main lines and 1,803 kilometres local lines). It comprised the following principal lines 1 Railways of the north (1,762 kilometres) direct connection of Paris with Creil and Beauvais, with Amiens and Boulogne, and by way of Amiens, and Arras with Calais, Dunkirk, Lille or Valenciennes; also with Maubeuge and Valenciennes via Cambray with Laon and directly with Soissons. Courtray, Mons and Charleroi are the principal points of connection with the Belgian railway system, and between Valenciennes, Lille, Hazebrouck and Dunkirk run branch lines along the northern border. 2. Railways of the east (2,255 kilometres): Trunk line Paris and Belfort, with northern branches Epernay and Rheims to Soissons, Laon or Mézières and Givet; intermediate lines from Blesme (Vitry) to Chaumont, from Blainville (Luneville) via Epinal to Port d'Atelier (near Vesoul); southern branches from Chalmaison (Provins) to Montereau, Buchères (Troyes), to Bar-sur-Seine, Chalindrey (Langres) and also Vesoul to Gray. This system connects at Soissons and Laon with the railways of the north and at Givet and Longwy with the German-Belgian frontier. 3. The Paris, Lyons and Mediterranean railway (5,102 kilometres); its main line is the railroad from Paris via Dijon, Lyons and Avignon to Marseilles. The most important branches run in an easterly direction: from Nuits (near Ancy) to Châtillon-sur-Seine, from Dijon via Auxonne to Gray, from Dijon via Auxonne and Dôle to Besançon and Belfort or Dôle to Pontarlier (Neuchâtel), from Macon via Bourg and from Lyons to Ambérieux and jointly to Geneva, three branches—from Lyons, St. Rambert or Valence to Grenoble, from Rognac to Aix and from Marseilles via Toulon to Fréjus and Nice. Connections with the eastern railways are at Montereau, Gray and Belfort. An important connecting link is the Juraline, Besançon and Bourg railway running parallel with the border. At Culoz-sur-Rhône this road connects with the Savoy railway over Chambéry to Modane and the Mont-Cenis tunnel. The most important branch lines run from Villeneuve, St. Georges via Corbeil to Alais on the Essonne, from Moret (on the mouth of the Loire) via Nevers and Moulins to St. Germain-des-Fossés, thence via Clermont to Brionde sur-Allier, and again via Roanne and St. Etienne to Le Puy; thence via La Roche and Auxerre, Chagny and Montceau, Lyons and St. Etienne, Livron and Prives, Tarascon and Nimes, and further via Alais to Portes or via Montpellier to Cette. 4. The Orléans railways (4,186 kilometres) with the old trunk line: the Paris, Orléans, Tours, Poitiers, Angoulême and Bordeaux railway, and the eastern opposition and partly parallel line from Orléans via Vierzon, Châteauroux, Limoges and Périgueux to Coutras and to Agen. Eastern lines are: from Vierzon via Bourges to Le Guetin (near Nevers) and from Bourges to Montluçon, from La Laurière via Guéret and Montluçon to Moulins, and a main branch from Périgueux via Figeac to Rodez. From this run in a northerly direction the line Brives, and Tulle and Figeac, and Aurillac, connecting with a "Cantal" line to the Allier near Brionde, and southwardly the line Capdenac and Lexos, forking into Montauban, Toulouse or Albi. Western branches are. Paris, Sceaux, Orsay and Limours, Tours and Le Mans, the Tours, Angers, Nantes, Redon, Vannes, Lorient, Quimper and Châteaulin, with the branch line, Savenay and St. Nazaire, and in addition Poitiers, Niort and La Rochelle, forking into Aigrefeuille and Rochefort. 5. The railways of the south (2,031 kilometres), with the trunk line from Bordeaux via Montauban and Toulouse to Cette, thence connecting with the Orléans and Mediterranean railways respectively. Northern branches: Vias and Lodève, and Béziers and Graissessac. Southern branches: Bordeaux via Bayonne to the Spanish frontier at Irun, with side branches from La Mothe to La Teste de Buch, from Bayonne and Dax to Pau, and from Morceus to Tarbes and Bagnères de Bigorre; also from Toulouse to Montrejean and Foix, and from Narbonne to Perspignan. This chain of railways from Bordeaux via Toulouse, Narbonne, Cette, Nimes, Marseilles and Toulon to Nice, is in itself of great value, but has gained much greater importance since the completion of the Italian coast line railway. 6. Railways of the west (2,549 kilometres), radiating in three main lines from Paris to Brest, Cherbourg and Le Havre. From the longest of these lines, that of Paris to Brest, branch off Le Mans and Angers, Rennes and Redon, and Rennes and St. Malo, in a southerly direction; and northward St Cyr and Dreux, Le Mans and Alençon-Mezidon, Laval and Caen, and Rennes and St. Malo. From the second line branch—Paris and Versailles, and Paris and Germain, Lisieux and Honfleur, forking into Pont l'Evêque and Trouville, and Airel and St. Lô From the third line branch—Tourville and Serquigny, Malaunay and Dieppe, and Beuzeville and Fécamp. Between the second and third of these lines, the Argentan and Granville railway has been projected as the future link of a direct line from Paris to the gulf of St. Malo. The rest is subdivided into twenty-four smaller companies. The Paris belt line, of 20 kilometres length, centrally connects all the principal railways. In the aggregate France has to every 100 square kilometres of area 4.09 kilometres of railways and 5.98

kilometres to every 10,000 inhabitants.—The network of telegraphic wires which spreads over France comprised, in 1875, 51,700 kilometres of line and 143,234 kilometres of wire, with 2,817 government offices, and 1,198 railroad and private offices. The number of telegraphic messages sent in 1873 was 6,550,623, of which 877,264 were international; the receipts were 13,850,048 francs, the expenditure 12,990,000 francs.—The total length of all the railways open for traffic Jan. 1, 1881, was 23,584 kilometres (exclusive of 2,190 kilometres of local lines), and the total gross receipts in 1880 amounted to 1,048,672,957 francs. By a law which passed the chamber of deputies, in the session of 1878, there will be added 16,000 kilometres of railways before the end of the year 1888. To provide for the cost of the new network of railways, the chamber granted a credit of 3,000,000,000 francs.—Jan. 1, 1881, there were 65,949 kilometres of lines of telegraphs and 196,533 kilometres of wire. The number of telegraphic despatches sent during the year 1880 was 16,492,897, of which 1,578,957 were international messages. The total revenue from telegraphs in the year 1879 amounted to 28,029,835 francs.—*Finances.* By the war of 1870–71 extraordinary drafts have been made upon the financial resources of France, and the taxes have been largely increased, but at the same time the productiveness of the nation and the national wealth have been augmented. The taxes in France are promptly paid, and the government loan of 1854–9, amounting to 2,050 million francs, was subscribed for in the country itself without difficulty. The taxes amount, on an average, to fifty-six francs per head. The increase in France of public expenses may be illustrated by the following statement: The extraordinary requirements of the government at the outbreak of the revolution in 1789 amounted to 600 million livres. The national assembly of 1791 fixed the budget at 582½ million livres. Under the first empire the requirements amounted to 700–800 million francs per year. In 1813 the greatest exertions were necessary, the budget being estimated at 1,150 millions, of which 752 millions were for the army and navy. During the restoration (1816–19) the public expenses amounted to 960 million francs. The first decade (1830–39) of the "July king"'s reign required annually 1,170 million francs, the last nine years (1840–48) an average of 1,432 million francs. The republic of 1848–9 required for the year 1,708 million francs (according to actual account). With the restoration of the Napoleonic dynasty a course of lavish expenditure was inaugurated, which could only be gradually equalized by the increased revenues. The actual budget of 1875 showed a total expenditure of 2,587,670,813 francs. The revenues amounted to the sum of 2,568,460,624 francs, leaving a deficit of 19,210,189 francs. The expenses of the war of 1870–71 amounted to 4 820,643,000 francs, not including the five milliards indemnity to Germany. The "voted" budget of 1876 fixed the expenses at 2,570,505,513 francs, and the revenues at 2,575,028,582 francs. The surplus, therefore, amounted to 4,523,069 francs.—The national debt of France is divided into the consolidated and the floating debts, which were also considerably increased during the second empire. The consolidated debt amounted, for 1876, in rentes, at 5, 4½, 4 and 3 per cent., together with the sinking fund, to 747,998,866 francs, representing a national capital of twenty millards. The capital of the sinking fund amounted to 277,599,838 francs, and for the annual payment of interest to 124,776,346 francs; in all, therefore, 1,150,375,050 francs, equal almost to a capital of twenty-three and one-half milliards. The public revenues of France are principally derived from indirect taxation. Among these, the budget for 1876 estimated the following: on liquor, a tax of 364,190,000 francs; result of the tobacco monopoly, 299,570,000 francs; the revenues from the customs and the salt monopoly, 236,933,250 francs; the tax on sugars, 110,972,000 francs. The direct taxation for the year 1876 amounted in the voted budget to 384,339,700 francs. Not only the state itself, but also the departments and communities have been during the second empire loaded with debts.—The principal sources of revenue and branches of expenditure were set down as follows in the budget estimates for the year 1881.

SOURCES OF REVENUE IN 1881.	Francs.
Direct taxes	402,805,970
"Enregistrement" stamps and domains	678,983,700
Produce of forests	38,102,600
Customs and salt monopoly	305,348,000
Indirect taxes	968,644,600
Posts and telegraphs	137,500,000
Surplus of the years 1877-9	80,609 400
Miscellaneous receipts	179,570,519
Total ordinary receipts	2 763,208,789
Resources extraordinaires	451,326,000
Total revenue	3,214,534,789

BRANCHES OF EXPENDITURE IN 1881.	Francs.
Public debt and dotations	1,448,838,721
Ministry of justice	34,547,442
Ministry of foreign affairs	13,726,800
Ministry of the interior and worship	144,205,571
Ministry of posts and telegraphs	118,814,509
Ministry of war	570,287,065
Ministry of marine and colonies	196,236,101
Ministry of public instruction and fine arts	71,997,276
Ministry of agriculture and commerce	35,275,709
Ministry of public works	579,884,603
Total expenditure	3,218,806,817

In the preliminary budget for the year 1881, drawn up by the minister of finance, the revenue for the year was estimated at 2,752,794,830 francs, and the expenditure at 2,754,432,600 francs, leaving a deficit of 1,637,770 francs.—The following is a statement of the deficits of former periods, from 1814 till the last completed year of the reign of Napoleon III.:

	Francs.
Bourbon monarchy, April 1, 1814, to July 31, 1830	20,273,000
Reign of Louis Philippe, Aug. 1, 1830, to Feb. 28, 1848	997,863,000
Second republic, March 1, 1848, to Dec. 31, 1851	359,374,000
Second empire, Jan. 1, 1852, to Dec. 31, 1869	2,138,539,500
Total	3,516,049,500

The average annual revenue and annual expendi

ture during each of the four periods here given were as follows:

PERIODS.	Average Annual Revenue.	Av. Annual Expenditure.	Deficit.
First: 1814-30.....	994,445,000	995,713,000	1,268,000
Second: 1830-48...	1 221,376,000	1,276,813,000	55,437,000
Third: 1848-51....	1,497,964,000	1,587,808,000	89,844,000
Fourth: 1852-69...	1,962,693,250	2,081,501,000	118,807,750

The total public debt of France amounted, on Jan. 1, 1879, to a nominal capital of 19,862,035,983 francs, the interest on which, or "rente," was 748,404,952 francs. The number of "inscriptions" of "rente," that is, of individual holders, was 4,380,393. The following table shows the nominal capital of each of the four descriptions of "rente," the interest, or amount of "rente," and the number of holders on Jan. 1, 1879:

DESCRIPTION OF RENTE.	Nominal Capital.	Interest or Amt Rente.	No. Holders Rente
	Francs.	Francs.	
3 per cent.....	12,101.352.167	363.040,565	1,788,114
4 per cent.....	11,152.400	446 096	786
4½ per cent.....	832,061,176	37.442,779	159 459
5 per cent.....	6,917,470,240	345.873.512	2,432 574
Total.....	19,862,035,983	748,404,952	4,380,933

At the commencement of 1879 the total burden of the capital of the public debt of France was 515 francs per head of population; while the burden of the interest or rente was nineteen francs per head of population. The interest and other expenses connected with the public debt of France were distributed as follows for 1882: Consolidated debt, 743,026,239 francs; redeemable capital, 340,432,278 francs; annuities and life interests, 151,881,060 francs; total charges, 1,235,339,577 francs. — All the departments of France, as well as many of the large towns, have their own budgets and debts, which latter were largely increased by the war. The budget estimates of the city of Paris for each of the years 1879 and 1880 were as follows:

	1879 Francs.	1880. Francs.
REVENUE.		
Ordinary receipts.....	223,724,548	228,635,125
Extraordinary receipts	4,760,786	4,987,000
Total revenue.....	228,485,334	233,622,125
EXPENDITURE.		
Ordinary expenditure.....	223,724,548	221,635,125
Extraordinary expenditure.....	4,760,786	11,987,000
Total expenditure.....	228,485,334	233,622,125

The principal source of revenue in the budget of the city of Paris is from tolls upon articles of general consumption, called *droits d'octroi*, estimated to produce 125,398,041 francs in 1879 and 128,713,600 francs in 1880. The principal branch of expenditure is for interest and sinking fund of the municipal debt, which, at the end of September, 1880, amounted to 2,295,000,000 francs. B.

— *Resources:* Agricultural, Industrial and Commercial. At all times wealth has been an essential element of power. In international relations influence is generally measured by the number of bayonets, and bayonets are supported only with gold. Victory then belongs to heavy money bags rather than to large battalions. Hence each nation tends to increase its budget resources and to ask of the tax payer increasing sacrifices. It is fortunate that the revenue of the citizens increases in an equal proportion, and (with a few exceptions) it would not be right absolutely to affirm that taxes have increased more rapidly than production. At bottom, it is impossible to have any certain knowledge of the relation which exists between what the public treasury *demands* and what the tax payer *can give;* this information, however, would be of the highest importance. A few attempts have been made, more or less skillfully, to obtain this information, but always without success. There, without doubt, exists no means of obtaining the exact amount of the income of each individual, but we can reach an approximate valuation of the whole of the products of a country. For want of a complete inventory, we must content ourselves with indications which will give a general idea near enough to the actual state of facts. Before measuring the altitude of Mont Blanc, it was known that its impressive magnitude surpassed the other peaks of the Alps; in the same way, if we can set down only a few precise figures, it will be none the less easy for us to show that the resources of France are immense, although perhaps not inexhaustible — *Agriculture.* One often hears it said that France is eminently an agricultural country We think that the significance of this declaration has not always been well considered. It is generally used as an argument to ask favors for agriculture, to place it above manufacturing industry and commerce. It seems to us that those who do so are mistaken friends of France; they have forgotten the fable of the stomach and the other members of the body, which made so great an impression upon the Roman people encamped on Mt. Aventine. All the branches of national labor, whether they produce the raw material, or manufacture it into goods, or transport it and distribute it among consumers—all these branches, we say, are equally necessary, that the tree of national labor may extend its benefits over all the country. The more steady is the equilibrium between agriculture, industry and commerce, the more fruitful is labor, the more also does wealth increase, and the more comfortable are the masses. The exclusive preponderance of commerce would be a house built upon the sands; the preponderance of manufactures would expose the country to sudden commotions, perhaps catastrophes; the preponderance of agriculture would retard the progress of well-being. Everybody knows that capital employed in an agricultural business generally brings in less profit than when used in commerce or manufacturing indus-

try. Consequently to say that France is eminently an agricultural country is to say that she is a poor country. Let us affirm rather that she is a country perfectly well balanced, where agriculture in an advanced state goes hand in hand with a powerful manufacturing industry, both nourishing a flourishing commerce. And we do not exaggerate. The agriculture of France is in an advanced state. Everywhere the best methods are known, and there is hardly a canton where they are not used, or where some one could not be found worthy of the *agricultural prize of honor*, and if all cultivators have not adopted these methods, it is because progress itself is subject to conditions of time. A man must first have saved money by economy before thinking of employing it in improvements. Already there are large, thickly sown tracts of lands in French Flanders, Limagne, Languedoc, La Beauce and Lorraine, whose inhabitants are second both in knowledge and success to no other country in Europe. We will cite here a few statistics.—We begin with cereals. It is not with the product of these that the cultivator is the best satisfied; at least, if it is wrong to claim that there is always a loss attendant on their cultivation, the profits are moderate. Nevertheless we will begin with cereals, because they are the chief food of France, and because their total value is considerable. Now, what have statistics to say of the cultivation of cereals? That at the beginning of this century about four and a half million hectares were devoted to wheat, while its cultivation in 1872 was spread over six and a half millions; this increase of two millions was gained partially from lands formerly devoted to rye and partially from waste lands. The same area which formerly yielded ten hectolitres now yields more than sixteen, and this too is only the amount acknowledged by the cultivator, who is on his guard against taxes and landlords. Hence, when the official tables show a total production of 55 millions of hectolitres about 1820, of 75 millions about 1840, of 85 millions in 1851, of 110 millions in 1861, of 107 millions in 1869 (in 1862, 116 millions, the maximum reached), we have a right to suspect that at each of these times the real amount produced far surpassed these figures. We believe, indeed, that we may consider these figures as the net product destined for consumption, and as not including the quantity reserved for seed.—Has production kept pace with the population? The answer is difficult, for we must not wish to solve so delicate a question solely according to the results of certain mathematical operations. It seems, doubtless, that sixty years ago the soil of France produced only two hectolitres of wheat for each of the inhabitants, while in 1872 it produced almost three; but what was the quantity of inferior cereals, which, one generation and above all two generations ago, was mixed with the wheat? Accustomed as the French of to-day are to better flour, can they depend on reaping, the average year, enough to satisfy their actual needs? If we examine the records of the custom houses, we shall find between the years 1832 and 1872 about as many harvests which have furnished a surplus for exportation as insufficient harvests. But when the balance of quantity is struck, there results a definite deficit of more than 35 millions of hectolitres, about a million a year, that is, enough to furnish bread for all France for three or four days.—This deficit would not be very alarming. But what can we think of the constant increase in prices? A hectolitre of wheat cost from 1820 to 1829, 18 francs, 6 centimes; from 1830 to 1839, 19 francs, 9 centimes; from 1840 to 1849, 20 francs, 49 centimes; from 1850 to 1859, 21 francs, 72 centimes; from 1860 to 1869, 21 francs, 44 centimes. (During this last mentioned period there were several years of exceptionally good harvests.) Has not this ascending tendency of prices lasted too long to attribute it alone to the influx of gold? Is it not rather, and in a much greater measure, the result of the rapid increase in consumption? If this conjecture is well founded, we may conclude from it that prices will become more and more remunerative, and that agriculture, realizing increasing profits, will consent more willingly to the expense of necessary improvements. That would be very fortunate, for wealth would multiply in geometrical progression. On the other hand, one would think that the insufficiency of harvests in France would make her, in a certain measure, dependent on other countries; but that would be a mistake, for, despite the scarcity, France made war on Russia in 1855 and 1856, and came very near bombarding Odessa, one of its granaries.—Wheat is the principal cereal, but to complete her supply France has 606,000 hectares, which produce at least nine million hectolitres of meslin; 2,100,000 hectares of rye, giving twenty-three to twenty-four million hectolitres; 1,100,000 hectares of barley, with a production of more than twenty million hectolitres; three million hectares of oats, with seventy million hectolitres; besides ten million hectolitres of maize, eight million hectolitres of buckwheat, and more than one hundred million hectolitres of potatoes.—To sum up, there remains much still to be done in order that the cultivation of agricultural commodities may meet the wants of the people; and what is disagreeable, but inevitable, is that the exports are effected at a much lower price than the imports; it has been calculated that the difference, in forty years, has amounted to about 850 millions of francs.—The cultivation of the vine furnishes, however, a certain compensation. It is one of the most valuable of the agricultural products of France; the vineyards cover about 2,200,000 hectares. The quantity of wine produced varies considerably from year to year; but when the vine mildew, which, however, may be destroyed with sulphur, causes no ravages, it may be estimated at 60,000,000 hectolitres. From 1827 to 1836, the exports amounted to an average of 1,181,000 hectolitres, valued at 42,500,000 francs;

from 1837 to 1846, 1,348,000 hectolitres at 50,000,000 francs; from 1847 to 1856, 1,731,000 hectolitres at 109,000,000 francs; from 1857 to 1866, 2,159,000 hectolitres at 218,000,000 francs. — The raising of live stock is doubtless a great industry in France. We think that the relative slowness of multiplication is the fault more of the climate than of man. When it is necessary to produce fodder at great expense, the raising of live stock is no longer profitable. Have we not read, under the signature of very distinguished agriculturists, that *live stock is a necessary evil?* They have abandoned this unfavorable judgment, by a chain of circumstances which it is not our province to recount; however, it is certain that the raising of live stock on a large scale is only advantageous in countries where there are many and fertile natural meadows. Live stock may be fattened also in the neighborhood of sugar refineries and of certain distilleries, and in fact, advantage is taken of this source of fodder. Now, France is not distinguished by the extent of her meadow land: in 1842 there were only 4,200,000 hectares; since then, a million of hectares has been added; the official documents do not say how, probably by improving the commons (unmowable meadows). It does not seem to us that much of the arable land has been changed into meadows: besides, it would have been of more advantage to have multiplied the lucern fields, the fields of sainfoin and clover, which, one and a half million hectares in 1842, reached only two and a half million hectares in 1872. We think that all these figures are under the truth. It is not necessary to add that besides the product of the meadows, oats, a part of the barley, roots, vetches, cabbages, the refuse of sugar refineries, etc., are also used for feeding live stock. With all these resources, there are fed but (returns of 1866) 3,312,637 horses (in 1812, 2,122,617; in 1850, 2,983,966); 518,000 asses; 350,000 mules; 12,733,000 horned cattle (in 1866), of which 6,700,000 were cows (6,682,000 horned cattle in 1812; 9,131,000 in 1829; 9,937,000 in 1839); 30,386,000 wool-bearing animals (32,000,000 in 1829; 29,000,000 in 1839; 35,000,000 in 1852); finally, 59,000,000 hogs and 1,680,000 goats The above numbers, and which are probably under the truth, indicate only a part of the progress realized, for almost everywhere greater care, intelligent cross-breeding and improvement in the feeding have sensibly increased the size and the weight of the animals. — To appreciate the extent to which each country raises live stock, the number of animals is generally estimated at so many for every 100 hectares and every 1,000 inhabitants. Is there not some injustice in comparing such averages taken over the whole of the territory of France, with those of England or of Holland? To make these comparisons more instructive, we should limit ourselves, it seems to us, to the departments situated to the north of the Loire, a territory whose conditions of climate more nearly approach those of the countries inhabited by the rivals of France, once her models. If the south of France is poor enough in live stock, to its account must be carried its wines and oils, its silks, its oranges, its madder and various other products, which taken together may be considered a full compensation. — While endeavoring to do justice to all, we must acknowledge that there is still room for progress, as much in the improvement of the methods used as in the clearing of land. The territory of France is thus divided: arable land, 48.3 per cent.; vineyards, 3.7; natural meadows, 9.7; commons and waste lands, 17.8; forests, 16.8; highways, rivers, etc., 3.7 per cent. But all the commons are not suitable for cultivation; no utopia must be built upon this foundation. The largest amount of capital could accomplish nothing. There remain still many useful things for the institutions of credit to accomplish; for example, to liquidate a mortgage debt of 6,000 millions of francs (with *apparent* debts, 11½ thousand millions), a sum which only constitutes a small fraction of the market value of the real estate (lands, houses, manufactories) fixed officially, in 1851 at 83,744 millions (in 1821 at 39,514 millions), and tax payers are never guilty of exaggeration in their statements. The actual value of property is not less than 150,000 millions. — Landed property is very much divided; there were estimated to be about 10 millions of distinct pieces of land in 1815, 11 millions in 1840, more than 12 millions in 1856, 13 millions in 1858, 14 millions in 1865, so that the division of the land shows a tendency to increase. However, as one person often possesses lands in more than one commune, many pieces of property figure at the same time upon the registers of several tax collectors. The exact number of proprietors is unknown, but a statement, commenced in 1812, stated that there were 5,257,073 farms, of which 3,799,759 were cultivated by their owners. Another statement showed that among 10,000 agriculturists, there were 3,518 proprietors, 1,272 farmers, 694 metayers, the rest being day laborers or servants. The soil is very unequally divided. It is near enough the truth to estimate at 5 per cent the part comprising large properties, at 19½ per cent. that comprising medium properties, and at 74½ per cent. that comprising small properties. — *Industry.* After England, France is the most industrial country. She has, upon the continent, rivals only in Switzerland, Belgium, and some parts of Germany. In many important products her superiority is beyond question; but her mines are not so numerous nor so abundant as those of some of her neighbors. Still the extraction of coal goes on increasing; in 1787, the production from mines situated in France was only 2,150,000 metric quintals; fifteen years later it amounted to 8,441,000 quintals, which was scarcely increased till 1815. In 1825 it reached 14,913,000 quintals; in 1835, 25,064,000 quintals; in 1844, 37,827,000 quintals; in 1847, 51,532,000 quintals. From 1848 to 1852 the production, which the revolu-

tion had reduced to 40 millions, rose to 49 millions; it took then a rapid upward movement, and attained, in 1857, 79 millions of quintals; it fell back, in 1858, to 66 millions, to rise to 80 millions of quintals in 1860, and to exceed 90 millions in 1862, and even 132 millions in 1868. The importation is 77 million quintals, and the consumption more than 200 millions (209 in 1868.) 85,000 workmen are employed in the coal mines. — Although the domestic use of coal is spreading, it is above all in industry that it is employed. For a long time past the forests have proved insufficient to supply the factories of France, and it has been necessary to use increasing quantities of coal in the manufacture of iron. In 1789 the 202 blast furnaces produced 655,495 quintals of pig iron and 75,792 quintals of cast iron, without any other combustible than charcoal. It was about 1819 that the use of coal commenced (20,000 for 1,125,000 quintals of castings); but it was only in 1852 that the two methods of production were about equally used; 2,633,400 quintals of wood, 2,593,000 quintals of coal or coke. Of the total production of the foundries at present, 12,353,000 quintals (in 1868), about one and a half millions of quintals are cast, and the rest refined or transformed into iron. More than four-fifths of these operations are now effected by means of coal. The French factories subject iron to all the elaborations necessary for consumption; they draw it out into bars (6,385,000 quintals) and into wire; they flatten it into sheet iron, of which a part is tinned; they manufacture all the instruments, tools and machinery which a great country uses; they deliver to the railroads considerable quantities of rails (1,882,000 quintals) —but not enough; they produce different kinds of steel (991,721 quintals in 1868); but they have not yet arrived at satisfying all the wants of the home market, since large quantities of castings, of iron and of rails are still imported. It is no exaggeration to estimate the number of workmen employed in the manufacture of iron at 180,000. — The other metals play only a secondary part among French productions. There is produced 224,000 quintals of copper, 42,500 kilogrammes of pure silver, 274,000 quintals of lead and of other less important minerals, almost insignificant quantities of zinc (29,000 quintals), and of tin. But the manufacture of chemical products is flourishing and continues to increase. This applies both to chemical products properly so called, to salts and acids of every description, and to merchandise in more general use, such as sugar, the products of distilleries, soap, and some others. The dye works and even the paper mills, the tanneries and other factories profit by this. — But among the great industries, that is to say, among those which employ numerous workmen and turn into the market large quantities of merchandise, the manufacture of textile fabrics holds in France the first rank. In 1851 it was officially stated that there were 64,420 proprietors, 431,380 workmen and 477,063 working women, and this number was even then below the truth, or at least an inexact idea was given, in this sense, that there was not included in textile industry a number of secondary callings, which depend on and complement it.* As for instance, when the census officer inscribed among *mécaniciens* (workers in metals) the workman who ran the steam engine of a cotton mill, he followed the letter rather than the spirit of his instructions, and the letter here destroyed exactness, for if a cotton crisis should happen, this *mécanicien* would be deprived of his wages as well as the spinner. — What are the quantities produced? There are in France only incomplete data on this point; but we can, by using a certain number of indications, estimate the value of the products of the manufacture of flax at 250 million francs, of cotton at 650 millions, of wool at 950 millions, of silk at 1,000 millions, of mixed textures at 330 millions, when, of course, the manufactories are running at full power. The raw materials then employed are from 70 to 75 million kilogrammes of hemp, 60 millions of flax, 80 millions of cotton,† 90 millions of wool (of which 60 millions come from French animals); finally, from five to six million kilogrammes of raw silk, of which two and one-half to three millions are produced in France. The textures are too varied for it to be possible to make a complete enumeration, and, above all, to indicate the quantities produced. — It would not be just to pass over in silence the manufacture of jewelry and articles of gold and silver (32 to 35 millions of francs), gilt jewelry (12,000,000 francs), knick-knacks, millinery, flowers, and so many other branches of industry, which if they work only to satisfy luxury, maintain the traditions of taste, whose purity is acknowledged by all civilized nations. — We have just specified the distinctive characteristic of French industry, taste. It would be a mistake, however, to think that French manufactures have in view only luxury; their products must be divided into two parts; the one, which is destined for home consumption, must satisfy the wants of the poor as well as the rich; the other, which is destined for exportation, has in view more particularly, but not exclusively, the well-to-do classes. The result of this is, that the foreign commerce of France is very easily affected by international crises, which are only felt in domestic transactions, if they occur at the same time with a bad harvest. — *Commerce.* In most countries when the statistics of commerce are spoken of, only foreign commerce is meant. It is the only one on which we possess definite figures. Still domestic commerce is much more important and considerable. It is by its numberless channels that commodities and products reach the consumer,

* The city of Paris and some others (like Elbeuf) were omitted.

† 12 million kilogrammes in 1816; 13 millions in 1817; 20 millions in 1820; 29 millions in 1830; 58 millions in 1840; 59 millions in 1850; 84 millions in 1856; 73 millions in 1857; 79 millions in 1858; 123 millions in 1860, and the same in 1861; 80 millions in 1862 (crisis); 182 millions in 1869.

and the total amount of the transactions which make up this movement reaches thousands of millions of francs. But no one has yet been able to give the exact figures. Perhaps, for want of a better way, the movement of bank funds may give an idea of them. We should not know what foreign commerce amounted to, if there were no customs duties. Meanwhile, here are what the official documents tell us of French commerce.* After having oscillated for more than twenty years between six and seven millions of francs, the value of the exports and imports together amounted, in 1827, to 921 millions, the figures of 1787. It did not reach a thousand millions till 1832. In 1841 it was more than 1,560 millions; in 1851 it exceeded 2,000 millions; in 1856 it was 3,148 millions; in 1860 it was more than 4,000 millions; in 1869, the year before the war with Germany, it reached 6,228 millions. With the exception of the years 1828, 1830, 1837, 1840 to 1848, 1861, 1862, 1867, 1868 and 1869, the exports have always exceeded the imports (up to 1869). But if it is true that nothing is more brutal than figures, which seem to declare that when they speak, all the world must listen, we may say also that nothing is less clear; we must know how to interpret figures to understand them; and it is precisely the difference of the interpretations which allows arguments for or against all opinions to be found in statistics. Now, the fluctuations of the relations between imports and exports give occasion to different interpretations; let it be sufficient for us to say that the French tables include cereals, merchandise of an extremely irregular movement, and that, on the other hand, they do not include precious metals nor money, which are indicated separately and not at all in totality; that they do not indicate the circulation of letters of exchange, nor the operations of the clearings of accounts; finally, that the values are not exactly conformable with the reality of things, but still near enough so. — If now we join together the statements concerning merchandise with those relative to precious metals, we obtain the following table for periods of five years (we give the annual average in millions of francs):

SPECIAL COMMERCE. IMPORTS.

YEARS.	Merchandise	Precious Metals.	Totals.
1855-1859	1,732.1	681	2,413.1
1860-1864	2 298.6	565	2,863.6
1865-1869	2,983.7	781	3,764.7
1870	2,867.4	416	3,283.4
EXPORTS.			
1855-1859	1,894.1	471	2,365.1
1860-1864	2,402.6	529	2,931.6
1865-1869	2,991.9	374	2,365.9
1870	2,802 1	261	3,063.1

* We give the *special commerce*, that which indicates French consumption and production. *General commerce* besides includes the figures for the transportation and warehouse charges. The amount of merchandise which enters free is the same for general and for special commerce.

With the exception of the years 1861 and 1863 the imports of precious metals have always surpassed the exports. The total sum of the imports for the fifteen years 1855 to 1869 was 10,141 millions, the exports amounted to 6,872 millions, so that there remained in the country 3,269 millions in the above mentioned period alone. While only considering these figures as approximate, they are remarkable enough to cause reflection; they explain in part how France was able to pay an indemnity of 5,000 millions of francs. The imports of France consist chiefly of raw materials; if we take up, indeed, a table of the foreign commerce, in 1872, we shall find that out of the sixty-three kinds of merchandise enumerated, only a dozen were manufactured products, and their total value was only ¼ per cent. of the whole of the imports — Among imported materials or commodities we mention the following, using the annual average taken from the period 1857 to 1866: cereals, 91 millions of francs; raw cotton, 238 millions; raw silk, 255 millions; uncombed wool, 178 millions; sugar, 118 millions; common wood, 125 millions; oil seeds, 44 millions; coal, 107 millions; raw hides, 88 millions; copper, 39 millions; dust and refuse of gold and silversmiths, 29 millions; coffee, 64 millions; cattle, 65 millions, and horses, 10 millions; indigo, 21 millions; flax, 46 millions; hemp, 8 millions; besides metals and various other materials. — Let us now look at the table of exports. We can not count here the number of articles indicating raw materials, because the list of re-exports, often in small quantities, is long, and we see at the first glance that, for instance, indigo, cochineal, cotton, etc., are articles of re-export. It would be easy, nevertheless, to show that manufactured products predominate among the exports. Out of a total value of 2,430 millions, may be distinguished five or six kinds of manufactured merchandise, with a value of 1,000 millions; they will be found among the following: silk textures, 414 millions; woolen textures, 241 millions; toys, 138 millions; cotton textures, 75 millions; linen textures, 19 millions; clothing, 95 millions; tanned and dressed hides, 128 millions; refined sugar, 58 millions; pottery, glass and crystal, 35 millions; paper, 36 millions; articles of metal, 42 millions; perfumery, 14 millions; gold and silver work, 18 millions. Brandy is likewise a manufactured product, 62 millions. Finally, we must mention millinery and artificial flowers, 14 millions, and the soaps of Marseilles, which have only amounted to six or seven millions. We say nothing of a host of different kinds of merchandise, many of which are quite important. Still, France exports more agricultural commodities than she imports manufactured products. Her principal exports in this category were, in 1857 to 1866: wines, 219 millions; raw silks, 69 millions; cereals, 89 millions; wool, 27 millions; butter and cheese, 38 millions (in 1866, 72 millions); eggs, 12 millions; madder, 12 millions; olive oil, 7 millions, etc. Still, many of

these products have been subjected to an elaboration, like oil, cereals, (exported in part in the form of flour), silks, (raw or thrown). — We will now mention the countries with which France has the most active commerce (annual average of the period 1857 to 1866, special commerce). They are the following: Great Britain, 1,153 millions; Belgium, 406 millions; Italy, 390 millions; Germany, Zollverein (and Hanseatic cities), 361 millions; United States (time of the civil war), 332 millions; Switzerland, 202 millions; Spain, 194 millions; Russia, 104 millions; Turkey, 171 millions; Brazil, 138 millions; East Indies, 85 millions; Argentine confederation, 111 millions; Egypt, 70 millions; Netherlands, 56 millions. We must mention also Cuba and Porto Rico, 60 millions; Peru, 50 millions; Chili, 33 millions; Mexico, 30 millions; Norway, 37 millions; Portugal, 22 millions; Austria, 28 millions; Sweden, 24 millions; Greece, 13 millions; Denmark, 3 millions. In the foregoing numbers the exports and imports are united. A whole series of tables would be necessary, if we wished to indicate for each country its relations separately as regards imports and exports, which necessarily vary more or less from year to year. — It only remains now to remark, and we thus arrive at the character of French commerce, that out of the 6,280 millions, the amount of the general* commerce of France, 4,429 belong to maritime commerce, and 1,851 to land commerce. And if we distinguish the exports from the imports, we find among the imports 1,984 millions by sea and 1,003 millions by land, and among the exports 2,445 by sea and 848 by land—figures which indicate that more raw materials are imported than are exported. It is this character of French commerce, it is, in a word, the nature of the productions of France, which explains the relative inferiority of her merchant marine. If she had the coal and iron of England, the cotton of the United States, the coffee and sugar of Brazil, she would have a much more powerful incentive to navigation than all the premiums and customs favors. This is the true cause why her maritime trade was in 1872 represented by only 4,500,000 tons entry and 3,100,000 tons departure, of which 2,700,000 entry and 1,650,000 departure were under foreign flags. — Let us add, before concluding, that the coasting trade of France in 1872 was represented by three millions of tons, and that the effective force of the fleet was composed of more than 15,000 sailing vessels and steamers, with a tonnage of more than a million. — *Progress.* If we should simply propose to show that France has made progress, we should fear to be interrupted by the cry, *the case is decided.* That civilization has advanced during the last fifty or sixty years, and above all, that well-being has become widespread, comfort more general, and *consequently* manners more polished, are things that no one denies. But it would be useful, from a political point of view, to be able to measure at least the *material* progress realized during a series of years Researches of this nature would allow us to state in what measure the increase of wealth has compensated, as regards the power of France, for the more rapid increase in population in many other countries; they would allow us also to risk certain conjectures in regard to the revenue of the nation, information which would be of the utmost importance, if it were possible to determine it exactly. — We will commence with landed property. It has been the object of two returns, in 1821 and in 1851, and these are the results: The market value of the land, including houses and factories, was, in 1821, 39,514,000,000 francs, and, in 1851, 83,744,000,000 francs. This would show an increase of 112 per cent. in thirty years. But in reality the progress has been greater, we are not ignorant of the depreciation which property was subjected to after the revolution of 1848, and if the value of real property had been estimated at 100,000 millions in 1847, it would have been below the truth. In 1873 the figures were much higher. After 1852, when the fear of the revolution had been dispelled, the price of real estate began to approach its former figures, so that in placing the amount at 120,000 millions in 1873, we are below the truth, for many persons estimated it at 150,000 millions. — Why has the value of real estate increased? Throwing aside the argument based on the influx of gold, there remains to us still to point out two principal causes. They are these: The first is, the increase in the revenue from the soil and the advance in rents. The revenues from the soil have increased through the simultaneous effect of the increase in products and prices. Thus, to cite but one example, from 1820 to 1829 the average product oscillated between 11 and 12 hectolitres of wheat per hectare and the price was 18 francs, 6 centimes; from 1850 to 1859 the product was 15 to 16 hectolitres and the price 21 francs, 71 centimes. Whether it is because the population has advanced more rapidly than production, or because each individual has increased the amount he consumes, or because other circumstances have exercised their influence, it is certainly the case that in the first period each hectare yielded a gross product of $11\frac{1}{2} \times 18.06$, or 207 francs, 69 centimes, and in the second period $15\frac{1}{2} \times 21.71$, or 336 francs, 50 centimes. The second cause of the increase in the value of the soil is the multiplication of personal property. Many persons, who have acquired a fortune in business, like to enjoy the security which placing it in real property offers, so that the demand increases in a rapid progression. Now, the competition of buyers influences much more strongly the price of property than the slow but certain advance in the increase of production. — The demand is increasing or has increased up to the present time, in a rapid progression. It would almost seem that the private fortunes of a nation taken all together follow another law than each

* There are no such statements as the following for special commerce.

one of these fortunes taken by itself. A small manufacturer draws from his capital of 1,000 francs, 200 or 300* per cent. and more, while the great capitalist is content with 3 or 4 per cent. But if the individual is subjected to the consequences of supply and demand, and sees the rate of interest diminish in proportion as his capital is multiplied, a nation has an industrial power so much the stronger in proportion as the rate of interest is lower. This fact is enough in itself to justify the proposition, that the industrial power of a nation increases more quickly than its capital, but it may be added that leaving the rate of interest out of consideration, the amount of capital has a virtue all its own. Hence, if in a manufacture employing 500,000 francs, a profit, without machinery, of 50,000 francs is realized, if the capital is doubled, instead of a double profit, a quadruple profit is often obtained. The profits of a nation increase by sure steps in more rapid progression than the amount of its capital — Now, what has been the amount of personal property at different times? This is a question which it shou d be possible to solve. It is more complicated than one thinks. For example, according to what principle must the capital of an establishment be determined? 1st, according to the sums employed in starting it, or, 2d, according to its actual value, based upon its products. Some very imperfect attempts have been made to estimate the amount of existing capital; the official statements published on this point, up to the present time, have no value, because it is necessary to multiply the amount by five, perhaps even by ten. We can not supply this defect, because it is not possible for one man alone to draw up in an exact manner such an inventory; all that we can do, is to venture certain estimates, based on a certain number of indications, which are only the shadow of the truth, but which show well enough its outlines. The following are some of the indications which have served us as a guide, and which are interesting in themselves. (The figures are given in millions of francs.)

	1820.	1840.	1860.	1872.
Commerce (imports and exports)	889	1,442	4,174	7,126
Incomes, etc (capital)	3,000	3,500	9,900	19,500
Rights of registration	.....	191	300	435
Railroads	.....	1,200	6,000	8,452
Banks, discounts	254	1,582	5,080	.....
Banks, movement of funds	6,655	11,873	24,122	.....
Institutions of credit	200	400	900	
Industrial enterprises (large)	300	600	1,500	†5,580
Savings banks, (total of deposits)	1	171	376	.....

* We know that in the 2,000 or 3,000 francs which the small manufacturer gains, wages, profit and interest are included; but we do not know at what interest he borrows often his little capital, and there remains to him something, moreover, after he has satisfied the usurer.

† This amount is based in part upon the table which follows, and which is taken from the figures of the budget of 1873. This table indicates the basis of the tax of 3 per cent. upon the revenue from personal property.

RAILWAYS.

		Francs.
3,350,000 shares.	Average product, 40 francs	134,000,000
19,240,000 bonds.	Average product, 15 fr., 25c.	288,600,000

VARIOUS COMPANIES (SEINE).

5,639,000 shares.	Average product, 20 francs	112,780,000
5,401,000 bonds.	Average product, 18 fr., 90c.	102,629,000

CITY OF PARIS.

3,167,060 titres.	Average product, 13 fr. 60c.	41,000,000

COMPANIES OF THE DEPARTMENTS.

512 016 shares,	@ 16 fr., 60c.	8,192,000
1,370,138 shares,	@ 32 francs	43,860,000
386 700 bonds,	@ 18 fr., 50c.	10.154,000
135,700 bonds,	@ 22 fr., 70c.	3.080,000
39,201,614 titres.	Revenue	744,295,000

To these figures we might add the number of steam engines (11,620 in 1855, and 31,094 in 1868), the tonnage of the ships, the progress realized by the coasting trade despite the competition of the railroads, and a certain number of other things which we have no space to mention. From the combination of all this information that we have compared, it seems to us that the following estimate may be made. The value of personal property was, in 1820, 15,500,000,000 francs; in 1840, 40,700,000,000 francs; in 1850, 45,400,000,000 francs; in 1860, 113,776,000,000 francs; and in 1869, 150,000,000,000 francs. We must remark that it is not without hesitation or without verification that we have written down the last amount, which has no other value than that it has been calculated after the same principles as the preceding ones, and with which it may then be compared. We must only remark that in the seventeen and a half thousand millions, at which the *built* property has been estimated, are included many hundreds of millions, the value of mills, factories and other structures, which we have not been able to separate from the figures above. Finally, the entire value of the railways has been included among the personal property. We have also taken into account the foreign property owned by Frenchmen. — *Individual Resources and Incomes.* If it is very difficult to determine the value of the national capital, it would be almost impossible, at least for one man alone, to arrive at a sufficiently approximate estimate of the revenue. For real property, which consists of objects exposed to the full light of day, and whose prices vary little from year to year, a satisfactory valuation may be obtained. It is the same case with a great part of personal property, which consists of effects whose value is known. The same is not the case with income. A bad harvest, vacant apartments, houses built and not let, an industrial crisis, and a thousand other circumstances influence considerably the income of individuals. The rate of interest does not increase with the amount of capital; it follows often, but not always, an opposite course. If the productive forces always preserved the same coefficient, or the same degree of power, if the profits were always maintained at the same rate, if the prices of merchandise did not change, the interest would invariably decrease in proportion to the increase of capital. But things are not thus

situated. New machines are continually invented, and new processes, which re-enforce productive power; the extension of markets and multiplication of the population serve to increase the prices, and render possible new enterprises; and the manufacturer, who foresees a higher profit, can offer a greater interest. All these considerations prevent us from making any calculations; their foundation would be too unstable.—Some economists have thought they could overcome this difficulty, by taking one of the existing valuations of the products of agriculture, five, six or seven thousands of millions, and adding to it three or four thousands of millions for the products of *manufacturing* industry, and have contented themselves with this total. It is in this way that the conclusion has been arrived at, that the average income of a Frenchman was seventy-five centimes a day. By this proceeding, only the production of a part of the French population is found, and yet it is divided by the total number of inhabitants. It is clearly seen that the quotient must be false. But, besides, in these calculations there has been omitted a considerable quantity of products, and the prices of the gross sales realized by the producer have been used. It is the price of bread and not the value of wheat, the price of the stew or the chop, and not the value of the live cattle or sheep, which must finally be considered. We believe that the average of one franc fifty centimes would be nearer the truth, and in this case the aggregate income of all Frenchmen would amount to 30,000,000,000.* To sum up, despite the high price of bread, of meat and wine, and some other products, the remuneration of labor having been raised, the lowering of the price of manufactured products has been so great, that to-day, with a given income a greater amount of comfort can be obtained than could be enjoyed a generation ago. It is true that men are more exacting to-day, and that the progress attained only acts as a stimulant toward still greater progress.†—BIBLIOGRAPHY. Sismondi, *Histoire des Français*, 31 vols., Paris, 1821–44; Thierry, *Lettres sur l'histoire de France*, Paris, 1827, new ed., 1859; Thierry, *Dix ans d'études historiques*, 9th ed., Paris, 1857; Guizot, *Essai sur l'histoire de France*, Paris, 1834, 9th ed., 1857; Michelet, *Histoire de France*, 2d ed., 17 vols., Paris, 1845–67; Martin, *Histoire de France*, 4th ed., 17 vols., Paris, 1856–60; Genoude, *Histoire de France*, 30 vols., 1844; Gouet, *Histoire nationale de France*, 6 vols, Paris, 1864–8; Guizot, *L'histoire de France racontée à mes petits-enfants*, 5 vols., Paris, 1870-75; Guizot, *Histoire de la civilisation*

* If this estimate is well founded, and certain calculations have given us a higher figure, the budget of 2,000,000,000 would form a fifteenth part, or 6⅔ per cent. of the revenue of the nation, and a budget of 2,500,000,000 would be the twelfth part, or 8⅓ per cent.

† According to the latest official returns the distribution of the soil of France was as follows:

	Hectares.
Arable land	26,300,777
Vineyards	2,582,776
Woodlands	8,357,066
Meadows	4,224,103
Commons and waste lands	3,131,243
Uncultivated land	4,425,703
Buildings, roads, rivers, canals, etc.	3,883,366
Total	52,905,034

The cultivated land of France is divided into 5,550,000 distinct properties. Of this total the properties averaging 600 acres numbered 50,000, and those averaging 60 acres 500,000, while there were five millions of properties under six acres.—The general commerce of France in 1880 was valued in imports at 4,380,000,000 francs, and in exports at 4,890,000,000 francs. The following table gives the value in francs of the total imports and total exports of the special commerce—exclusive of coin and bullion—in each of the years 1871-80:

YEARS.	Imports for Home Consumption	Exports of Home Products.
1871	3,393,249,000	2 865,613,000
1872	3,447,465,000	3,679,107,000
1873	3,554,789 000	3,787,306,000
1874	3,718,011,000	3,877,753,000
1875	3,672 286,000	4,022,162,000
1876	3,988,363,000	3,575,594 000
1877	3,756 968 000	3,484,323,000
1878	4,460,974,000	3,369,807,000
1879	4,594,837,000	3,163,090,000
1880	4,907,547,000	3,400,639,000

—The following statement shows the value of each of the four groups of imports and of the three groups of exports, according to classification adopted by the French bouane, or custom house, in each of the years 1879 and 1880:

IMPORTS.

ARTICLES.	1879.	1880.
Articles of food	1 823,609 000	1,983,324,000
Raw materials	2,126,601,000	2,224.010,000
Manufactures	420,918,000	448,347,000
Other articles	223,709,000	251,866,000
Total	4,594,837,000	4 907,547,000

EXPORTS.

ARTICLES.	1879.	1880.
Manufactures	1,735,491,000	1,850,664,000
Articles of food and raw materials	1,254,193,000	1,366,793,000
Other articles	173 406,000	183,182,000
Total	3,163,090,000	3,400,639,000

The imports of coin and bullion—not included here—were of the value of 295,759,000 francs, and the exports of the value of 475,078,000 francs, in the year 1880. The annual production of raw silk in France was as follows during the years 1874-8:

YEARS.	Weight.	Value
	Kilogrammes.	Francs.
1874	9,021,410	41,588,700
1875	10,773,945	47,297,618
1876	2,387,369	11,101,365
1877	11,703,664	57,113,880
1878	7,794,705	38,906 966

The total production of coal amounted to 16.804,500 tons in 1877, and 18,857,327 tons in 1880. It has more than doubled since 1860. Of iron (fontes), France produced 1,733,102 tons in 1880.

en France, 13th ed., 5 vols., Paris, 1874; Heinrich, *Geschichte von Frankreich*, 3 vols., Leipzig, 1802–04; Schmidt, *Geschichte von Frankreich*, 4 vols., Hamburg and Gotha, 1839–48; Gfrörer, *Geschichte der ost-und west. fränk. Karolinger*, 2 vols., Freiburg, 1848; Thierry, *Récits des temps Mérovingiens*, 10th ed., Paris, 1875; Warnkönig and Gérard, *Histoire des Carolingiens*, 2 vols., Brussels, 1862; Thierry, *Histoire de la conquête de l'Angleterre par les Normands*, Paris, 1825, new ed., 2 vols., Paris, 1853; Michaud, *Histoire des crusades*, 7 vols., Paris, 1812–17, 9th ed., 4 vols., Paris, 1856; Buchon, *Histoire des conquêtes et de l'établissement des Français dans l'ancienne Grèce sous les Villehardouin*, Paris, 1846; Barante, *Histoire des ducs de Bourgogne de la maison de Valois*, 1364–1477, 8th ed., 8 vols., Paris, 1858; Havemann, *Geschichte der ital.-franz. Kriege von*, 1494–1515, 2 vols., Göttingen, 1834–5; Herrmann, *Frankreichs Religions- und Bürgerkriege im 16 Jahrh.*, Leipzig, 1828; Lacretelle, *Histoire de France pendant les guerres de religion*, 4 vols., Paris, 1814–16; Sainte-Aulaire, *Histoire de la Fronde*, 3 vols., Paris, 1827, 4th ed., 2 vols., Paris, 1860; Ranke, *Französische Geschichte, vorzüglich im 16 und 17 Jahrh.*, 5 vols., Stuttgart, 1852–61; Mignet, *Histoire de la Ligue et du règne de Henri IV.*, 5 vols., Paris, 1829; Bazin, *Histoire de France sous Louis XIII.*, 4 vols., Paris, 1837; Bazin, *Histoire de France sous le ministère du cardinal de Mazarin*, 2 vols., Paris, 1842; Lacretelle, *Historie de France pendant le 18e siècle*, 5th ed., 6 vols., Paris, 1830; Lemontey, *Histoire de la Régence*, 2 vols., Paris, 1832; Droz, *Histoire de règne de Louis XVI.*, 3 vols., Paris, 1838–42, new ed., 3 vols., Paris, 1858; Tocqueville, *Histoire philosophique du règne de Louis XV.*, 6 vols., Paris, 1864–73; Roux and Buchez, *Histoire parlementaire de la révolution française*, 40 vols., 1833–8; Berville and Barrière, *Collection des mémoires relatifs à la révolution française*, 56 vols., Paris, 1820–56; Mignet, *Histoire de la révolution française*, 10th ed., 2 vols., Paris, 1870; Thiers, *Histoire de la révolution française*, 13th ed., 10 vols., Paris, 1873; Louis Blanc, *Histoire de la révolution française*, 13 vols., Paris, 1847–64; Michelet, *Histoire de la révolution française*, 7 vols., Paris, 1847–53; Wachsmuth, *Geschichte Frankreichs im Revolutions zeitalter*, 4 vols., Hamburg, 1833–45; Dahlmann, *Geschichte der Französischen Revolution*, Leipzig, 1845; Sybel, *Geschichte der Revolutionszeit*, 2d ed., 3 vols., Düsseldorf, 1861; Mortimer-Ferraux, *Histoire de la terreur*, 7 vols., Paris, 1862–9; Cassagnac, *Histoire des causes de la révolution française*, 4 vols., Paris, 1850; Villiaumé, *Histoire de la révolution française*, 6th ed., 3 vols., 1863; Arnd, *Geschichte der Französischen Revolution von*, 1789–99, 6 vols., Brunswick, 1851–2; Carlyle, *The French Revolution*, 3 vols., London, 1870; Lamartine, *Histoire des Girondins*, 6 vols., Paris, 1870; Barante, *Histoire de la Convention nationale*, 6 vols., Paris, 1851–3; Barante, *Histoire du Directoire*, 3 vols., Paris, 1855; Cassagnac, *Histoire du Directoire*, 3 vols., Paris, 1851–63; Bignon, *Histoire de France depuis le 18 brumaire*, 1799, 6 vols., Paris, 1827, continued to 1812, 4 vols., Paris, 1838; Thiers, *Histoire du consulat et de l'empire*, 5 vols., Paris, 1865–8; Michelet, *Histoire du 19e siècle*, 3 vols., Paris, 1875; Lacretelle, *Histoire de France depuis restauration*, 4 vols., Paris, 1829–35; Lamartine, *Histoire de la restauration*, 8 vols. Paris, 1852; Viel-Castel, *Histoire de la restauration*, 18 vols., Paris, 1860–76; Duvergier d'Hauranne, *Histoire du gouvernement parlementaire en France*, 1814–48, 10 vols., Paris, 1862–72; Louis Blanc, *Révolution française, Histoire de dix ans*, 1830–40, 5th ed., 5 vols., Paris, 1846; Regnault, *Histoire de huit ans*, 1840–48, 2d ed., 3 vols., Paris, 1860; Nouvion, *Histoire du règne de Louis Philippe*, 4 vols., Paris, 1858–61; Lamartine, *Histoire de la révolution de* 1848, 4th ed., 2 vols., Paris, 1859; Stern, *Histoire de la révolution de février*, 1848, 2d ed., 2 vols., Paris, 1862; Regnault, *Histoire du gouvernement provisoire*, Paris, 1850; Delvau, *Histoire de la révolution de février*, 2 vols., Paris, 1850; Guizot, *Mémoires pour servir à l'histoire de mon temps*, 8 vols., Paris, 1858–67, Leipzig, 1858–65; Garnier-Pagès, *Histoire de la révolution de* 1848, 4th ed., 2 vols., Paris, 1871; Delord, *Histoire du second Empire*, 6 vols., Paris, 1864–75; Tenot, *Paris en decembre*, 1851, Paris, 1868; Cavalier, *Histoire de France depuis Louis XIV., jusqu'à nos jours*, 1 vol., Paris, 1869; Sybel, *Napoleon III.*, Bonn, 1873; Gottschall, *Paris unter dem zweiten Kaiserreich*, 2 vols., Leipzig, 1871; *Collection de documents inédits sur l'histoire de France*, Paris, 1874; *Enquête parlementaire sur les actes du gouvernement de la défense nationale*, 2 vols., Paris, 1874; Müller, *Politische Geschichte der neuesten Zeit*, 1816–75, 3d ed., Stuttgart, 1875; Girault de St. Fargeau, *Dictionnaire géographique, historique, industriel et commercial de toutes les communes de la France*, Paris, 1851; Aigard, *Patria ou la France ancienne et moderne*, Paris, 1847; Malte-Brun, *La France illustrée*, 3 vols., Paris, 1855–61; Lavallée, *Géographie physique, historique et militaire de la France*, 6th ed., Paris, 1863; Joanne, *Dictionnaire géographique de la France*, Paris, 1864. 2d ed., 1869; Joanne, *Géographie, histoire, statistique et archéologie des départements de la France*, Paris, 1869; Bourboulon, *Geographie physique et statistique de la France*, Paris, 1867; Oyer, *Géographie physique, militaire, etc., de la France*, Paris, 1873; Cortambert, *Géographie physique et politique de la France*, Paris, 1875; Levasseur, *La France avec ses colonies*, Paris, 1875; Jähns, *Das französisches Heer von der grossen Revolution bis zur Gegenwart*, Leipzig, 1873; Hillebrand, *Frankreich und die Franzosen in der zweiten Hälfte des 19 Jahrh.*, Berlin, 1873; Schnitzler, *Statistique générale de la France*, 4 vols., Paris, 1846; Block, *Statistique de la France comparée*, 2d ed., 2 vols., Paris, 1875; Audiffret, *Etat de la fortune nationale et du crédit publique de* 1789 *à* 1873, Paris, 1875; Colle, *La France et ses colonies au 19me siècle*, Paris, 1878; Crisenoy, *Mémoire de l'inscription maritime*, Paris, 1872; David, *Le crédit nationale*, Paris, 1872; Dufour, *Traite général du droit administratif*, 8

vols., Paris, 1872; Germain, *Dictionnaire du budget*, Paris, 1878; Hélie, *Les constitutions de la France*, Paris, 1878; Ingouf, *L'avenir de la marine et du commerce extérieur de la France*, Paris, 1877; Kleine, *Les richesses de la France*, Paris, 1872; Langel, *La France politique et sociale*, Paris, 1878; Lavergne, *Économie rurale de la France*, 4th ed., Paris, 1878; L'ou, *De l'accroissement de la population en France et de la doctrine de Malthus*, Paris, 1866; Moussy, *Tableau des finances de la France*, Paris, 1879; Prat, *Annuaire protestant: Statistique générale des diverses branches du Protestantisme français*, Paris, 1880; Reclus, *La France*, vol. ii., of *Nouvelle Geographie Universelle*, Paris, 1877; Roussan, *L'armée territoriale et la réserve de l'armée*, Paris, 1874; Vraye, *Le budget de l'état*, Paris, 1875; Vuitry, *Etude sur le régime financier de la France*, Paris, 1879; *Statistique centrale des chemins de fer*, Paris, 1879; *Annuaire de l'économie sociale*, Paris, 1881; *Annuaire des établissements français dans l'Inde*, Pondichéry, 1881; Block, *Annuaire de l'économie politique et de la statistique*, 1881, Paris, 1881; Delarbre, *La marine militaire de la France*, Paris, 1881; Dupont, *Annuaire de la marine pour* 1881, Paris, 1881.

MAURICE BLOCK.

FRANCHISE, Elective. (See SUFFRAGE.)

FRANKLIN, Benjamin, was born at Boston, Mass., Jan. 17, 1706, and died at Philadelphia, April 17, 1790. He learned the printer's trade, removed to Philadelphia, and gradually became prominent in the service of Pennsylvania. He then became postmaster general for the crown in North America, and afterward agent at London for Pennsylvania. In 1775–6 he was a delegate to the continental congress, and in 1778 became its most distinguished representative abroad, as minister to France. He returned in 1785, after the conclusion of the treaty of peace, mainly due to his own diplomatic skill, became president (governor) of Pennsylvania, and took part in the convention of 1787. In his later years he took an active part in the anti-slavery society of Pennsylvania. (See ALBANY PLAN OF UNION. REVOLUTION.)—Apart from Franklin's skill as a scientific investigator and as a practical diplomatist, his work is interesting for the clear perception which it showed of the questions at issue between the mother country and her North American colonies. While he maintained, as fully as any other public man, the theoretical rights of the colonists, he recognized, to the exact moment of its disappearance, every restriction upon theory arising from the aversion of the colonists to independence, and never endeavored to hurry the revolution unhealthily. The fourth volume of his collected works contains, scattered through its pages, a wonderfully clear and simple outline of the rights of the colonists, as they understood them.—See Franklin's *Autobiography* (particularly Bigelow's edition); Sparks' *Life and Works of Franklin;* Holley's *Life of Franklin;* Parton's *Life of Franklin;* 1 Brougham's *Sketches of Eminent Statesmen* (edit. 1854), 251; Parker's *Historic Americans*, 13; 12, 27 *Atlantic Monthly;* Shurtleff's *Inauguration of the Franklin Statue.*

ALEXANDER JOHNSTON.

FRANKLIN, State of. (See TENNESSEE.)

FREEDMEN'S BUREAU, The. During the years 1861–2 the numbers of the fugitive slaves within the federal lines increased with the growth of the anti-slavery feeling in the federal government and army. Many of the able-bodied males were finally provided for by the organization of colored troops (see ABOLITION, III.); the aged, the young, the women and the sick were the occasion of more difficulty. Wherever the federal troops held post the freedmen poured in, without money, resources, or any provision for the future further than an implicit confidence in the benevolence and beneficence of the federal government. Before the end of the year 1864 the advance of the armies had freed 3,000,000 persons, of whom at least a million had thrown themselves helplessly upon the federal government for support. Attempts to employ some of them upon confiscated or abandoned plantations failed through the rapacity and inhumanity of the agents employed; and in 1863 great camps of freedmen were formed at different points, where the negroes were supplied with rations, compelled to work, and kept under some degree of oversight. The next year, 1864, this great responsibility was transferred from the war to the treasury department, but was still a mere incident of the military or war power of the president, as commander-in-chief, and was without any regulation of law. A bill to establish a bureau of emancipation had been introduced, Jan 12, 1863, but had failed to pass. Another bill passed the house, March 1, 1864, but failed in the senate. March 3, 1865, the first "freedmen's bureau bill" became law. It established a "bureau of refugees, freedmen, and abandoned lands" in the war department, to continue for one year after the close of the rebellion, under control of a chief commissioner; it gave the president authority to set apart confiscated or abandoned lands in the south to the use of the bureau; it authorized the assignment of not more than forty acres to each refugee or freedman; it guaranteed the possession of such lands to the assignees for three years; and in general it gave to the bureau "the control of all subjects relating to refugees and freedmen from rebel states." The bureau was organized almost entirely by officers of the regular army, under Gen. O. O. Howard, chief commissioner, and their administrative ability and fidelity made the bureau's early years very economical and satisfactory. Feb. 6, 1866, a supplementary bill was passed, which continued the bureau until otherwise provided by law, authorized the issue of provisions, clothing, fuel and other supplies to destitute refugees and freedmen, made any attempt to deny or

hinder the civil rights or immunities of freedmen a penal offense, and required the president to take military jurisdiction of all such cases. This bill was vetoed, Feb. 19, by President Johnson for the reasons, 1, that it abolished trial by jury in the south, and substituted trial by court martial, 2, that this abolition was apparently permanent, not temporary; 3, that the bureau was a costly and demoralizing system of poor relief, and 4, that congress had no power to apply the public money to any such purpose in time of peace. The bill failed to pass over the veto. — The quarrel between the president and the republican majority in congress became open and bitter in the spring of 1866, and about the same time the legislation of southern legislatures as to freedmen, during their winter sessions of 1865–6, was made public. (See RECONSTRUCTION.) The result was the passage of the second freedmen's bureau bill, in July, 1866. It corresponded in general intention to the February bill, except that it continued the bureau for two years only. It was vetoed, July 16, on the same general grounds as above given, and was passed the same day over the veto. The powers of the bureau were thus very much enlarged. Its chief commissioner was authorized to use its funds at discretion, to apply the property of the confederate states to the education of freedmen, to co-operate with private freedmen's aid societies, and to take military jurisdiction of offenses against the civil rights or immunities of freedmen. In June, 1868, the bureau was continued by law for one year longer in unreconstructed states. Aug. 3, 1868, a bill was passed over the veto providing that Gen. Howard should not be displaced from the commissionership, and that he should withdraw the bureau from the various states, Jan. 1, 1869, except as to its educational work, which did not stop until July 1, 1870. The collection of pay and bounties for colored soldiers and sailors was continued until 1872 by the bureau, when its functions were assumed by the usual channels of the war department. Total expenditures of the freedmen's bureau, March, 1865–Aug. 30, 1870, were reported at $15,359,092.27. (See ABOLITION, SLAVERY, RECONSTRUCTION.) — See McPherson's *History of the Reconstruction;* and other authorities under RECONSTRUCTION. The first freedmen's bureau bill is in 13 *Stat. at Large* (38th Cong.), 507; the second freedmen's bureau bill is in 13 *Stat. at Large* (39th Cong.), 173.

ALEXANDER JOHNSTON.

FREEDOM, AND RIGHTS OF FREEDOM. I. *Nature of Freedom.* When we examine into the essence of freedom, and seek to understand that sacred blessing which man prizes higher than all besides, we must pass beyond the bounds of law and of the state, and seek its roots in nature and in God. In the microcosmic world of organic beings, the freedom of these beings rises, by degrees, to a fuller meaning. Even the plant which is fixed to its place, and is essentially not free, shows some faint advances toward freedom, when, following the instinct of self-preservation, it pushes its roots where nourishment most readily comes to it, and fastens its tendrils where it may best receive protection and insure its growth. The beast is freer, that moves its body about according to its instincts, and moves its limbs according to changing necessity. It chooses its place of rest and arranges it; it seeks its nourishment with discrimination; it practices the tricks of the hunter; it courts sexual union and cares for its young. The word instinct, which means the endowment of the race and the moving necessity of present impulse, is not adequate to explain these phenomena. The freedom of the beast is also manifest in this, that it does not move with mathematical or mechanical necessity, but according to its feelings, desires or apprehensions. Bodily, physical freedom is plainly met with even here; indeed, here the first advances toward a higher, moral freedom appear, and we can, without doing violence to language, speak of the fidelity of the dog, of the spirit of the horse, of the majesty of the lion, and of the industry of the bee. But first with man as a person do moral freedom and intellectual freedom attain their full development. In the beast the instinctive nature predominates still, but man rises to self-conscious action. The distinction between good and evil, truth and error, here, for the first time, gets its definite meaning. In consequence of this higher will and freedom of the mind, man can struggle against the power of natural impulse. — Tocqueville (Ancien Régime, p. 278) asks the question, in what is the love of the nations for freedom, which inspires to the greatest deeds, grounded? and answers, that it was not alone in the hatred of oppression, for the freest people willingly submit to a dictator appointed for a time; neither in their material interests, for sometimes people abandon everything to defend freedom. He replies: "Freedom has in herself her own charm. He who seeks in freedom anything else than freedom herself, is bowed in bondage." I think the deepest ground lies in the fact that freedom is the most godlike quality of man, that it is voluntary and self-conscious life of a higher order. The highest degree of freedom is revealed in a creative act, in self-culture and in the improvement of the world. — Necessity and freedom are antithetical but not contradictory. They are joined in unity in a person, for to the person both belong. The necessity of being is the condition precedent of his freedom. When Raphael painted a Madonna, he was bound to the necessity of his esthetic nature, while he painted with the true freedom of the artist. So Shakespeare, when he wrote his plays. It is the same in politics. In the acts of Julius Cæsar or Frederick II. of Prussia, we recognize the nature of Cæsar or Frederick as necessary, but we likewise plainly discern the marks of individual freedom. Freedom, on its positive side, implies *choice*, but it does not on that

account become caprice or arbitrariness. Free moral choice must have regard to its own nature, and its connection with the laws of the system of the world and with the destiny of mankind. — It is the province of politics both to promote freedom, and to bring to development what still lies dormant in the intellectual endowment of man. It has to do with the collective life of the people. — II. *Individual Rights of Freedom.* 1. The first of these is the acknowledgment of free personality, and, as a logical consequence, the negation of all slavery. Since man is by nature a person, he can not and must not be considered as simply a thing; and never must property, *i. e.*, the dominion of the person over things, be assigned to man over man, to person over person. Slavery is always an unjust subordination. In many respects the authority of the Roman father over the child was similar to the authority of the master over the slave. But there existed a cardinal difference. The child was esteemed as a *person*, and hence as free (*liber*); the slave as a *thing*, and hence under dominion. Slavery even as a penalty, is not admissible, for the culprit does not cease to be a man, and hence a person. 2. The *glebæ ad-criptio* of the middle ages was in contradiction with the natural right of freedom. It is true it did not entirely deny the personality of the feudal dependents; their marriages were recognized as legal, and certain rights of possession of goods and movables were guaranteed them. But the system nevertheless brought man into the false relation of the dependence of the person upon the thing. 3. Not every dependence of one person upon another is in opposition to freedom. The child, through its helplessness and its wants, is, by nature, dependent upon the guidance and care of its parents. The authority of guardians over children and minors is well founded, just as is the guardianship over weak-minded and insane persons of full age, or over spendthrifts. But the continuation of the Roman *patria potestas* over sons of manly years, was certainly a mistaken notion and a violation of natural freedom, upon which the young man has a just claim. In the same way, the servant is in many things personally dependent upon his lord, the workman upon the manufacturer, and the journeyman upon the master workman; but this dependence, also, is quite compatible with personal freedom. Free men themselves regulate the relation of work and wages, according to their needs. But labor contracts for service and wages may overstep the bounds of self-determination and damage the rightful freedom of all, when it makes arrangements, which, under the appearance of a free contract, lay the foundation of a virtual lasting slavery. But that very thing is done, and for a lifetime, by those labor contracts which concede to the serving party no power to step out of the relation of servant, if his personal interests should demand it. 4. Protection against false imprisonment. It is not enough to protect the negative side of freedom, *i. e.*, to prevent an undue dependence; the positive side of freedom, also, *i. e.*, a person's self-determined mode of living, his movements and actions, need the protection of law. The transition from the one to the other is formed by the measures of security against arbitrary arrest, developed especially in Anglo-American law. Here belong the following provisions: 1st. No one shall be arrested except upon the written warrant of competent authority, wherein the ground for the arrest and the person of the party arrested and of the party who makes the arrest shall be designated, except in cases of the seizure of a criminal in an overt act. A general warrant, *i. e.*, a warrant to arrest all persons suspected, without specifying individuals, is illegal according to Anglo-American law. 2d. The habeas corpus act, passed in the reign of Charles II., A. D. 1679, secures to the prisoner the right to procure from the judge a writ of habeas corpus, by which all inferior officers, jailers, etc., are required to bring him without delay before the judge, so that he may test the legality of his imprisonment, and if that be not confirmed, release him. 3d. Releasement upon furnishing bail, (called in the old German law *trostung*). It was a maxim of the middle ages that "He who gives bail (*trostung*) must not be imprisoned," except in particularly serious cases. 4th Imprisonment and detention from police considerations, in contrast to arrest for judicial examination and punishment, is only allowed, by way of exception, in rare cases, as especially the confinement of lunatics, or measures in the interest of quarantine regulations or for checking dangerous epidemics; or for the purpose of caring for the dissolute poor, and to protect the public from being annoyed by them. 5th. The abolition of imprisonment for debt, *i. e.*, the imprisonment of the debtor with the intent, by depriving him of his freedom, of forcing him to pay. This advance in modern freedom was only effected in comparatively recent years. 6th. The guarantee of an action for indemnity against officers and employés who had effected an illegal arrest; and 7th. The acknowledgment of the right to resist, with force, an illegal arrest. 5. Freedom of movement is further limited, by restricting a person to the limits of a certain place or district, or even by commanding one to leave a city, village or district, or by banishment from the country. Such restrictions, again, according to the rule, are only admissible when they are judicially decreed as punishments, or when, as a legal exception, they are necessary as a police expedient. 6. The protection of freedom of travel in opposition to prohibition of travel is, in more recent times, even internationally guaranteed; while but a generation ago passports for travelers were frequently required. 7. The highest form of this freedom of movement from place to place is the freedom of emigration. The free man is as little bound to the state as to the soil. It is not worthy of the state to hold him as if he were a serf, if he wishes to leave his home and hopes

to find in another state better conditions for his advancement. But it was a long time before freedom of emigration was acknowledged. It is not acknowledged everywhere even to-day. But the state certainly has a right in this matter, viz., that the emigrant shall beforehand fulfill his indispensable duties toward his native country, and shall not, apparently to evade or mock the law of the land, simply step out of his previous allegiance to one government into allegiance to another. 8. Freedom of marriage. Matrimony is the most complete life in common of man and wife. Hence it is a question of life for the individual, whether he is to be allowed to follow his own inclination and choice, or is to be compelled to submit to the will of another, or is to be prevented from concluding an intended marriage. Actual coercion to marriage is to-day generally given up, in so far at least as the law demands, under all circumstances, the free personal expression of the will of the parties betrothed, which can not be supplanted by any parental or other authority. No one, according to the prevailing law, is compelled to marry when he does not desire it, or to marry any one whom he does not desire to marry. On the other hand, there existed till the most recent times, and do still in some countries exist, manifold hindrances to marriage, which make the consummation thereof difficult, or even entirely prevent it, notwithstanding the affianced parties wish to marry. The legislation of recent times has shown itself in this matter favorable to freedom, in this, that it has removed a multitude of such hindrances or has modified them, as, for example, the prohibition of marriage between distant relatives, the demanding of a property certificate from the parties betrothed, the permission of the community, etc. For Germany a series of this sort of restrictions was cleared away, especially by the North German law of May 4, 1868. 9. Freedom of property. In the possession of property, *i. e.*, the dominion of the person over things, free personality is preserved. There are a number of legal defenses whose object is to give the best possible protection to this freedom. Among them belong: 1st. The freedom to acquire landed property, which during the middle ages was permitted frequently only to certain classes of the inhabitants, was prohibited to foreigners, and was brought into continual jeopardy through sundry natural rights of neighbors, of relatives, of heirs, of fellow-citizens and natives. 2d. The freedom of the soil from standing burdens, *burdens in kind*, as, especially, socage, tithes, tributes, which so sorely oppressed landed property, and burdened the free use of the soil. 3d. Free transferability and divisibility of goods, in opposition to the fixedness and indivisibility of the property of fief, family, and much of that of manor and peasant, in the middle ages. 4th. The protection of freedom at home, domestic peace or security, was afforded in full measure in the laws of many of the German cities of the middle ages. But in the last century it has been seriously damaged by the too great control and guardianship of the police. Especially has this freedom been preserved in Anglo-American law. The saying, "My house is my castle," in vogue everywhere in the middle ages, has gradually come to have a specifically English ring. Under this head falls the protection against the illegal quartering of soldiers, which is clearly set forth in the English bill of rights of 1689, and in the constitution of the United States. Freedom of property, may, however, be carried too far. Property is so called because it belongs exclusively to a particular individual, and means, in short, unlimited dominion of the same over his own things, liable, of course, to the danger of a merely selfish use, which disregards and neglects the duties toward the community (of the family, of the municipality and of the state). But since all law is a regulation of the public life, and is made to insure the peaceable dwelling together of men, it has also the task to restrain and moderate the selfish freedom of property, in so far as the interest of the community demands it. 10. Economic freedom. The whole modern system of economy is to be distinguished from the economy of the last century, chiefly from the fact that it has been impregnated with the spirit of individual liberty, and its activity has been freed from a thousand restraints, which formerly made its development difficult. Here belong: 1st. The removal of the restraint of guilds and fraternities, and the introduction of the free choice of his trade by every man. Every one may exercise that trade in which he hopes soonest to conquer in the battle of life, or that to which his inclination leads him. Every one may extend the bounds of his industrial pursuits, and may combine one industrial pursuit with another, as he finds it to his purpose. 2d. Free trade, in opposition to the so-called protective tariff system. As the full development of strength and the highest contentment for the individual comes with this economic freedom, so it is only through freedom that mankind can reach a maximum of economic achievement. But we must not overlook the fact that freedom draws after it an intensity of competition between men, and has likewise the right to take care that the dangers of this *bellum omnium contra omnes* shall not damage or ruin the proper and insured existence of many. The advance of the human race is marked by an increase of the legal rights of freedom; but only the union of freedom with growing humanity preserves the former from degeneration and abuse. 11. Intellectual freedom. Higher than all other personal freedom is the intellectual freedom of the individual; we notice, 1st. Religious freedom, especially freedom to profess one's belief and in the choice of one's mode of worship, a freedom which mankind, after long and grievous aberrations, has at last, with difficulty, made the portion of all. In his relations to God, man must dare to be true and upright: for God is truth and loves the truth. Nothing is more abominable in holy things than hypocrisy, and all intolerance

and oppression of conscience leads to hypocrisy. The reformation broke the power of ecclesiastical authority, and freed the conscience of the church. But the people of the United States first brought the legal security of this freedom to the world in its fullest compass. The crime of heresy had earlier been done away with, but now, for the first time, the principle that one's faith should have no legal effects, and should not be a condition of his rights, came to prevail. This religious freedom certainly destroys the false unity of religious belief. It doubtless promotes the multiplicity of religious creeds and modes of worship; but all nature and the essence of the soul prove that this multiplicity, in which there is truth and life, is more pleasing to God and more fruitful to mankind than that unity, which at last sinks into a stupid absence of thought and empty formality. 2d. The scientific freedom of investigation and research. For centuries this free activity of thought and of intellectual labor was hemmed in and bound by church authority. Science would examine into everything, even religion itself, and it can not allow itself to be ruled, except by the laws of logical thought, which are of quite a different character from the power of faith in the heart. The frequently repeated objection is entirely untenable that (only objective) truth has a natural claim upon protection and to dissemination, but not error. The state has neither the means of distinguishing with any certainty an objective truth from an error, nor the power successfully to impede error, and to defend truth against doubt. History proves that governments have often sought to crush with violence supposed errors, which afterward turned out to be truths, and, on the other hand, undertook by means of punishment to defend against every attack supposed truths, which were only superstitions, both without lasting success, and to the damage of the people. Almost every discovery of a new truth has been suspected and antagonized in the beginning as a great error, and seldom has a thinker found a truth without a previous battle with traditional, and often even with his own errors, which had the appearance of truth. When the state grants freedom, it opens up, likewise, to truth, new ways. If opinions are erroneous, they call out truth, and thus error serves, though against its will, the same end as truth. The external coercion of the government, violence, is never the right means to obtain the victory of truth over error; for truth, which is spirit, can only ground and maintain itself upon its own spiritual power. A just observation of nature has a stronger power, as evidence in the domain of truth, than a hundred thousand bayonets, and the logical power of a just conclusion can not be overcome by the physical power of a hundred cannon. It is very certain that sometimes among nations might has triumphed over truth. A nation may be hindered for centuries in the perception of truth, by a mechanical pressure of state authority upon civilization and the expression of opinion, and be depressed and darkened in its intellectual life. A more rapid dissemination of a truth may, under some circumstances, be secured by the help of the authority of the government. But force is always a false means in the conflict between error and truth, and its employment in most cases works destructively. 3d. Freedom of speech, and especially the so-called freedom of the press, are in part applications of the religious freedom of creed and the scientific freedom of research, and in part a further development of intellectual freedom in general. This freedom was first acknowledged for all classes, not in the English revolution, although Milton's brilliant defense of it made a deep impression, but in 1694, when the censorship of the press was given up. As late as the year 1780 in France, where there was no freedom of the press for political discussion, the plan was seriously considered to make the entire book trade a state affair, and thus make the whole literature and every public expression of opinion dependent upon the state. The French revolution first proclaimed the freedom of the press in France in 1791, a freedom which, it is true, was later restrained. 12. Among the individual rights of freedom, we must mention the freedom which manifests itself in the peculiar manner of living of a person. John Stuart Mill observes with reason that this freedom is less restrained in our time by law than by custom and even fashion. So long as the rights of others are not violated nor public decency disregarded, every one should be allowed to live, dress and outwardly behave according to his inclination.—III. *Political Freedom.* We distinguish political freedom from individual freedom. 1. Municipal freedom, *i. e.*, the independent administration of municipal affairs and the autonomy of the municipal organization within the bounds of the state's constitution and legislation, in contrast to the guardianship of the community by the government. 2. Corporate freedom, which is akin to municipal freedom, and protects the independent conduct of legal persons and corporate bodies. 3. Freedom of the state in its proper sense. Here the negative side of freedom of the state signifies the casting off of all unjust domination, whether it be that of a foreign power or of the excessive and hence despotic authority of the state itself. The positive side shows itself in self-determined participation in the life of the community. Ancient nations, especially the Greeks, were inclined to call only those states *free states* in which the majority of the citizens, *i. e.*, the *demos*, governed themselves. Free states, in the acceptation of the ancients, are hence, particularly, non-monarchical states—*republics*, as they are called in modern times. The modern view, on the other hand, cares less whether the majority rules, and more whether it is politically entitled to rule and co-operates in legislation and has the control of the government. The opposite, then, of free states are absolute or despotic states.

England is a free state, notwithstanding she has an hereditary dynasty; and the constitutional monarchy of to-day may claim the honorable name of a free form of government, the same as may representative democracy, while direct democracy, if it becomes absolute and oppresses the minority, ceases to be a free form of government. 4. Among the political rights of freedom which deserve special attention are the political rights of assembly and freedom of assemblies from interference. These were first acknowledged and developed in the Anglo-Saxon constitutional law of the English and Americans. Only in the most recent times have they also attained legal value in the free states of Europe.

J. C. BLUNTSCHLI.

FREEDOM OF LABOR. If we ask the author of an able work entitled, "Freedom of Labor," (M. Dunoyer, Member of the Institute, vol. i., p. 24), what freedom is, he tells us: "What I call freedom, is the ability which man acquires of employing his powers more easily in proportion as he becomes free from the obstacles which originally interfered with their exercise. I say that he is the more free, the more he is *delivered* from the causes which prevented him from making use of them, the more he has removed these causes, the more he has extended the sphere of his action and cleared it from obstructions." — Endeavoring to ascertain, on the other hand, from past experience, by the aid of history, by what laws and under the influence of what causes men succeed in employing more effectually the natural forces whose operation constitutes industry or human labor, the same economist has found that it is by having greater freedom in the use of these forces, so that freedom is at the same time the cause and the result of itself, the cause and the result of power, and that these two terms, freedom and power, are correlative. — M. Dunoyer does not then consider freedom as a dogma, but he shows it in its causes, and he presents it as a result. He does not make it an attribute of man, or the result of a special form of government, but a product of the combined elements of civilization. He shows that it is primarily dependent on race, that is to say, on the nature itself of men, and the more or less favorable organization of their physical, intellectual and moral faculties; secondly, on the places on the globe where they are located, and the advantages afforded for agriculture, manufactures and commerce in the part of the earth they occupy; finally, on the greater or less advantage they have succeeded in gaining from their powers or their position. — We will not treat here of the great and numerous questions which arise as soon as one attempts to define this formidable word, *freedom*, but only glance at them, before returning to the kind of freedom which is the subject of this article. — Whoever speaks of labor, is, in many respects, speaking of the whole of society; so that if the phrase "freedom of labor" is not an expression for all freedom, it assuredly is for a very large part, and there are few kinds of freedom that are not embraced by it. But in economic language, a more restricted signification, though one still very broad, is given to this phrase, "freedom of labor," which expresses an opportunity given to every citizen to pursue whatever calling he wishes, be it one or several; to regulate the prices of his products and of his services according to his understanding of their value; to exchange the results of his labor at home or abroad, as may seem for his best interests: whence it appears that freedom of labor includes competition and free exchange or free trade. (See these two articles.) — Under the word COMPETITION we have shown the social benefits, and, so to speak, the regulating and providential part that competition takes in the general economy of society; the nature of the inconveniences it may accidentally present in consequence of the unfavorable circumstances in the midst of which certain countries, and, we may say, certain industries, are placed; and the blind presumption of those who have sought ways to suppress competition, to class avocations, and to distribute the public offices—in short, *to organize labor*, to use their own expression, or, in other terms, according to the language of economists, completely to suppress the initiative of the citizens and freedom of labor. We need not then recur to that here. We will likewise omit all considerations, which, while entering into the general subject, relate more particularly to commercial freedom. — Among persons unacquainted with economic studies, many imagine that freedom of labor exists in all branches of human activity. To be convinced of their error these have only to take into account the conditions to which most avocations are subject. In France, for example, they will find that a great number of those called *liberal* can not be entered without the degrees of bachelor, licentiate, doctor, etc., which are simply that compulsory apprenticeship of which Colbert spoke in his advice to Louis XIV., an apprenticeship very long and very costly. Several liberal professions in France are, moreover, positively organized into guilds, with limitations as to number and the conditions of admission: they are those of notary, stock broker, banker, merchandise broker, vendue master, etc. Several are a little less trammeled, and are not restricted by being limited as to number, though they are as to conditions of admission: they are those of barrister, physician, druggist, veterinary surgeon, teacher, etc. Others are made public functions, as that of professor and engineer. Among the industries we find, in France, butchering and baking constituted as veritable guilds in many towns; and printing, bookselling, registry offices, theatrical enterprises, public conveyances, etc., subject to a system of certificates granted by public authority. But these direct impediments are not perhaps those whose action is most effective against the principle of freedom. There are indirect ones

which exercise their influence upon all branches of labor; such as the loaning of capital, the lever of commerce and the industries, encounters in the laws upon usury which fix a maximum rate of interest, those which prohibit loaning upon pledge, and those which oppose the free formation of institutions of credit. Such are the restrictions which the commercial code and the entire legislation present to the formation of the industrial and commercial associations found in three types which no longer satisfy the demands of industrial development; such are the numerous prohibitions and hundreds of lengthy laws which hinder the supply in a great number of industries, and the sale of products in very many others; such are the octrois, whose action is, in many respects, analogous; such are the systems to which the merchant marine and the colonies are subject; such are the restrictions of every nature, imposed by special laws, upon the working of mines, the duration of labor combinations, and prison and other labor, it may be by local usages, by police regulations, or by thousands of decrees and ordinances called *their rules of public administration*, the nomenclature of which would occupy many pages of our columns—measures, decrees and ordinances which are far from having been all inspired by sound notions of administration, prudence and justice.—Nor have we yet enumerated all. Many industries are disturbed because governments have thought they should reserve to themselves the right of carrying on certain branches of business and establishing for them national workshops. Thus it is with the hot mineral springs, the establishments for breeding fine horses, cows and sheep, the Indret establishment for articles necessary in the navy, the manufactories of fire arms, the production of Sèvres china, of Gobelin dyes and tapestry, the government printing office, the *Mont de Piété* (loan bank, where articles are pawned); and others besides: tobacco and snuff, saltpetre, powder and gaming cards, the production of which is in France made a monopoly for the collection of the taxes. To those who are surprised that we put these government enterprises and the administration of these taxes in the number of hindrances to the industries, it would be easy to show how a subsidized establishment, the government printing office, for example, produces in a way that is a burden to the public treasury, and discourages private industries by engrossing certain kinds of labor, and lowering the price of many products obtained. — If any one would make out for all countries such an abstract as we have just given for France, he would find analogous restrictions in each of them: much fewer, however, in England, and above all, in the United States, and very probably more in many other countries, and in proportion to their degree of civilization, for the degree of freedom is a pretty good measure of the progress realized. There are still many vestiges of the guilds in Germany and in the northern countries, although these traces are indeed disappearing every day. It was not until 1847 that the Swedish government succeeded in suppressing the masterships, wardenships and trade corporations; the class of the bourgeoisie being at length united with the three others, and having ceased to appeal to its privileges with the same tenacity. Hitherto there had been a compulsory apprenticeship, of seven years in some trades, of eleven years in others. It was not until July 1st of that year that domestic labor was completely emancipated, and that each one could, in his home, devote himself to making any articles he chose, and that every licensed dealer could sell all his products. But to start a manufactory it is still necessary to be provided with a certificate of capacity, issued by men officially selected for the purpose. The spirit which produces regulations and special privileges has not been willing to yield everything at once; it has clung to the diploma.—In North America, which may be taken as the opposite type, a citizen engaged in any industry enjoys, in the employment of his faculties and the pursuit of wealth, a freedom relatively very considerable.—We should have much to do, were we to take up, one by one, all the avocations in which freedom of labor is not entire, and to show how it would be both possible and profitable to introduce freedom into them, at once in some, by degrees in the others. We wish only to prove that the march of civilization is regulating socialism, which is slavery, by freedom, and that freedom is the polar star upon which statesmen must ever have an open eye, if they are ambitious to show themselves intelligent and skillful pilots. — M. Dunoyer, in responding in 1845 to the socialistic schools which charged freedom of labor with bringing about the gradual elevation of the opulent classes and an accelerated degradation of the laboring classes, was then right in saying: "I beg to consider how strange it must seem to see the misfortune of the laboring classes attributed to greatly increased competition, in the notorious state of imperfection in which freedom of labor and that of transactions still are. People talk of universal, unlimited competition! Where does any such really exist? In fact, there is no such thing as any truly universal competition. Do people forget that there is no civilized country where the entire mass of producers does not defend itself by double and triple lines of custom houses against the competition of foreign producers? Do they not know how far from being complete is competition, even in the interior of each country, and by how many causes it is everywhere more or less limited? In France, for example, where it is more developed than in some other places, it still encounters a multitude of obstacles; there are, we know, outside of services really public, a certain number of kinds of business, the carrying on of which the public authorities have thought should be reserved exclusively to the government; there is a still more considerable number the monopoly of which legislation has given to a limited number of individuals.

Those which have been abandoned to competition are subjected to formalities, to restrictions, and to numberless trammels which prevent many persons from engaging in them; and consequently in these even, competition is far from being unlimited. Finally, there is scarcely one which is not subject to various taxes, necessary, without doubt, but sufficiently onerous for many people to be unable to pay them, and hence these kinds of business are virtually prohibited to such persons: whence it follows that competition, already limited for so many causes, is still so to a high degree by taxes. I do not state these facts here to blame any one: but in the face of such a condition of things, is it not singular to hear any one speak of universal, unlimited competition, and to witness the more or less real evils which the lower classes of society suffer attributed to excess of freedom and of competition?" — It is not possible to treat thoroughly this great question in a single article; for freedom of labor is the corollary of all the propositions which science demonstrates; and this subject is one of those whose development might well take an entire course. Indeed, M. Dunoyer was led to make almost a complete course of study on the economy of society in attempting to fathom the vast questions connected with it. We will then stop here, and conclude by quoting two passages which express our thoughts better than we could do it: "Political economy holds most strongly to the idea of freedom of labor: for freedom is the essence of human industry. What, in fact, is industry? It is not simply a muscular effort and a material operation. Industry is, above all, the action of the human mind on the physical world. Now the mind is essentially free: the mind in all its operations needs freedom, exactly as there is need of air under the wings of a bird, that it may be sustained and advance in its course." (M. Michel Chevalier, *Discours au Collége de France; Journal des Economistes*, Jan., 1848.) — "The natural order of human society consists in enthroning in it the law which is in correspondence with the nature of the beings of which that society is formed. These beings being free, their most natural law is the maintenance of their freedom: this is what we call justice. There are in the heart of man, and these can therefore and ought to enter into the alliance, other laws still, but none which are contrary to that. Before all else, the state is organized justice; and its first function, its most stern duty, is to insure freedom; and what freedom is there in society where labor is not free?"

JOSEPH GARNIER.

E. J. L., Tr.

FREE-SOIL PARTY, The (IN U. S. HISTORY). The history of this party, the first one which aimed specially at the restriction of slavery to its state limits, covers a period of but about five years, 1848–52, and may best be understood by first considering the two elements which composed it, the political free-soilers and the conscientious free-soilers. — 1. The political free-soilers were confined to the state of New York, and were mainly the voters of that state political organization, or "machine," of which ex-President Van Buren had long been the recognized head. (See ALBANY REGENCY.) Van Buren's defeat in the democratic convention of 1844, and the political revolution in the party which was a consequence of it, were results of southern votes and of a distinct southern question; and the first effort of the Polk administration, like every other administration of any party in a similar situation, was to encourage the building up of a new organization of its own, for the purpose of ousting the old organization from the control of the great state of New York. (See DEMOCRATIC-REPUBLICAN PARTY, IV.; VAN BUREN, MARTIN; NEW YORK.) The old organization, however, in the present case, was too strongly entrenched to surrender power easily, and the four years of Polk's administration were marked by a progressive split in the democratic party of New York, resulting, toward 1847, in the formation of two distinct factions, the barnburners and the hunkers (See those names.) The former was the Van Buren organization, and its opposition to the administration which had supplanted it naturally took the form of opposition to the extension of slavery to the territories. It therefore fell naturally into the free-soil party on its organization. The division in the New York democratic party, though apparently healed in 1852, lasted in reality for many years further, the former "barnburners" and "hunkers" taking the names of "softs" and "hards," respectively. — 2. The conscientious free-soilers were not confined to New York, but were found in every northern state, and in Maryland, Delaware, Virginia, and Kentucky, in the south. They were mainly the members of the "liberty party," (see ABOLITION, II.), re-enforced, after 1844, by a part of the anti-slavery element which had been common, up to that year, throughout the agricultural membership of the northern democratic party. In the fall of 1847 they held a national convention at Buffalo, still under the name of the liberty party, and nominated John P. Hale, of New Hampshire, and Leicester King, of Ohio, as presidential candidates; but toward the spring of 1848 the evident division in the New York democratic party, which it was hoped would extend to other states, encouraged them to drop their nominations and take part in the formation of the "free soil party." — The democratic convention at Baltimore in 1848 was attended by delegations from both the barnburner and hunker factions, each claiming to represent the state. May 25, by a vote of 133 to 118, the convention admitted both delegations, giving half the state vote to each. Both delegations rejected the decision, and withdrew from the convention. The hunkers, satisfied with having kept their opponents out, and secure of the support of the administration, did nothing further. The barnburners met in state

convention at Utica, June 22, and nominated Martin Van Buren and Henry Dodge, of Wisconsin, as presidential candidates, apparently for the purpose of maintaining their state organization, of showing their ability to control the state electoral vote, and thus of forcing some compromise which would secure for them recognition as an essential part of the New York democracy. Gen. Dodge refused to accept the nomination. — In the meantime a call had been issued for a general free-soil convention at Buffalo, Aug. 9. It was attended by 465 delegates from nearly all the free states, and from Delaware, Maryland and Virginia, eighteen states in all. For president, Martin Van Buren received 244 votes to 181 for John P. Hale, and was nominated; Charles Francis Adams was nominated for vice-president. The platform was very long, in three preambles and sixteen resolutions. The preambles declared the delegates' independence of the slave power, their secession from the democracy; their inability to join the whigs, who, in nominating Taylor, had "abandoned their distinctive principles for mere availability"; and their determination to secure "free soil to a free people." The resolutions declared in general that slavery in the states was valid by state laws, for which the federal government was not responsible; but that congress had "no more power to make a slave than to make a king," and hence was bound to restrict slavery to the slave states, and to refuse it admission to the territories. In the election of 1848 for president the new party cast 291,263 votes, a great but deceptive advance on the liberty party's vote in 1844. It was entirely a free state vote, except 9 in Virginia, 80 in Delaware, and 125 in Maryland. Outside of New York the free-soilers outnumbered the democrats in Massachusetts and Vermont, and gave the votes of Illinois, Indiana, Iowa, Maine, Michigan, Ohio and Wisconsin to the democratic candidates by small pluralities, in New York they polled 120,510 votes to 114,318 votes for Cass and Butler, and gave the electoral votes of the state to the whig candidates. Both elements of the free-soil party were thus satisfied; the conscientious free-soilers, frequently called "abolitionists," had punished and demoralized the whig party, and the political free-soilers, commonly called "night soilers" by their hunker opponents, had punished and demoralized the democratic party. The principal result of the congressional elections of the same year was that the New York delegation was changed from 10 democrats and 24 whigs (in 1847–9) to 1 democrat, 1 free-soiler, and 32 whigs (in 1849–51). — In congress the free-soil representatives at once took separate ground, apart from both whigs and democrats. In the 31st congress they numbered 2 in the senate, (Hale and S. P. Chase), and in the lower house 14, including Preston King, of New York, J. R. Giddings, Lewis D. Campbell and Joseph M. Root, of Ohio, Geo. W. Julian, of Indiana, David Wilmot, of Pennsylvania (see WILMOT PROVISO), and Horace Mann, of Massachusetts. In the 32d congress (1851–3) they had 3 in the senate, Charles Sumner having taken his seat there, and 17 in the house. In the 33d congress (1853–5) the free-soilers in the senate numbered from 3 to 5; in the house they had about the same number. After that time they were swallowed up in the sudden rise of the anti-Nebraska tide. (See REPUBLICAN PARTY.) — Negotiations between the political free-soilers and the other democratic faction in New York began again (if they had ever really ceased) in 1849. Both factions attended the state convention of that year, and united in the nomination of state candidates and in the adoption of a vague and indefinite resolution on the slavery question. In 1850 the state convention went further, and passed a resolution that it was "proud to avow its fraternity with and devotion to" the principles of the democratic national convention of 1848. Against this resolution the political free-soilers, headed by John Van Buren, could now muster but twenty votes. The result was the absorption of the Van Buren faction into the state democratic party, and the reduction of the free-soil vote of New York in 1852 to its real limits. The breach in the state democracy was thus closed, but never really healed. — In 1852 the national convention of both the whig and the democratic parties accepted the compromise of 1850 (see COMPROMISES, V.) in all its parts. The free-soilers therefore held a convention at Pittsburg, Aug 11, 1852, with delegates from all the free states, and from Delaware, Maryland, Virginia and Kentucky. Their recent New York allies were not represented. Henry Wilson, of Massachusetts, presided; the platform of 1848 was enlarged to twenty-two resolutions, and John P Hale, of New Hampshire, and George W. Julian, of Indiana, were nominated as presidential candidates. The platform of the "free democratic party" denounced slavery as "a sin against God and a crime against man;" it denounced "both the whig and the democratic wings of the great slave compromise party of the nation;" and it repudiated the compromise of 1850, and demanded the repeal of the fugitive slave law. In the presidential election of 1852 the free-soilers cast but 156,149 votes, all in northern states excepting 62 in Delaware, 54 in Maryland, 265 in Kentucky, and 59 in North Carolina. In all the northern states, except Iowa, the free-soil vote was slightly decreased, owing mainly to the party's rejection of the compromise of 1850; in New York it had fallen to 25,329, the real free-soil vote, apart from its political allies in that state. — After the election of 1852 the free-soilers shared in the general suspension of political animation which followed. In 1854 they opposed the Kansas-Nebraska bill, and in 1855–6 were absorbed by the newly formed republican party. The 34th congress, when it met in December, 1855, contained democrats, whigs, anti-Nebraska men, free-soilers, and Americans or know-nothings; before February, 1856, there were only republicans, democrats and Americans, and the

whig and free-soil parties had disappeared from congress.—The principles of the free-soil party as to slavery restriction were identical with those of the great and successful republican party which followed it, and yet the former, from 1846 until 1854, probably never really gained 10,000 votes in the entire country. Its lack of success was due in part to its insistence upon strict construction in other matters than slavery, while the republican party was generally broad construction; but the principal reason was, that the country was not yet ready for it. Some such measure as the Kansas-Nebraska bill was an essential prerequisite to the formation of a successful anti-slavery party, and opposition to that particular measure required broad construction views of the powers of congress. (See NATION; DEMOCRATIC PARTY, IV.; REPUBLICAN PARTY, I.; WILMOT PROVISO; ABOLITION, II.; SLAVERY.)—See 16 Benton's *Debates of Congress;* 1 Greeley's *American Conflict*, 191, 223; 2 Wilson's *Rise and Fall of the Slave Power*, 129, 140, 150; *International Review*, August, 1881, (G. W. Julian's *Reminiscences of the 31st Congress*); Giddings' *History of the Rebellion*, 283, 357; 2 Benton's *Thirty Years' View*, 723; Schuckers' *Life of S. P. Chase;* Gardiner's *Historical Sketch of the Free-Soil Question* (to 1848); 27 *Democratic Review*, 531; *Tribune Almanac*, 1849–55; D. S. Dickinson's *Speeches;* authorities under articles referred to; the platforms of the party in full are in Greeley's *Political Text Book of* 1860, 17, 21. ALEXANDER JOHNSTON.

FREE TRADE, in the sense in which the term is generally used, may be regarded as the expression of a principle in political economy, which holds that the prosperity of a state or nation can best be promoted and maintained by freeing the exchange of all commodities and services between its own people and the people of other nations and countries, to the greatest extent possible, from all interferences and obstructions of an arbitrary, artificial character, the results of legislation in deference to either prejudice or the demands of special or private interests. In its broadest sense, *free trade*, as the expression of an economic principle, is, however, susceptible of a much wider and more complex definition. It was concretely and somewhat sentimentally, but at the same time truthfully, defined by Chevalier, the eminent French economist, to be "the free exercise of human power and faculties in all commercial and professional life"; and as "the liberty of labor in its grandest proportions." As represented by its leading advocates, it does not, furthermore, content itself with merely antagonizing the arbitrary restriction of the commercial intercourse of a particular country with foreign countries for the purpose of stimulating or directing the domestic industries of the former; but regarding in the light of an economic axiom, the proposition "that that government is best which governs least," it also favors the restriction of the functions of government or the state to the narrowest limits consistent with the establishment and maintenance of liberty and order, the protection of life and property, the dispensation of justice, and the providing for the common defense and the general welfare of the people governed. Free trade, accordingly, embraces within the sphere of its opposition and condemnation a great variety of forms of economic interferences on the part of the state other than those pertaining to international exchanges, and of which the following—some happily now almost obsolete, but others still existing—may be mentioned as illustrations, to wit: the arbitrary regulation by statute (usury laws) of the price and loan of money, or conjointly and consistently (as in old times), the price of commodities,* or (as formerly by guilds and statutes and latterly by trade associations) of the price of labor, or wages; all interference (as in England) with the free transfer and sale of land; and with the business of banking and dealing in credits, independent of the making and issue of currency; the proscription from office, business or pursuit by reason of sect or religious belief (as the present proscription of the Jews in Russia from agriculture); the *continued* payment by the state, from the proceeds of general taxation, of bounties, for the promotion of special domestic industries (as in the case of the beet root sugar manufacture in Europe and the French system of bounties on shipping); the inhibition (as in the United States) on foreigners from the investment of capital in American shipping; and the maintenance of navigation laws for the purpose of industrial and commercial restriction. These, and many other examples which might be cited, are all violations of the spirit if not of the correct theory of free trade; but as in the popular mind, and especially in the sphere of politics, the idea of free trade is associated almost exclusively with the freedom of international exchanges, any discussion of the subject for the purpose of affirmation or explanation from any other than this standpoint, is neither customary nor expedient, and will not here be attempted.—*The Relations of Free Trade and Protection.* Free trade as an economic principle, or politico-commercial system, is the direct

* One of the most curious illustrations under this head is to be found in the recent experience of the United States, which, in 1878, made obligatory by statute the purchase and coinage of silver bullion to the extent of not less than two millions of dollars per month. The ostensible reason for such an enactment, was to afford to the people and business of the country a larger measure of coin currency. The real reason was to create for the silver mining interests of Colorado and other sections, an artificial and larger market for their product. The result was, that the additional coinage being both unnecessary and inconvenient it remained to a great extent dormant in the public treasury: a large amount of what would otherwise have been useful merchandise, available for exchanges, was withdrawn from the channels of industry and commerce; and an unnecessary tax of two millions of dollars per month, amounting in the aggregate at present writing (1882), to more than one hundred millions of dollars, has been imposed on the people and other industries of the country for a comparatively small measure of benefit to certain sectional and private interests.

opposite to the so-called principle or system of protection, which maintains, on the contrary, that a state or nation can most surely and rapidly attain a high degree of material prosperity by "protecting" or shielding its domestic industries from the competitive sale or exchange of the products of all similar foreign industries; the same to be effected either by direct legislative prohibition of foreign commerce, or by the imposition of such discriminating taxes (duties) on imports as shall, through a consequent enhancement of prices, interfere to a greater or less extent with their introduction, free exchange and consumption. An explanation of either of the terms *free trade* or *protection* involves, therefore, a presentation of the arguments, based on theory or experience, which may be adduced in support of the respective economic systems of which they are the expressions, and a review of the premises of the one almost necessarily requires a conjoint statement of the claims of the other.— *Relation of Free Trade as an Economic System to Taxation and Revenue.* It is also desirable to clearly appreciate at the outset of any explanation of the subject under consideration, the relation which "free trade" and "protection," regarded as economic systems, sustain to taxation and revenue; a point about which (at least in the United States) there is no little of popular misapprehension, which in turn has doubtless been often intentionally encouraged by a common assertion of the advocates of protection, that "the adoption of free trade as a national fiscal policy necessarily involves a resort on the part of the state to direct taxation as a means of obtaining revenue." The truth in respect to this matter is, however, as follows: The command of a constant and adequate revenue being absolutely essential to the existence of organized government, the power to compel contributions from the people governed, or, as we term it, "*to tax,*" is inherent in every sovereignty, and rests upon necessity. The question of the obtaining of such revenue obviously, therefore, is the question of first importance in the economy of a state, the one in comparison with which all others are subordinate; for without revenue no governmental machinery for the protection of life and property, the dispensing of justice and the providing for the common defense could long be efficiently maintained. The soldier and policeman guard, while the laborer performs his labor in safety. So far, the advocates of free trade and protection fully agree. The former, however, maintain that in the exercise of this power the object of the tax should be rigidly restricted to the defraying of legitimate public expenditures, or, in other words, that taxes should be levied for revenue purposes exclusively, and that, subject to such limitations, the question as to what forms taxation had best assume—whether direct or indirect, tariff or excise, on incomes or property—becomes one of mere experience and expediency in every instance; preference being always given to those forms which involve the least waste, cost and personal annoyance in collection, which are most productive of revenue, and interpose the minimum of interference and restriction on commercial intercourse. Free trade as an economic principle is not, therefore, as is often assumed and supposed, necessarily antagonistic to the imposition of duties on imports, provided the end sought to be attained is simply revenue, and the circumstances of the state render such form of taxation expedient. Protection, on the other hand, on the ground of advantages accruing directly or incidentally, advocates and defends the imposition of taxes on imports for purposes other than those of revenue. Protection, therefore, to the exact extent to which it attains its object, is obviously antagonistic to revenue, inasmuch as revenue is received only on those commodities which *come in*, while protection is secured only when the importation of commodities is restricted or made difficult. — *A Tariff for Revenue with Incidental Protection.* The adjustment of a tariff for revenue in such a way as to afford what is termed "incidental protection"—an idea much favored by American politicians—is based on the supposition that by arranging a scale of duties so moderate as only to restrict and not prevent importations, it is possible to secure a sufficiency of revenue for the state, and at the same time stimulate domestic manufactures by increasing the price of competitive foreign products. That the double object thus aimed at is capable of attainment can not be doubted, but that the project is also one of the most costly of all methods of raising revenue will become evident, if it is remembered, that while revenue to the state accrues only from the tax levied on what is imported, another tax, arising from the increase of price consequent upon the tariff on imports, will also be paid by the nation upon all domestic products that are sold and consumed in competition with such imports; and this latter tax, which will not pass into the public treasury, may, and probably will, be much greater than the former. A tariff for revenue so adjusted as to afford incidental protection is therefore a system which requires the consumers, who are the people, to pay much in order that the state may receive little. So little accustomed, however, are the people of the United States (in common with those of other countries) to reason on this subject, and so intentionally have they been misinformed, that indirect taxation of the character indicated, with its two-fold and unnecessary burdens, one seen and the other unseen, is almost universally regarded as far preferable to any more direct, simple and less onerous system. In this respect, therefore, the ideas of the people of the nineteenth century are analogous to those of the fourteenth, who regarded filth as undesirable mainly by reason of and in proportion to its sensible offensiveness, and who by ignoring its unseen and subtle influences, and resorting to perfumery rather than to sanitary measures as remedies, made sure of the coming and continuance of pestilence. On the other hand, when taxes

under a tariff are imposed on imports which do not compete for sale and consumption with any similar products of the importing country, then in such cases the entire proceeds of the tax, less the expense of collecting, accrue to the benefit of the state, and no further unseen or unnecessary burden of taxation is made contingent. But very curiously, under the existing (1882) fiscal and economic policy of the United States, such articles—as for example, tea and coffee—have been especially selected by statute, for exemption from taxation on importation. — *What is a Tariff for Revenue Only?* A tariff *for revenue only* is a tax on commodities brought from foreign countries, in order to secure revenue. It is based on the assumptions, that some indirect form of taxation is advisable, that the form in question is expedient, if not the best, and that the government should receive all the taxes paid by the people. It is levied in such a way as to carefully avoid all protection, and to bring into the public treasury all that accrues from the payment of the tax. The existing tariff of Great Britain is a revenue tariff, answering to this definition. Under this tariff, ordinary import duties are levied upon only six articles or classes of articles, none of which, it is assumed, are the product of the United Kingdom, viz., cocoa, tea, chicory, dried fruits, tobacco and wine. The other duties are levied to countervail excise or other inland taxes, which are imposed for purposes of revenue upon corresponding British productions; as for example, distilled spirits in various forms, malt liquors, gold and silver plate, playing cards, etc. Full details of the nature and amount of these "countervailing" tariff taxes may be found in the "Statistical Abstract" of the United Kingdom, published annually by authority. Under the operation of this tariff is constituted what is called "British free trade." It is not, however, *absolute* free trade in the sense that free trade exists in the United States between the different states and sections of the federal Union. With these preliminary statements, the essential points of the argument in favor of free trade, as contradistinguished from protection, may be stated as follows.— *The Highest Right of Property.* The highest right of property is the right to exchange it for other property. That this must be so will at once appear, if it is remembered that, if all exchange of property were forbidden, or by circumstances rendered impossible, each individual would be assimilated in condition to Robinson Crusoe on his uninhabited island; that is, he would be restricted to subsisting on what he individually produced or collected, be deprived of all benefits of co-operation with his fellow-men, and of all advantages of production derived from diversity of skill or diversity of natural circumstances. In the absence of all freedom of exchange between man and man, civilization would obviously be impossible; and it would also seem to stand to reason that to the degree in which we impede or obstruct the freedom of exchange, or, what is the same thing, commercial intercourse, to that same degree we oppose the development of civilization. — *To Restrict Exchanges reaffirms the Principle of Slavery.* Any system of law which denies to an individual the right freely to exchange the products of his labor, by declaring that A may trade on equal terms with B, but shall not under equally favorable circumstances trade with C, reaffirms in effect the principle of slavery and violates liberty. For certainly no man can be free who, by arbitrary enactment, is not allowed, in trying to exchange his product for another, to obtain all that the laws of value acting freely would give him; or who has some part of the product of his labor arbitrarily taken from him for the use and enjoyment of some other man who has not earned it. But this is exactly what slavery and a protective tariff alike do; only the one works openly, and the other covertly and indirectly. The argument that is generally put forth by the advocates of the policy of protection, in justification of legislation restricting freedom of exchange, or in defense of the pithily expressed proposition that "it is better to compel an individual to buy a hat for five dollars, rather than to allow him to purchase it for three," is, that any *present* loss or injury resulting from such restriction to the individual will be more than compensated to him, or to society, through some future and indirect accruing benefit. But it should be borne in mind that this is the same argument that has always been made use of in past times as a warrant for every crime against liberty; more especially in defense of slavery, in vindication of persecution by state or church for heresy or unbelief, for the establishment of state religions and enforced conformity thereto, and for all arbitrary restrictions on speech or the press. It ought not therefore to be a matter of surprise, that the intellectuality of this latter third of the nineteenth century, recognizing the antagonism of any other position to the great cause of human progress, should have ranged itself by an overwhelming majority on the side of industrial and commercial freedom, equally and for like reasons and motives as it has on the side of intellectual, religious and political freedom; that no man intellectually great by general acknowledgment, who has given any special attention to this subject, and who is not avowedly working in the interests of despotism, or private gain, can be pointed out in either hemisphere, that is not unqualifiedly in favor of removing speedily and to the greatest extent compatible with the requirements of governments for revenue, all restrictions on the commercial intercourse of both nations and individuals; and that there is not to-day a first-class college or institution of learning in the whole world which would admit or invite to its chair of political economy a person who theoretically believed in the theory or expediency of restricting exchanges as a means of increasing popular welfare and abundance. — *Unconstitutionality of Protection as*

National Policy in the United States. In countries having a despotic government, there is no restraint on the adoption of any fiscal or economic policy on the part of the state. But in countries where the government is free, or based on the consent of the governed, and where the powers of the state are limited by a written constitution, or by the principles which are naturally inherent in, and essential to this form of government, it becomes an interesting question as to the right of such a government to levy discriminating taxes for the purposes of protection, or for purposes other than for defraying public expenditures, even though any injustice thereby done to the individual is more than compensated by some indirect benefit to the entire community. In short, is not this one of those acts of procedure on the part of the state which is antagonistic to the principles of a free government, and which, fully recognized and broadly carried out, will of necessity be utterly destructive of it? and in respect to which, as in the case of a tax to support an established church, or of a law compelling every man to help catch a fugitive slave, the dissent and resistance of even one citizen makes unjust any enactment authorizing such procedure? In the case of the United States this question has recently been considered and passed upon by its highest judicial tribunal, under the following circumstances: In 1872 the legislature of Kansas passed a law authorizing counties and towns of that state "to encourage the establishment of manufactories and such other enterprises as may tend to develop" such county or city, by the direct appropriation of money, or by the issue of bonds to any amount that the local authorities might consider expedient; and under this act the city of Topeka created and issued its bonds to the extent of $100,000 and gave the same "as a donation," a majority of voters approving, to an iron bridge company, as a consideration for establishing and operating their shops within the limits of the city. The interest coupons first due on these bonds were promptly paid by the city out of a fund raised by taxation for that purpose, but subsequently, when the second coupons became due and the bonds had passed out of the possession of the bridge company by *bona fide* sale to a loan association, the city refused to meet its obligations, on the ground that the legislature of Kansas had no authority under the constitution of the state to authorize the issue of bonds, the interest and principal of which were to be paid from the proceeds of taxes, for any such purpose as the encouragement of manufacturing enterprises. Legal proceedings to enforce payment were thereupon commenced by the bondholders in the United States circuit court, and judgment having been there given for the city, the case was appealed to the United States supreme court, where with only one dissenting voice (Judge Clifford) the judgment of the lower court was affirmed, the opinion of the court and the principles upon which it was based being given by Mr. Justice Miller. From this opinion attention is asked to the following extracts, reference being made, for the benefit of those who desire a more complete statement, to the report in full, 20 Wallace, pp. 655–668: "It must be conceded that there are rights in every free government beyond the control of the state. A government which recognized no such rights, which held the lives, the liberty and the property of its citizens subject at all times to the absolute disposition and unbounded control of even the most democratic depository of power, is after all but a despotism. It is true it is a despotism of the many, of the majority, if you choose to call it so, but it is none the less a despotism." * * * "The theory of our governments, state and national, is opposed to the deposit of unlimited power anywhere. The executive, the legislative and the judicial branches of these governments are all of limited and defined powers. There are limitations of such powers which grow out of the essential nature of all free governments—implied reservations of individual rights, without which the social compact could not exist, which are respected by all governments entitled to the name." * * * "Of all the powers conferred upon the government that of taxation is most liable to abuse. Given a purpose or object for which taxation may be lawfully used, and the extent of its exercise is in its very nature unlimited. This power can as readily be employed against one class of individuals and in favor of another, so as to ruin the one class and give unlimited wealth and prosperity to the other, if there are no implied limitations of the uses for which the power may be exercised. To lay with one hand the power of the government on the property of the citizen, and with the other bestow it upon favored individuals to aid private enterprises and build up private fortunes, is none the less robbery because it is done under the forms of the law and is called taxation. This is not legislation; it is a decree under legislative forms. Nor is it taxation. Beyond a cavil there can be no lawful tax which is not laid for a public purpose." * * * "It may not be easy to draw the line in all cases so as to decide what is a public purpose in this sense and what is not. But in the case before us, in which towns are authorized to contribute aid by way of taxation to any class of manufacturers, there is no difficulty in holding that this is not such a public purpose as we have been considering. If it be said that a benefit results to the local public of a town by establishing manufactures, the same may be said of any other business or pursuit which employs capital or labor. The merchant, the mechanic, the innkeeper, the banker, the builder, the steamboat owner, are equally promoters of the public good and equally deserving the aid of the citizens by forced contributions. No line can be drawn in favor of the manufacturer which would not open the public treasury to the importunities of two-thirds of the business men of the city or town."—Here then we have, from the supreme court of the United

States, a decision as recent as 1874, defining the limitation of the power of taxation "growing out," as it was expressed, "of the essential nature of a free government"; and which would seem to admit of no other construction than that taxation for "protection," or for the aid of private interests engaged in manufacturing or other business, is beyond the province of the legislative power of either the national or state governments of the federal Union; and when imposed, to use the exact language of the court, "is none the less robbery because it is done under the forms of law, and is called taxation." Other judicial authorities in the United States to whom weight is accorded, have also concurred in this opinion. Thus, Thomas M. Cooley, one of the justices of the supreme court of Michigan, and professor of law in the university of that state, in his work, "Principles of Constitutional Law," (p 57), thus defines the limits of taxation under the constitution of the United States: "Constitutionally a tax can have no other basis than the raising of a revenue for public purposes, and whatever governmental exaction has not this basis is tyrannical and unlawful. A tax on imports, therefore, the purpose of which is not to raise a revenue, but to discourage and indirectly prohibit some particular import for the benefit of some home manufacture, may well be questioned as being merely colorable, and, therefore, not warranted by constitutional principles." The question at issue has also formed the subject of review by the supreme court of the state of Maine, and the following are extracts from the opinions given by the members of this tribunal respecting the limitations on the powers of a free government to impose taxes: "No public exigency can require private spoliation for the private benefit of favored individuals. If the citizen is protected in his property by the constitution against the public, much more is he against private rapacity." "If it were proposed to pass an act enabling the inhabitants of the several towns by vote to transfer the farms, or the horses, or oxen, or a part thereof, from the rightful owner or owners to some manufacturer whom the majority might select, the monstrousness of such proposed legislation would be transparent. But the mode by which property would be taken from one or many and given to another or others, can make no difference in the underlying principle. It is the taking that constitutes the wrong, no matter how taken." "Taxation," said the chief justice (in giving an opinion adverse to the right of a town to grant aid, under a permissible statute of the state legislature, to a manufacturing enterprise), "by the very meaning of the term, implies the raising of money for public uses, and excludes the raising if for private objects and purposes. 'I concede,' says Black, C. J., in Sharpless *vs.* Mayor, 21 Penn., 167, 'that a law authorizing taxation for any other than public purposes is void.'" "No authority or even dictum can be found," observes Dillon, C. J., in Hanson *vs.* Vernon, 27 Iowa, 28, "which asserts that there can be any legitimate taxation, when the money to be raised does not go into the public treasury, or is not destined for the use of the government or some of the governmental divisions of the state." "If there is any proposition about which there is an entire and uniform weight of judicial authority, it is that taxes are to be imposed for the use of the people of the state in the varied and manifold purposes of government, and not for private objects or the special benefit of individuals. Taxation originates from and is imposed by and for the state." "Our government is based on equality of right. The state can not discriminate among occupations, for a discrimination in favor of one is a discrimination adverse to all others. While the state is bound to protect all, it ceases to give that just protection when it affords undue advantages, or gives special and exclusive preferences to particular individuals and particular and special industries at the cost and charge of the rest of the community." — *Free Trade Natural; Protection Artificial.* The general result for which all men labor, is to increase the abundance or diminish the scarcity of those things which are essential to their subsistence, comfort and happiness. Different individuals are endowed with different natural capacities for making the various forces of nature and varieties of matter available for production. One man is naturally fitted to excel as a farmer, another as a mechanic, a third as a navigator, a fourth as a miner, engineer, builder, or organizer and director of society, and the like. The different countries of the earth likewise exhibit great diversity as respects soil, climate, natural products and opportunity. It would seem clear, therefore, in order that there may be the greatest material abundance, that each individual must follow that line of production for which he is best fitted by natural capacity or circumstances; and that, for the determination of what that line shall be, the promptings of individual self-interest and experience are a far better guide than any enactments of legislatures and rulers possibly can be; and, finally, that the greatest possible facility should be afforded to producers for the interchange of their several products and services. So true, indeed, are these propositions, that mankind in their progress from the rudest and most incipient social organizations to higher degrees of civilization, invariably act in accordance with them, and, as it were, instinctively. Robinson Crusoe upon his uninhabited island and the solitary settler in the remote wilderness follow, of necessity, a great variety of occupations, as those of the farmer, hunter, builder, blacksmith, fisherman, tailor, and the like. But as rapidly as the association of others in the same neighborhood admits, the solitary man abandons his former diversity of employment, and devotes himself, more or less exclusively, to a single department of industry, supplying his want of those things which he does not himself produce, by exchanging the surplus product

of his own labor for the surplus product of others' labor, who follow different industries. It is to be further observed that settlements in all new countries commence, if possible, in close proximity to navigable waters, so as to take advantage of natural facilities for intercommunication between man and man for the purpose of exchanging services or commodities; and that if commenced inland, one of the first efforts of the new society is the construction of a path or road, which will enable its members to hold communication with some other settlements or societies. Next, as population and production increase, the rude path or trail gives way to a well-defined road, the ford to a bridge, the swamp to a causeway, the pack carried upon the backs of men and animals to the wagon drawn by horses, the wagon to the railway car, the boat propelled by oars and sails to the boat propelled by steam, and finally the telegraph, annihilating space and time; all efforts and achievements having the single object of facilitating intercommunication between man and man, and removing obstructions in the way of interchanging human services and commodities. Free exchange between man and man, or, what is the same thing, free trade, is therefore action in accordance with the teachings of nature. Protection, on the other hand, is an attempt to make things other than nature designed. Free trade, or the interchange of commodities and services with the minimum of obstruction, by rendering commodities cheap, tends to promote abundance. Protection, by interference or placing obstructions in the way of exchanges, tends to increase the cost of commodities to the consumer, and thereby promotes scarcity. — So instinctively and so universally, moreover, does human nature, when left free to follow its own instincts, repudiate every idea that there can be anything in the nature of a principle in the doctrine of protection growing out of the natural order of things, that it would probably be impossible to find a single sane person who did not consider it a privilege to satisfy his legitimate and rational wants at the smallest price, or the minimum of effort, and make haste to embrace the opportunity. Again, if a person says "he is not in favor of free trade," (by which is to be understood, in accordance with the definitions before given, the removal of all restrictions on the exchange of commodities and services, except such as governments after careful inquiry may deem it expedient to institute for the sake of revenue, or for sanitary or moral considerations) then it stands to reason, unless he utters words and cant phrases without any idea of their meaning, that he must be in favor of trade that is not free, that is, of restricted trade, or no trade at all; for there are no other alternatives. But does anybody know of any one who is not in favor of good roads and bridges, of swift and safe lines of railroads and steamships, of telegraphs and newspapers? But roads and bridges, and steamships and railroads, and telegraphs and newspapers, are merely agencies for effecting and facilitating the interchange of ideas and commodities; and it amounts to precisely the same general result, whether we make the interchange of commodities costly and difficult by interposing deserts, swamps, unbridged streams, bad roads or bands of robbers between producers and consumers, or whether, for the benefit of some private interest that has done nothing to merit it, we impose a toll on the commodities transported, and call it a tariff. A 20 per cent. duty may fairly be considered as the representative equivalent of a bad road; a 50 per cent., of a broad, deep and rapid river, without any proper facilities for crossing; a 75 per cent., a swamp flanking such a river on both sides; while a 100 per cent. duty and upward, such as levied on some articles under the existing (1882) tariff of the United States, may be compared in effect to the present condition of affairs in Central Africa, where the lack of facilities for movement, combined with insecurity for life and property, enhance the cost or price of transported commodities to the highest degree consistent with their entering into consumption, or act as a complete restriction. In all such instances, whether the obstructions be natural or artificial, the general result is the same, namely, there is a greater effort and an increased cost required to produce a given result, and a diminution of the abundance of the things which minister to everybody's necessities, comfort and happiness. — Examples derived from the actual experience of the United States, will further serve to illustrate and enforce this argument. Upon the coast of Nova Scotia, within a short distance of the United States, there are coal mines of great value, which unlike any others in the whole world, are located so advantageously in respect to ocean navigation that, almost by the action of gravity alone, the coal may be delivered from the mouth of the pit upon the deck of the vessel. Now, for years the government of the United States imposed a tax on the landing of this coal within its territory, of $1.25 per ton. But if we assume that coal upon a well-managed railroad can be transported for one cent per ton per mile, the effect of this tax upon the people of New England and New York, who under natural circumstances would find it to their profit to use this coal, is precisely equivalent to the removal of these mines from a point on the coast of Nova Scotia, to a location 125 miles inland. And it would also seem to stand to reason that if the removal of these mines 125 miles into the interior was a benefit to the people of the United States, a further augmentation of their distance from the seaboard to 500 or 1,000 miles would be a still greater blessing, and that their absolute annihilation would be the superlative good of all. Some years ago an English engineer, Mr. Bessemer, devised a new process for the manufacture of steel. He did not claim to make anything new; he did not claim to make steel of a quality superior to what was made before; but he did succeed in showing mankind how to make an

article indispensable in the work of production *cheap*, which was before *dear*. Immediately on the assured success of the invention, the advocates of protection in the United States asked congress to impose such a duty on the import of this steel as would, through a consequent increase of its price to American consumers in a great degree neutralize the only benefit accruing from the discovery and use of the new process, namely, its *cheapness*, and they succeeded in obtaining, and still (1882) retain, a duty that in a great degree accomplishes such a result. In the spring of 1880 the northwestern states of the federal Union experienced snow storms of unusual severity, which greatly impeded all means of intercommunication. From a protectionist point of view these storms could not legitimately have been regarded in the light of a calamity; for they afforded, in the first instance, occupation to a very large number of laborers in digging out the railroad tracks, who otherwise would have had to seek other employments, or perhaps have had none whatever. A large number of locomotives and cars were also injured; and somebody had to be paid for putting them again in order, which may be set down as benefit No. 2. And finally, for lack of ability to transport the commodities necessary for subsistence, the dealers in coal, provisions and other merchandise were enabled to dispose of their stocks at high prices, and so realized unusual profits. Or, in other words, they had created for them, by act of nature, an exceedingly profitable home market of precisely the same character as that which a high tariff creates. Of course, with such beneficial results, everybody ought to have been contented. But so far from this being the case, everybody regarded the condition of affairs in the light of a national calamity. The complaints were loudest in those sections where, by the unexpected restrictions on intercommunication, the discomfort and even suffering from the scarcity of useful things—food and fuel—was greatest; and the conductors of the newspapers of the country, following their instincts, and forgetting for a time their economic views, were unanimous in hoping that the serious obstructions to business occasioned by the snow (tariff) would not long continue. If, however, the people who had found profitable employment in shoveling snow, repairing broken machinery, and in selling the necessaries of life at famine prices, could have been consulted, they might possibly have been found in favor of frequent and long continued snow-blockades, and ready to denounce as unpractical theorists, unpatriotic, and even corrupt, all those entertaining a contrary opinion. — From the above propositions and examples it would seem evident that the direct effect of a protective duty, when it is really operative, is to compel, on the part of the community employing such an agency, a resort to more difficult and costly conditions of production for the protected article; and also that when a community adopts the protective policy it commits itself to the indorsement of the principle that the creation and maintenance of obstacles is equivalent to, or the surest method of creating material abundance, and the development of natural wealth. But if this policy be correct, then the country "which is the hardest to get at has the most advantageous situation; pirates and shipwrecks contribute to national prosperity by reason of the increased price of freights and insurance; and improvements in navigation and railroads are injurious." Such conclusions would seem to be too absurd to require serious refutation; but that people of reputed intelligence and prominent station practically indorse them, is proved by the utterances and teachings of men prominently identified with the protectionist policy in the United States, where protection has been made for many years a prominent feature in the national fiscal system, and, as it is claimed, with success. Thus, for example, the late Henry C. Carey, who stands in relation to the modern doctrine of "protection" very much the same as the prophet Mohammed does to the religion of Islam, expressed the opinion, over and over again, that the interests of the United States—material and moral—would be greatly benefited if the Atlantic could be converted into an impassable ocean of fire, and also that a prolonged war between Great Britain and the United States would be of the greatest possible benefit to the latter country. Horace Greeley favored the imposition of a duty of $100 per ton (above 500 per cent.) on the importation of pig-iron into the United States, and referred to the statement as illustrating his idea of the kind of a tariff that this country needed; or, in other words, he favored the practical prohibition of exchanges with foreign countries. With consistency, also, he was opposed to internal exchanges of the products of labor, when the transactions involved any extensive transportation of the things exchanged. "When a railroad," he said, "brings artisans to the door of the farmer, it is a blessing. When it takes the wheat, the flesh, the corn and the cotton to a distant manufacturing centre, a locomotive is an exhauster; its smoke is a black flag, and its whistle is the scream of an evil genius." The university of Pennsylvania, which claims to rank among the first educational institutions of the United States, teaches, through its approved text books (in 1882), that "commerce between distant points is an undesirable thing"; that it is not expedient that the United States should have any foreign commerce; and that "if there were no other reasons for the policy which seeks to reduce foreign commerce to a minimum, a sufficient one would be found in the effect on the human material it employs." Again, in a debate in the United States house of representatives, in 1882, on a proposition to revise the consular system with a view of making its provisions less onerous to American shipping, one Hiscock, a representative from the great commercial state of

New York, after admitting that the existing system was "complex and to some extent cumbersome," and "an obstruction to the importation of foreign commodities," declared himself in favor of its continuance, and solely for the latter reason. These incidents are here introduced, because they afford to one seeking information respecting the opposing theories of free trade and protection, a clear insight into the real animus of the sincere advocates of protection in the United States in the latter third of the nineteenth century; and further because unless they are put on record at a time nearly contemporaneous with their occurrence, they may, in the not very remote future, be regarded as incredible and fictitious. — *The Practical as contradistinguished from the Theoretical Rule of Free Trade.* Such then, is a summary of the facts and arguments which can be adduced in support of "free trade," considered from the standpoint of theory, or abstract principle. These facts and arguments are in themselves so clear and cogent, and so thoroughly in accordance with common sense and natural human instincts, that it does not seem possible for a person of fair intellectual ability, who is not predisposed to despotism as a form of government, or whose mind at the outset is not warped by prejudice, to study and understand the subject thoroughly without giving his hearty allegiance to at least the *theory* of free trade. And it is the testimony of nearly all instructors in colleges and other institutions of learning where the subject is taught thoroughly, and personal inquiry and discussion is permitted and stimulated, that such is the experience of nine-tenths of their students; and that the other one-tenth would be also in the same way of thinking if they cared to think at all, or were not influenced by personal considerations. Furthermore, the advocates of the protective theory rarely attempt to meet the facts and arguments as here presented; neither are they willing to even discuss the subject from the purely theoretic or abstract standpoint. But they evade and shift the question at issue, by asserting that the industries of a country ought not to be defined or regulated by merely economic reasons; that other interests—political or social—which are peculiar to each country or nation ought and necessarily do come in, to materially modify the universal and undeviating application of the free trade principle. Or, as the chairman of a convention of protectionists which assembled in New York in November, 1881, popularly expressed it in his opening address, "We plant ourselves on protection as a matter of fact. The professors tell us that free trade is perfect in theory, but it can't be applied to us. It would not correspond with the facts." The same idea, but expressed somewhat differently, is also embodied in the assertions that are frequently made by protectionists in the United States, that there is no such thing as a definite system or science of political economy; that every nation, owing to differences in natural conditions and habits and customs, has necessarily a system of its own; that all talk about the independence of nations and the brotherhood of man is mere sentiment, and that historical experiences and reasoning from general principles amount to nothing. In short, it is proclaimed that every nation must have an economic system of its own, the result of its own wants and experiences, and that in the United States, as well as in all other countries, it is only necessary for the nation to determine what are its peculiar interests and pursue them, to do exactly right. It is not necessary to here discuss these assumptions and propositions further than to remark that nothing can be more absurd and unfounded than the assertion which to a certain extent has become popular (in the United States) that a thing may be true in theory and yet false in application or practice. A theory is simply an exposition of the general principles of any art or process; and if the exposition or theory is really true, then it must of necessity be true in its application or practice; and any one who asserts to the contrary simply uses words without any conception of their meaning. And as for the proposition that there is no such thing as general principles in economic science, but that every nation has a system of its own and determines its own economic laws, the legitimate inference and the one which protectionists accept, and of necessity must accept, is, that the drawing of an artificial arbitrary line on the surface of the globe and calling one side Canada and the other side Ohio, or one portion of territory the United States and the other England, of itself is sufficient to invalidate conclusions based on sound reasoning and careful experience, and make a course of action which is universally acknowledged to be a blessing in one case, a curse and a calamity in another. But for the purpose of facilitating this investigation and helping to speedily and clearly get at the truth, it is expedient to meet the advocates of the protective theory on their own ground; and to assume with them, that in any discussion of this subject of free trade, with a view of determining its correctness as an economic principle, and its value as a basis of any national policy, it is the deductions and results of actual experience and not of abstract reasoning, that alone need to be considered. To deductions and results of this character, accordingly, it is proposed to next ask attention. — *The Results of Specific Experiment.* The largest and most complete experiment in free trade that the world has ever seen, has been made in the United States, and the results may be claimed to constitute an absolute demonstration of the wisdom of this policy and of the benefits that would accrue to the whole world from its adoption. We have here, at the present time of writing (1882), a nation of more than 53,000,000 of people, representing races most diverse in their origin, natural capacity and intellectual culture; inhabiting a country continental in its area, embracing almost every variety of climate, and affording the

greatest opportunity for (as it indeed has) the most varied occupations and industries. The different states and territories into which this great country is divided differ among themselves in respect to wages of labor,* prices of commodities, climate, soil, and other industrial conditions, as widely as the United States as a whole differs from any foreign country with which it is engaged in extensive commercial intercourse; and no case can be cited, or even imagined, which requires protection, on the protectionist theory, so much as the cultivation of the comparatively poor soils of the eastern states against the cultivator of the rich soils of the valley of the Mississippi, with the products of the two sections competing freely in the same markets. And yet the law which governs the exchange of all products and services in the United States is that of absolute free trade, and throughout the entire territory no internal taxes are levied by either the federal, state or local governments with a view of favoring any private interests or industries, or for any other than general public uses or revenue. Under such a state of affairs, the centres of great industries, the distribution of population and the conditions of domestic production and competition are continually changing, but, under the influence of natural laws working freely, no *permanent* social and economic disturbances, or interruptions to national growth and prosperity ever occur, while the people adjust themselves to any temporary vicissitudes with no more thought of complaining than against the vicissitudes of the weather. No protectionist, moreover, in the United States has ever thought it expedient to propose, in order to develop at the earliest period the growth of manufactures in the newer and poorer states, that these latter should be allowed to impose restrictions on the introduction into their territory of the manufactures of the older and richer states; or has ever ventured to publicly express a doubt, that within the geographical limits of the country, the greatest freedom of innocent production and trade should be accorded. And while the extension of these conditions of industrial and commercial freedom in any degree beyond the geographical boundaries of the United States is opposed by the protectionists as fraught with national disaster, there can not be a doubt, should Canada, Mexico and Cuba at any time peacefully become incorporated into the federal Union, that the industries of the United States would at once quietly adjust themselves to any new conditions, that the productions, the exchanges and general business interests of all the countries concerned would be speedily and greatly augmented, and that no objections to the proposed enlargement of their territory would be raised by the people of the United States for any other than political reasons. — *Experience of Great Britain.* Between 1841 and 1846, Great Britain, under the leadership of Sir Robert Peel, definitely abandoned the theory and practice of protection, which for centuries had characterized her foreign commercial policy, and adopted the opposite policy of free trade with all the world. This result was not due to any change in popular sentiment proceeding from a better acquaintance with general economic principles, but from a realization, on the part of all classes of the British people, of the disastrous results which the recognition and practice of the policy of protection, during a period of many years, had entailed upon the country. These results Mr. Noble, in his work, "Fiscal Legislation of Great Britain," thus describes: "It is utterly impossible," he says, "to convey by mere statistics of our exports any adequate picture of the condition of the nation when Sir Robert Peel took office in 1841. Every interest in the country was alike depressed; in the manufacturing districts mills and workshops were closed and property depreciated in value; in the seaports shipping was laid up useless in the harbor; agricultural laborers were eking out a miserable existence upon starvation wages and parochial relief; the revenue was insufficient to meet the national expenditure; the country was brought to the verge of national and universal bankruptcy." Great Britain, therefore, it may be said, really adopted free trade under compulsion, and in face of the active opposition of some of her leading statesmen and the very grave doubts of not a few of her ablest financiers and economists. The repeal of the "corn laws" (duties on the imports of cereals), the test question, was denounced as being "inexpedient and full of hazard, injurious to all and ruinous to some, especially to the laborer and the artisan, ruinous to the best interests of the country, the most pernicious measure ever presented to a British parliament, and a serious breach of the constitution." It was confidently predicted that it would "shake the social relations of the country to their foundation, subvert the whole system of society, throw great quantities of land out of cultivation, render it impossible for the government to raise taxes, would lower wages and reduce the laborer to a lower scale of life." Mr. Disraeli, in the house of commons, gravely asserted that the tendency of free trade "was to sap the elements and springs of our manufacturing prosperity"; and, in the house of lords, Lord Stanley (afterward the earl of Derby) boldly predicted that "before many years elapsed, they would have the manufacturing interests of the country earnestly requesting the legislature to give them that protection that they have been so

* The difference in wages in the same industries in different sections of the United States, is well illustrated in the following returns of wages in the iron industries of different states, made under the census of 1880: Unskilled labor in blast furnaces, in Virginia, 82 cents per day; in Alabama, 93 cents; in Pennsylvania, $1.09; and in Missouri, $1 29. Skilled labor in iron rolling mills, in Alabama, $2.25 per day; in Massachusetts, $2.70; in Pennsylvania, $3.03; in Ohio, $3.67; and in Kentucky, $4.62. The yearly average wages in the aggregate iron industries of the different sections of the United States are reported as follows. Eastern states, $417; Western, $396; Pacific, $354; Southern, $304.

desirous you should withdraw from us." Never, however, in all history has any change in state policy been so magnificently vindicated by all subsequent experience; and of this the following is a summary of some of the more important results. Under the most stringent system of protection ever known in Great Britain the growth of British exports, commencing with 1805, was as follows: 1805, $190,000,000; 1825, $194,000,000; net increase in twenty years, $4,000,000, or at the rate of $200,000 per annum. Under a somewhat reduced protection as to manufactures, but with duties ranging from 20 to 30 per cent., British exports increased from $194,000,000 in 1825 to $237,000,000 in 1837, a net increase in seventeen years of $43,000,000, or at the rate of $2,400,000 per annum. During the next seven years, or between 1837 and 1842, there was no increase whatever. After protection to manufactures had been substantially abandoned in 1842, but while protection to agriculture and shipping continued, exports increased rapidly, namely, from $237,000,000 in 1842 to $289,000,000 in 1846, or to the extent of $52,000,000; a greater gain in four years of partial free trade, than had been achieved in thirty-seven previous years of protection. With further removals of restrictions on British exchanges—on food products in 1846, and on shipping in 1849—the increase in the value of British exports was rapid and continuous, rising from $289,000,000 in 1846 to the enormous figure of $1,432,000,000 in 1880. The total increase of British imports and exports, during the last thirty years of the full protective system, was, as nearly as real values can be ascertained, about $340,000,000. The like increase in the first thirty years of British free trade was $2,400,000,000, or ten times as large as under protection. — The repeal of the navigation laws of Great Britain in 1849 was as strenuously resisted as was the previous abolition of duties on the importation of food products and manufactures. Free trade in shipping, it was confidently asserted, would ruin British ship owners, destroy domestic ship building, and drive British sailors into foreign marine service. Not one of these predictions was in any degree realized. Between 1816 and 1840, under the restrictive system, a period of twenty-four years, the total increase in British tonnage was only 80,000 tons. In 1848, the last year of the British navigation laws, the aggregate tonnage belonging to the United Kingdom was 3,400,000. In 1858 the aggregate was 4,657,000, an increase of 1,257,000 in ten years. In 1878 it was 5,780,000; and in 1880, 6,574,000. Previous to the repeal of the British corn laws, the wealth of Great Britain increased at a slower rate than population. Since 1849 the increase of the population of the United Kingdom has been in the ratio of about 33 per cent., while the national wealth, as tested by the income tax, has increased at the rate of 130 per cent. In 1841 the capital of British savings banks was $120,000,000; in 1880, $388,000,000. In 1850 there were 920,000 paupers in England and Wales; in 1880, notwithstanding the growth of population, there were but 808,000. In 1850 there were 51,000 convictions for crime in England and Wales; in 1880 there were but 11,214. But the most striking demonstration of the increased happiness and comfort that have accrued to Great Britain under free trade, is derived from the following table, which shows the average *per capita* consumption of the leading articles of food by her people in 1840 (under protection), and in 1880 (under freedom), respectively:

ARTICLES.	Under Protection.	Under Partial Free Trade.
	1840.	1880.
Bacon and ham* ..... lbs.	0.01	15.96
Butter ..... "	1.05	7.42
Cheese ..... "	0.92	5.66
Cocoa ..... "	0.08	0.31
Coffee ..... "	1.08	0.92
Wheat and flour ..... "	42.47	210.42
Currants and raisins ..... "	1.46	3.94
Eggs ..... No	3.63	21.68
Potatoes ..... lbs.	0 01	31 63
Rice ..... "	0.90	14.14
Sugar, raw ..... "	15.20	54.22
" refined ..... "	0.00	9.46
Tea ..... "	1.22	4 59
Tobacco ..... "	0 86	1.43

— *Experience of Belgium.* The experience of Belgium is even more instructive. During the French occupation of this country under the First Napoleon, the protective system was carried out, practically and under military rule, to a degree rarely if ever equaled. Not only was the introduction of all foreign goods into the country strictly forbidden, but all goods of foreign production found within the state were seized and burned, and the persons concerned in their importation summarily and severely punished. The result of such a system was that when the Dutch reassumed the sovereignty, in 1814, the whole country had become desolated, and to a considerable extent depopulated. The Dutch, however, brought in a new fiscal and commercial policy, one cardinal feature of which was a limitation of duties on imports to 3 per cent. on raw materials and 6 per cent. on manufactured articles. Under this liberal legislation the principal manufactures of Belgium again sprang into existence. But a deep-rooted antagonism between the Dutch and the Belgians led to a separation of the two countries in 1830, when, mainly through a hatred of the old government and its policy, the previous free trade legislation was repealed, and from 1830 to 1855 high protective and discriminating duties were imposed on imports. But in 1851 the finance minister in his place in parliament declared that if this policy was continued it would prove the ruin of the whole system of domestic industry; and in 1855 the parliament and the people so fully acquiesced in his opinion that protection in Belgium was swept away at once and forever, and the duties on imports were arranged purely with a view to revenue. The general result has been to give to

* Importation in 1840 prohibited.

Belgium, *comparatively*, the position of the first industrial and commercial state of the world. With an area of territory of about 11,000 square miles, (that of the two states of Massachusetts and Connecticut), only one-half arable land, with a standing army on a peace basis — a necessity by reason of political relations—nearly double that of the United States, with a population (in 1876) of 5,336,000, and, apart from a few coal and iron mines, hardly any natural resources, Belgium maintains the most dense population in Europe; enjoyed a revenue in 1880, of $57,000,000 (of which only $3,600,000 was derived from customs); has the greatest diversity of textile manufactures, and consumes more silks than any other country; has the best managed and cheapest railway system in Europe; and a domestic export and import commerce that quadrupled between 1861 and 1870, and for the year 1878 aggregated $498,000,000 exclusive of $254,000,000 of transit exports and imports to and from other countries. If the foreign commerce of the United States were equal to that of Belgium in the ratio of population, its annual value (in place of being $1,613,000,000 in 1880) would have been over $4,500,000,000. The secret of these great results is due mainly, if not exclusively, to the circumstance that the custom house in Belgium is but a mere appendage to the excise department; and only about one-fifteenth part of the revenues is derived from duties on imports. "Those who allege that the industry and commerce of a state will not prosper if made free, must take upon themselves the burden of proving the following proposition: that the illiterate population of Belgium, occupying a limited area of half sterile soil, is less in need of protection and can work to better advantage in supplying the world with the most useful products of the so-called manufacturing industries, than the well-instructed population of the United States, possessing a boundless area of fertile soil." It may, therefore, be fairly claimed that practice and experience, more especially in the case of the United States, have established the practicability and desirability of free trade as an economic system or theory, by evidence which, for weight, uniformity, concentration and positiveness, is immeasurably greater than the evidence which can be brought for any other theory whatever. — *Results of the Policy of Protection.* On the other hand, it is not possible to adduce any corresponding evidence, drawn from history or experience, in support of the wisdom of protection; and for the best of reasons, that there is none. Wherever protection has existed, economic history has been full of convulsions, contradictions and absurdities. No single clear and positive result has been produced. The modern doctrine of protection is an inheritance from the middle ages. "The restraint of production and trade was a policy which ancient civilization never adopted. The great statesman of Athens congratulates his audience on the fact that, thanks to the extended commerce of their country, they are as familiar with the use of foreign products as they are with those of domestic industry, and use them even as freely as the country of their origin does. The public opinion of Greece was profoundly shocked when, as a measure of political animosity, Athens excluded a Greek city, Megara, from its market." Prof. Thorold Rogers thinks that the origin of protection as an economic system is to be found in the so-called "mercantile system" of the middle ages, which was based upon the doctrine that wealth consisted solely in specie (money) or the precious metals, and therefore it was of the greatest importance that a government should secure as far as possible the greatest amount of specie within the country whose affairs it administered. International trade was the process by which the precious metals were distributed; and if such trade were allowed to freely exist, the attempts of government to restrain the exportation of money would be fruitless, and that natural impoverishment would thereby certainly follow. In the middle ages the principle that trade and commerce are mutually advantageous, and that after every fair mercantile transaction both parties are richer than before, was also not understood in Europe. On the contrary, the generally accepted theory among both nations and individuals in respect to trade was pithily embodied by an old proverb, "What is one man's gain must be another man's loss." Commerce, therefore, it was assumed, could benefit one country only as it injured some other. In accordance, therefore, with this principle, every state in Christendom, in place of rendering trade and commerce free, exerted itself to impose the most harassing restrictions on commercial intercourse, not only as between different countries, but also as between districts of the same country, and even as between man and man. "Country was accordingly separated from country and town from town as if seas ran between them. If a man of Liege came to Ghent with his wares, he was obliged first to pay toll at the city's gate; then when within the city he was embarrassed at every step with what were termed 'the privileges of companies'; and if the citizen of Ghent desired to trade at Liege, he experienced the same difficulties, which were effectual to prevent either from trading to the best advantage. The revenues of most cities were also in great part derived from the fines and forfeitures of trades, almost all of which were established on the principle that if one trade became too industrious or too clever, it would be the ruin of another trade. Every trade was accordingly fenced round with secrets, and the commonest trade was termed, in the language of the indentures of apprentices, 'an art or mystery.'" If one nation saw profit in any one manufacture, all her efforts were at once directed to frustrate the attempts of other nations to engage in the same industry. She must encourage the importation of all the raw materials that entered into its production, and adopt an opposite rule as respected the finished

article. At the close of the sixteenth century England undertook the woolen manufacture. By the 8th of Elizabeth the exporter of sheep was for the first offense to forfeit his goods forever, to suffer a year's imprisonment, and then have his left hand cut off in a market town on market day, there to be nailed up to the pillory. For the second offense he should be adjudged a felon, and suffer death. At a later period, in the reign of Charles II., it was enacted that no person within fifteen miles of the sea should buy wool without the permission of the king; nor could it be loaded in any vehicle, or carried, except between sunrising and sunsetting, within five miles of the sea, on pain of forfeiture. An act of parliament in 1678, for the encouragement of woolen manufactures, ordered that every corpse should be buried in a woolen shroud. In 1672 the lord chancellor of England announced the necessity of going to war with the Dutch and destroying their commerce, because it was surpassing that of Great Britain; and even as late as 1743 one of England's greatest statesmen declared in the house of lords that "if our wealth is diminishing, it is time to ruin the commerce of that nation which has driven us from the markets of the continent, by sweeping the seas of their ships and blockading their ports." By the treaty of Utrecht, which concluded the great war of England and Spain against Louis XIV. and his allies, England being able to dictate the terms, secured the adoption of a section by which the citizens of Antwerp were forbidden to use the deep water that flowed close by their walls; and it was further expressly stipulated that the capacious harbor of Dunkirk, in the north of France, should be filled up and forever ruined, so that French commerce might not become too successful.—With the progress of civilization, and the consequent diffusion of information, the arbitrary restrictions on trade above noticed, which were formerly so common in Europe, have almost entirely disappeared, and men now wonder that any benefit could ever have been supposed to accrue from such absurd and monstrous regulations. But the change to a more liberal state of things, though constant, has been slow, and the harsh policy of the middle ages, in the process of modification and extinction, has given rise to and is lineally represented by the modern policy of "protection," which, while clearly recognizing the inexpediency of interfering with domestic exchanges, regards foreign trade as something different from other trade, which it is for the interest of the state to interfere with and regulate. As in the case of free trade, there is no better way of testing and explaining this opposite policy than by considering the results of its specific and practical application; and to some of these it is proposed to next ask attention. — *The Experiment of Protection in the United States.* While, as already pointed out, the United States have adopted absolute free trade, in the law governing their internal or domestic exchanges, they have at the same time, and more especially since 1861-2, applied and maintained the principles of protection to their foreign exchanges, with a degree of rigidity and on a scale of magnitude which has hardly any parallel in recent commercial history. This policy has now (1882) been in uninterrupted operation for over twenty years; and as the experiment has been made on a grand scale and under most favoring circumstances, it may, it would seem, be legitimately regarded as a test. The prime object, it will not be questioned, for which protection has been instituted and maintained in the United States, has been the development of the so-called manufacturing industries of the country, and the rendering of the nation industrially independent. That this result has not been effected under the protective policy, but that the economic movement in the above respects has been retrograde, admits of proof from data which are accessible to everybody who has access to the official records, and which does not involve the least resort to hypothesis. Thus, for all practical purposes, the exports of the United States may be regarded as made up of agricultural products and manufactures. She exports products of the sea, the mine and the forest; but the shipments of these are comparatively small in amount; and some of them are in manufactured form, so that in the comparisons it is proposed to institute, all non-agricultural products will be treated as manufactures; and making these inclusions, the following facts are revealed: 1st, that for the year 1879–80, 87¼ per cent. of the total exports of the United States consisted of unprotected unmanufactured products—all agricultural except petroleum; and 2d, that the value of the manufactured products exported constituted a smaller proportion of the total exports in 1879–80 than they did in 1869–70, and that the proportion was also smaller in 1869–70 than it was in 1859–60. Or, to put the case differently, in 1859–60 the value of the manufactured exports of the United States constituted 17.5 per cent. of the value of the total exports. In 1869–70, after ten years of a high tariff policy, they had run down to 13.4 per cent.; and in 1879–80, after another ten years of like experience, they were further reduced to 12 5 per cent. During the same period the export of unmanufactured unprotected articles increased from a proportion of 82.3 per cent. of the total exports in 1859–60 to 87.5 of the total in 1879–80. On the other hand, the value of the imports of foreign merchandise, which was at the rate of about $10.80 *per capita* in 1860, increased to $11.21 in 1870 and to $13.36 in 1880. The increasing inability of American manufacturers under protection to command foreign markets is therefore demonstrated. It is not to be denied that the foreign commerce of the United States greatly increased in the thirty years included between 1850 and 1880; but a fair analysis of this trade will bring nothing of consolation to the believer in the efficacy of the protectionist policy as a means of national develop-

ment. During the ten years from 1850 to 1860 under a tariff of low duties, the United States increased her exports of manufactured articles in the ratio of 171 per cent.; but during the next twenty years, or from 1860 to 1880, under a tariff called protective, the corresponding increase was in the ratio of only 89 per cent.* — A legitimate, but striking result of the inability thus demonstrated of the so-called manufacturing industries of the United States, to export their products to any considerable extent, has been to practically limit the market, or demand for them, to the domestic consumption of the country, and this, in turn, has prevented any enlargement of these industries corresponding to the increasing ability and desire of other nations to exchange or consume, and the increased facilities for effecting international exchanges. But with the great natural resources of the country, its rapidly increasing population, the increased use and power of machinery, and the energy of the people, the power of production in the United States tends to continually exceed the power of domestic consumption, and out of this singular condition of affairs there is a continual portent and frequent realization of stagnation of business, diminished wages and employment for labor, increasing pauperism and social disturbances. Two other practical and specific illustrations of the evil influence of the policy of protection in the United States are worthy of special notice. With a view of fostering the construction and use of ships, the protection of those branches of industry in the United States has been made for many years as absolute and complete as it was possible for the law to make it. No vessel of foreign construction can be imported, or participate in the coasting trade. No citizen of the United States can buy or acquire an American register, license or title to any foreign-built vessel. No foreigner is allowed to directly participate in the ownership or command of any American vessel. Materials used in the construction of ships intended for foreign trade may be imported free of duty. Under such a system the foreign commercial marine of the United States has been almost annihilated, as is shown by the circumstance that while in 1865, 75 per cent. of the total foreign trade of the United States was carried in American bottoms, in 1881 the proportion was only 16.2 per cent. The coasting trade, in respect to which no foreign competition whatever is permitted, has also declined. On the other hand, the shipping interests of other countries which have repealed the restrictions which navigation laws similar to those existing in the United States formerly imposed, have experienced a development during the corresponding period, greater than any other branch of industry, save that of railway construction and transportation.— Another most remarkable illustration of the evil effect of commercial

* The following tables, compiled from the official reports of the United States treasury, show the total value of all the domestic merchandise exported from the United States during the three decades, 1859-60, 1869-70, and 1879-80; and also what proportion of such exports was made up of agricultural products and petroleum. All other articles not included in this list are regarded as manufactured products.

EXPORTS.	1879-80.	1869-70	1859-60.
Animals living	$ 15,708,000	$ 1,045,000	$ 803,000
Ashes and bark	320,000	385,000	1,118,000
Breadstuffs	288,087,000	72,250,000	27,275,000
Fruits	2,095,000	542,000	316,000
Furs	5,404,000	1,941,000	1,534,000
Hay	206,000	117,000	----------
Hemp	178,000	45,000	9,000
Hides	649,000	365,000	1,037,000
Hops	2,573,000	2,516,000	33,000
Naval stores	2,453,000	1,920,000	1,969,000
Petroleum, etc.	36,220,000	32,666,000	----------
Cotton	210,535,000	227,027,000	191,806,000
Provisions	127,833,000	29,184,000	16,217,000
Seeds	4,425,000	98,000	601,000
Tallow	7,689,000	3,814,000	1,598,000
Tobacco, leaf	16,380,000	21,100,000	15,906,000
Total unmanufactured products	$721,700,000	$395,015,000	$260,222,000
Reduced to gold value	----------	326,428,000	----------
Total exports of domestic merch'dse	$823,946,000	$376,610,000	$316,242,000

These figures represent, approximately, the value of the exports of unmanufactured products; and the difference between their total and the aggregate amount of exports (exclusive of specie) will very closely approach the value of the shipments of manufactures. The total value of the exports of merchandise for the fiscal year 1879-80 was $823,946,000. Of this amount, $721,700,000 consisted of unmanufactured products, chiefly agricultural, leaving $102,246,000 as the value of the exports of manufactures. How these figures compare with those of ten and twenty years previous will appear from the following statement:

EXPORTS.	1879-80	1869-70.	1859-60.
Unmanufactured products	$721,700,000	$326,428,000	$260,222,000
Manufactured products	102,246,000	50,182,000	56,020,000
Total exports	$823,946,000	$476,610,000	$316,242,000

Compared with 1869-70, the exports of unmanufactured products show an increase of 121¼ per cent., while in manufactured articles the increase is only 103¼ per cent. The ten years covered by this comparison was a period during which the present high tariff was in full operation; and yet it will be seen that the ratio of increase in the exports of manufactures falls below that on manufactured, or chiefly agricultural products, by 17¼ per cent. Comparing 1880 with 1859-60, when the United States had a low revenue tariff, the increase in the exports of agricultural products appears to have been 177¼ per cent. and in manufactures only 82¼; or the ratio of increase in the protected articles was less than one-half of that which occurred in the unprotected articles. Or, to put the comparison in another form, the ratio of exports of agricultural and manufactured products, respectively, to the total exports was as follows, at each of these decennial periods:

EXPORTS.	1879 80 Per cent of total.	1869-70 Per cent of total.	1859 60 Per cent of total.
Unmanufactured products	87 5	86.6	82.3
Manufactured products	12.5	13.4	1.77

restrictions in limiting trade and industry, and consequently national development, is to be found in the history of the commercial relations between the United States and the British North American provinces. Thus, in 1852–3, in the absence of anything like commercial freedom, the aggregate exchanges between the two countries amounted to only $20,691,000. The subsequent year a treaty of reciprocity went into effect, whereby the people of the two countries were enabled to trade and exchange their products with little or no obstruction in the form of import duties. The result was, that the aggregate of exchanges rose the very first year of the operation of the treaty from $20,691,000 to $33,494,000, which subsequently increased, year by year, until it reached the figure of $55,000,000 in 1862–3, and $84,000,000 in 1865–6. In this latter year the treaty of reciprocity was repealed, and restrictive duties again became operative. The result was, that the annual aggregate of exchanges immediately fell to $57,000,000, and in 1873, seven full years after the expiration of the treaty, when both nations had largely increased in wealth and population, the decrease of trade consequent on the abrogation of the treaty had not been made good. Again, the population of the United States consists, in round numbers, of 50,000,000; and these fifty millions annually make exchanges among themselves, through the agencies of railroads alone, and exclusive of all other instrumentalities of trade, such as ships, wagons, boats and animals, to the extent of over twelve thousand millions of dollars; or, in other words, every four millions of the population exchange commodities among themselves, each and every year, to the extent of considerably more than a thousand millions. It is true that much of this exchange represents the movement of the same commodity, backward and forward, over the same route, under different forms or conditions—as raw material or manufactured product—and that it is not all a direct movement between producers and ultimate consumers. But it is safe to assume that not one ton or one dollar's worth is transported a single mile except for the real or supposed advantage of the owner. On the other hand, the British North American provinces contain at present a population of about four millions, and as the geographi cal line which separates them from us is so artificial, that except where a river or lake has been named as the boundary, it is not easy to tell where one country begins and the other ends; and as they have the same wants and material interests that we have, speak essentially the same language and are not lacking in resources, energy or courtesy, it would be but natural to suppose that the methods and amount of trade over the whole territory subject to the two governments would be subject to the same influences, and that men and commodities would pass as freely between the two countries as they do between different sections of the provinces, or between the different states of the federal Union. But the United States, with a view of promoting national industry and development, has for a long time established all manner of arbitrary and burdensome restrictions on trade and commercial intercourse along the artificial line separating the two countries; or, in other words, it has established a ridge right across the boundary line, difficult to overcome and with very few gaps in it. And the people of Canada, after remonstrating against this policy for a long time, and after repeatedly asking the United States to unite with them and demolish the ridge, and level down all the obstructions, have finally become disgusted with their treatment, and have concluded to experiment in the way of trade restrictions themselves. And the result has been that, in place of exchanging commodities annually to the value of a thousand millions of dollars, the total aggregate of all the exchanges—exports and imports—between the four millions of people in the dominion of Canada and the entire population of the United States was but seventy-seven millions in 1874; and since Canada has concluded to imitate the policy of the United States and have a commercial barrier or ridge of her own, this comparatively small aggregate has been further reduced, and amounted in 1879 to only fifty-six millions, or less than the exchanges of which the clearing houses could take cognizance in such cities of the United States, as Cleveland, Ohio; Memphis, Tenn.; or New Haven, Conn., during the same period. Here, then, is an annual loss of business, measured by the results of 1879, of some $940,000,000 between the two contiguous countries, one-half of which at least falls upon the United States, in consequence of the commercial policy adopted. Could the barriers be removed, how many wheels, engines, cars, spindles, looms, hammers and strong human arms would be put in motion, and how much greater would be the sphere of employment, enjoyment and abundance for the people of the two countries.—In response to the arguments in favor of free trade derived from either abstract reasoning or specific examples, the advocates of the theory of protection (especially in the United States) submit certain counter arguments.—*The Argument of Extended Opportunities for Domestic Industry.* It is claimed, with much speciousness and apparent fairness, that by prohibiting the importation and use of the products of foreign (manufacturing) industries, a demand will be created for a corresponding additional quantity of American products, and that this, in turn, will create additional opportunities for the employment of American laborers; and, the results of their labor and expenditure remaining in the country, the national wealth will be thereby augmented; whereas if the same amount of labor and expenditure is diverted to, and takes place in, a foreign country, the result will be exactly opposite.—In answer, now, to this, it may be said, 1st, That the amount of consumption in the two instances, and consequently the results of consumption, will not be the same; for

whatever increases the price of a useful commodity diminishes its consumption, and, *vice versa*, whatever diminishes the price increases consumption. 2d, To admit the desirability of creating an opportunity of employing labor, through the agency of a tax on all consumers of certain articles, to do work that would yield to the same consumers a greater product of the same articles if performed elsewhere, or an equal product at less cost, is to admit that the natural resources of a country are so far exhausted that there is no opportunity for the truly productive employment of labor—an argument which, however effective in over-populated countries, can have no possible application in a new country like the United States, whose natural resources, so far from being exhausted, are yet, as it were, unappropriated and unexplored. Again, a tax levied in pursuance of legislative enactment for the maintenance of such labor is clearly in the nature of a forced charity, while the petitioners for its enactment answer in every particular to the definition of the term "pauper"—namely, one who publicly confesses that he can not earn a living by his own exertions, and therefore asks the community to tax themselves or diminish their abundance for his support. 3d, The only true test of the increase of national wealth is the possession of useful things in the aggregate, and not in the amount of labor performed or the number of laborers employed, irrespective of results. A tariff, from its very nature, can not create anything; it only affects the distribution of what already exists. If the imposition of restrictions by means of taxes on imports enables a producer to employ a larger number of workmen and to give them better wages than before, it can be accomplished only at the expense of the domestic consumers, who pay increased prices. Capital thus transferred is no more increased than is money by transference from one pocket to another, but on the contrary it is diminished to just the extent that it is diverted from employing labor that is naturally profitable to that which is naturally unprofitable. — *Protection in reality does not Protect.* Herein, then, is exposed the fallacy of the averment that duties levied on the importation of foreign commodities protect home industry. It may be conceded that certain industries may be temporarily stimulated, as the result of such duties, and that the producers may obtain large profits by a consequent increase in the price of their products; but then, it is at the expense of those who pay the increased price, who are always the domestic consumers. To further make clear this position, the following illustration, drawn from actual American experience, is submitted: For a number of years subsequent to 1860, congress, with a view of protecting the American producer, imposed such a duty on foreign salt as to restrict the import and at least double the price of this commodity, whether of foreign or domestic production, to the American consumer. The result was, taking the average price of No. 1 spring wheat for the same period in Chicago, that a farmer of the west, desirous of buying salt in that market, would have been obliged to give two bushels of wheat for a barrel of salt, which without the tariff, he would have readily obtained for one bushel. If, now, the tax had been imposed solely with a view to obtaining revenue, and the farmer had bought imported salt, the extra bushel given by him would have accrued to the benefit of the state; and if the circumstances of the government required the tax, and its imposition was expedient and equitable, the act was not one to which any advocate of free trade could object. But in the case in question the tax was not imposed primarily for revenue, as was shown by the circumstance that imports and revenue greatly decreased under its influence; and the salt purchased by the farmer in Chicago was domestic salt, which had paid no direct or corresponding tax to the government. The extra bushel of wheat, therefore, which the farmer was compelled to give for his salt, accrued wholly to the benefit of the American salt boiler, and the act was justified on the ground that American industry, as exemplified in salt making, was protected. And yet it must be clear to every mind that if the farmer had not given the extra bushel of wheat to the salt boiler, he would have had it to use for some other purpose advantageous to himself—to give to the shoemaker, for example, in exchange for a pair of brogans. By so much, therefore, as the industry of the salt boiler was encouraged, that of the farmer and shoemaker was discouraged; and, putting the whole matter in the form of a commercial statement, we have the following result: under the so-called "protective system" *a barrel of salt and two bushels of wheat* were passed to the credit of what is called "home industry," while under a free system there were *a barrel of salt, two bushels of wheat, and a pair of shoes* Protection, therefore, seeks to promote industry at the expense of the products of industry; and its favorite proposition, that though under a system of restriction a higher price may be given for an article, yet all that is paid by one is given to some other person in increased employment and wages, has this fallacy, namely, that it conceals the fact that the entire amount paid by the consumer would "in the long run" have been equally expended upon something and somebody if the consumer had been allowed to buy the cheap article instead of the dear one; and consequently the loss to the consumer is balanced by no advantage *in the aggregate* to any one. "When a highwayman takes a purse from a traveler, he expends it, it may be, at a drinking saloon, and the traveler would have expended it somewhere else. But in this there is no loss in the aggregate; the vice of the transaction is that the enjoyment goes to the wrong man. But if the same money is taken from the traveler by forcing him to pay for a dear article instead of a cheap one, he is not only despoiled of his just enjoyment as before, but there is a destructive process besides, in the same

manner as if the loss had been caused by making him work with a blunt ax instead of a sharp one. Whenever, therefore, anything is taken from one man and given to another under the pretense of protection to trade, an equal amount is virtually thrown into the sea, in addition to the robbery of the individual." — *Influence of Protection not Permanent, but Temporary.* A further conclusion, alike deducible from theory and proved by all experience, is that not only does protection to a special industry not result in any benefit to the general industry of a country, but also that its beneficial influence on any special industry is not permanent, but temporary. Thus, the price of no article can be permanently advanced by artificial agencies, without an effort on the part of every person directly or indirectly concerned in its consumption to protect and compensate himself by advancing the price of the labor or products he gives in exchange. If sufficient time is afforded, and local exchanges are not unduly restricted, this effort of compensation is always successful. Hence, from the very necessity of the case, no protective duty can be permanently effective. Hence, also, it is that protected manufacturers always proclaim, and no doubt honestly feel, that the abandonment of protection, or even its abatement, would be ruinous; and in all history not one case can be cited where the representatives of an industry once protected have ever come forward and asked for an abatement of taxation on the ground that protection had done its work. Under this head the experience of the United States affords a most curious and convincing illustration. Thus, in 1862–3, in order to meet the expenses of a great war, the government imposed internal taxes on every variety of domestic manufactures, and in accordance with the principles of equity imposed what were claimed to be corresponding taxes on the imports of all competing foreign products. Soon after the close of the war, however, when the cessation of hostilities diminished the necessity for such large revenues, the internal taxes were repealed, but in no one instance was there a protected manufacturer found who took any other position than that a repeal of the corresponding tariff would be most disastrous to his business. The tariff, as originally raised to compensate for the new internal taxes, was therefore left in a great degree unchanged. That the principle here laid down, of want of permanency in protective agencies, is furthermore admitted by the protected (American) manufacturers themselves as a result of their own experience, is also proved by the following striking testimony, forced out under oath before a government commission from one of the foremost of their number in 1868—the late Oakes Ames, of Massachusetts: *Ques.* "What, according to your experience, was the effect of the increase of the tariff in 1864 on the industries with which you are specially acquainted?" *Ans.* "The first effect was to stimulate nearly every branch, to give an impulse and activity to business; but in a few months the increased cost of production and the advance in the price of labor and the products of labor were greater than the increase of the tariff, so that the business of production was no better, even if in so good a condition, as it was previous to the advance of the tariff referred to." — *Will Free Trade tend to diminish and Protection tend to increase the Wages of Domestic Industry?* Upon no one argument have the advocates of protection relied more, in support of their system, than the assumption that, if there were no restrictions on trade, the opportunity to labor created by protection and the results of the expenditure of the earnings of such labor would be diverted to other countries to their benefit, and to the corresponding detriment of that country which, needing protection by reason of a necessity for paying higher wages or other industrial inequalities, abandons it, or, to speak more specifically, it is assumed that if the United States were to adopt a policy of free trade, England would supply us with cotton and metal fabrications, Germany with woolen goods, Nova Scotia with coal, the West Indies exclusively with sugar, Russia with hemp and tallow, Canada with lumber, and Australia with wool; that thereby opportunity to our own people to labor would be greatly restricted, and the wages of labor be reduced to a level with the wages of foreigners. Specious as is this argument, there could not be a greater error of fact or a worse sophism of reason. In the first place, only a very small proportion of the United States are engaged in occupations that admit of being protected against the influence of foreign competition. According to the returns of the census of 1870 — and the condition of things is without doubt comparatively the same now as then—12,500,000 persons were engaged in all occupations. These twelve and one-half millions were the "working and business men" and women of the country. Each of these "laborers" had to support, on an average, three and one-fifth persons. 47 per cent. of these were engaged in agriculture. 22 per cent. of them were engaged in "professional and personal services," which class includes unskilled laborers and professional men. 9 per cent. were in trade and transportation. 22 per cent. were in "manufactures, mechanical and mining industries." Out of all the productive laborers of the country, therefore, there were nearly four in other industries for every one in "manufactures." Taking the whole country over, therefore, four "working and business" men were affected injuriously by the taxes imposed on them in consequence of the national policy of protection, for every one who could possibly gain by them. It is also curious to note how few of the many products of domestic manufacturing industry can be directly benefited by a protective tariff. Anything that can be exported regularly, and sold in competition in foreign countries with similar foreign products, evidently can not be directly benefited by any tariff legislation, and in

this category, and apart from our great agricultural staples, must be included our petroleum, turpentine and rosin; nearly all building materials and constructions of wood, including vessels; our products of gold, silver and copper; our stoves, tinware, shovels, axes, nearly all agricultural machines and implements, and most articles of common hardware; boots and shoes, and sole leather; coarse cotton fabrics, starch, refined sugar, distilled spirits and alcohol, most fermented liquors, wagons, carts, most carriages, harnesses, railroad cars, sewing machines, all ordinary confectionery, and the cheaper papers and paper hangings, photographs, picture frames, pianos, india-rubber goods, toys, watches, guns, fixed ammunition, newspapers, buttons, brooms, gas, clocks, and a great variety of other articles, not one of which, if the tariff was entirely abolished, would be imported to any considerable extent, and most of which, under free trade, would be manufactured and exported in vastly larger quantities than at present. But supposing the reverse was true; and that in consequence of the abandonment of the protective policy, large quantities of the commodities above mentioned should be imported from foreign countries, none of them will be given away to American consumers for nothing. *Product for product* is the invariable law of exchange, and we can not buy a single article abroad, save through the medium of something that must be produced at home. Hence the utter absurdity of that assertion which to protectionists seems pregnant with such dreadful meaning, namely, "that under free trade we should be deluged with foreign goods"; for if more should be really imported under a free trade than under a protective policy, then one of two things would take place: either we must produce more at home in order to pay for the new excess of imports, in which case domestic industry would be stimulated and not diminished; or, not producing more, we must obtain more in return, or, what is the same thing, a higher price for what we already produce—a result manifestly conducive to national prosperity. It would also seem to be in the nature of a self-evident proposition, that nothing under any circumstance can or will be imported unless that in which it is paid for can be produced at home with greater final advantage. — Again, the favorite argument of the advocates of protection that, if trade is unrestricted and the people of a country, under the inducement of greater cheapness, are allowed to supply themselves with foreign commodities, the opportunities for the employment of domestic labor will be correspondingly diminished, is an argument identical in character with that which has in past times often led individuals and whole communities to oppose the invention and introduction of labor-saving or "labor-dispensing" machinery. But, to sift thoroughly this sophism, it is sufficient to remember that labor is not exerted for the sake of labor, but for what labor brings, and that human wants expand just in proportion to the multiplication of the means and opportunity of gratifying human desires. If the wages of a day's labor would purchase in the market one hundred times as much as at present, can any one doubt that the demand for the necessaries and luxuries of life would be increased a hundred-fold? If the people of the United States could obtain the products of the labor of other countries for nothing, could the labor of the whole world supply the quantity of things we should want? In short, the demand for the results of labor can never be satisfied, and is never limited except by its ability to buy; and the cheaper things are, the more things will be purchased and consumed. Nothing, therefore, can be more irrational than the supposition that increased cheapness, or increased ability to buy and consume, diminishes or restricts the opportunity to labor. If by the invention of machinery, or the discovery of cheaper sources of supply, the labor of a certain number of individuals in a department of industry becomes superfluous or unnecessary, such labor must take a new direction, and it is not to be denied that in the process of readjustment temporary individual inconvenience, and perhaps suffering, may result. But any temporary loss thus sustained by individuals is more than made up to society, regarded from the standpoint of either producers or consumers, by the increased demand consequent on increased cheapness through greater material abundance, and therefore greater comfort and happiness. — Wages in the United States are, as a general thing, unquestionably higher than in Europe. The difference in rates between the United States and Great Britain, taking the purchasing power of money into consideration, is not at present very considerable, and not near as great as is commonly represented. From 1875 to 1878 wages in many departments of industry were higher in Great Britain than in the United States, and the tide of immigration, especially of skilled labor, notably rolled back. On the continent wages are much lower than in Great Britain; but British industry does not ask to be protected on account of this difference, but defies continental competition. On the other hand, the continental states that have recently adopted the protective policy have pleaded, as a reason, the necessity of guarding against the competition of the United States; while, very curiously, the comparatively high wages of Great Britain are put forward as the main reason for the maintenance of protection in the United States. The high wages paid for labor in the United States are due to two causes. 1. Owing to great natural advantages, a given amount of labor, intelligently applied, will here yield a greater or better result than in almost any other country. It has always been so, ever since the first settlements within our territory, and has been the main cause of the tide of immigration that for the last 200 years has flowed hitherward. Hamilton, in his celebrated report on manufactures, made before any tariff on the imports of foreign

merchandise into the United States was enacted, notices the fact that wages for similar employments were as a rule higher in this country than in Europe; but he considered this as no real obstacle in the way of our successful establishment of domestic manufactures; for he says "the undertakers"—meaning thereby the manufacturers—"can afford to pay them." And that this assertion embodied a general truth will appear evident from the following considerations. Wages are labor's share of product, and in every healthy business are ultimately paid out of product. No employer of labor can continue for any great length of time to pay wages, unless his product is large. If it is not, and he attempts it, it is only a question of time when his affairs will be wound up by the sheriff. Or, on the other hand, if a high rate of wages continues to be permanently paid in any industry and in any country, it is in itself proof positive that the product of labor is large, that the laborer is entitled to a generous share of it, and that the employer can afford to give it to him. And if to-morrow the tariff of the United States was swept out of existence, this natural advantage, which, supposing the same skill and intelligence, is the sole advantage which the American laborer has over his foreign competitor, would not be diminished to the extent of a fraction of an iota. Consider, for example, the American agriculturist. He pays higher wages than his foreign competitor. In fact, the differences between the wages paid in agriculture in the United States and Europe are greater than in any other form of industry. The tariff can not help him, but, by increasing the cost of all his instrumentalities of production, greatly injures him. With a surplus product in excess of any home demand to be disposed of, no amount of other domestic industry can determine his prices. How then can he undersell all the other nations, and at the same time greatly prosper individually? Simply because of his natural advantages of sun, soil and climate, aided by cheap transportation and the use of ingenious machinery, which combined give him a greater product in return for his labor than can be obtained by the laborers in similar competitive industries in any other country. What has he to ask of government other than that it will interfere with him to the least possible extent? Take another case in point. Wages in England, in every industry, are much higher than in the continental states of Europe. In the cotton manufacturing industries they are from 30 to 50 per cent. higher than in France, Belgium and Germany; and an English cotton operative receives more wages in a week than an operative similarly employed in Russia can earn in a month. Now which of these countries has the cheapest labor? The question may be answered by asking another: Does England seek protection against the competition of the continental states, or is it the continental states that demand protection against England? In short, instead of high industrial remuneration being evidence of high cost of production in this country, it is direct evidence of a low cost of production; and in place of being an argument in favor of the necessity of protection, it is a demonstration that none is needed. Industrial products of every kind are made at the lowest cost by those who earn the highest wages, wherever modern machinery is brought in to aid in the work of their production; and this "bringing in" has been done to a greater degree in the United States than in any other country. 2. Wages are exceptionally high in the United States for another reason. The existing tariff imposes an average tax of about 40 per cent. on the whole value of imported commodities; and as these number some 2,000 articles and include almost everything that is necessary or useful to life, the cost of all such commodities, whether imported or produced at home, is always enhanced; sometimes greatly and to the full extent of the duty, and sometimes to a lesser extent, as when the domestic product is equal to the home demand, and domestic competition is severe. But if the American laborer is compelled thereby to pay more for his comforts and luxuries than his foreign competitor, he must have higher wages, or he will be at a disadvantage with him. If his wages are advanced to such an extent as will exactly compensate him for his comparative increased expenses, he is no better off relatively, having gained nothing on the one hand, nor lost anything on the other. But there being no fixed rule or standard for making such adjustments, the American laborer is almost always placed at a disadvantage. The tariff taxes are constant; their influence in increasing prices varies as a rule within narrow limits; they fall exclusively on consumption and are as certain as death. On the other hand, the prices of labor vary with the supply and demand in the domestic market. Whoever heard of a protected manufacturer making up his schedule of wages in advance, or varying it afterward, except on compulsion, according to the varying expenses of his employés? Let any one examine the census reports of the United States, and he will find that in her great textile and metal industries the amount paid for wages represents only about 20 per cent. of the value of the finished product. If, now, the American laborer uniformly received two dollars in wages where his foreign competitor received but one, and the value of the products of their labor was always the same, a tariff of 20 per cent. on the value of all competitive foreign imports would obviously fully compensate for any advantages the foreign manufacturer would have on the score of wages. But the wages of the American laborer in the industries specified are not 100 per cent. higher than are paid to the British laborer, who is his only formidable competitor, nor 50 per cent. The domestic manufacturer, however, says 20 per cent. protection is not enough, and demands and receives 40, 60, 70, and even 100 per cent. and upward. Now what does this excess represent? It certainly is not needed to compensate for any differ-

ence in wages, and the American laborer does not profit by it. Neither is it to be claimed that the domestic manufacturer does to the full extent; but it represents duplications and reduplications of taxes, an increased cost of raw materials and the instrumentalities of production, a misapplication and waste of labor; in short, a loss that really benefits no one. All tariff rates, both direct and indirect, fall on consumption and must be paid by the consumer in the increased price of the things he consumes; and the heavier these taxes are made by any sort of legislation or avoidable expenditures, the heavier will be the burden on the man who, from necessity, expends all or nearly all his wages in living, as compared with one who only needs to expend a part of his income for similar purposes and lays up a surplus for increasing his income. Hence, in place of there being any warrant for the assertion which is continually made that the American laborer is greatly benefited by the advance of wages which accrues to him under the protective policy, which imposes a double burden of taxation—one direct and visible, and the other indirect and not readily seen—no more efficient or cruel device was ever instituted for making the rich richer, and the poor poorer; and every dollar raised by the government by taxation for any other purpose than to provide revenue for its most economical administration, constitutes a heavier burden on the recipients of small incomes or wages than upon any other class of the community.— From these premises, therefore, the following deductions may be regarded as in the nature of economic axioms: 1. A nation or community can attain the greatest prosperity, and secure to its people the greatest degree of material abundance, only when it utilizes its natural resources and labor to the best advantage and with the least waste and loss, whatever may be the nominal rate of wages paid to its laborers. The realization of such a result is hastened or retarded by whatever removes or creates obstructions or interferences in the way of production and exchanges. 2. The exports, on the whole, of any country must and always do balance its imports; which is equivalent to saying that if we do not buy we can not sell, while neither buying nor selling will take place unless there is a real or supposed advantage to both parties to the transaction. 3. As a nation exports only those things for which it possesses decided advantages relatively to other nations in producing, it follows that what a nation purchases by its exports it purchases by its most efficient labor, and consequently at the cheapest possible rate to itself. Hence, the price paid for every foreign manufactured article, instead of being so much given for the encouragement of foreign labor to the prejudice of our own, is as truly the product of our own labor as though we had directly manufactured it ourselves. Free trade, therefore, can by no possibility discourage home labor or diminish the real wages of laborers. — *Does Protection encourage Diversity of Industry?* The averment that prohibition or restriction of foreign imports encourages diversity of domestic industry is answered by saying that when any trade can be introduced or undertaken for fiscal or public advantage, private enterprise is competent to its accomplishment. "To ask for more is only to ask to have a finger in the public purse." It may be possible to conceive of specific cases in which it might be politic for a government to give an advantage for a limited time and for a definite object. But protection, as an economic system, can not rightfully claim any support from such an admission, inasmuch as its demand is that the public shall be obliged to support all manufacturing enterprises upon no other ground than that they can not support themselves. — *Does Protection tend to cheapen Manufactured Products?* Protection, it is alleged, has a tendency to make what are termed manufactured products cheaper. A very fit and cogent answer which has been made to this assertion of the opponents of free trade is, that if protection is to be recommended because it leads ultimately to cheapness, it were best to begin with cheapness. Another answer is to be found in the circumstance that not a single instance can be adduced to show that any reduction has ever taken place in the cost of production under a system of protection, through the agencies of new inventions, discoveries and economies which would not have taken place equally soon under a system of free trade; while, on the contrary, many instances can be referred to which prove that protection, by removing the dread of foreign competition, has retarded not only invention, but also the application and use of improvements and inventions elsewhere devised and introduced. Thus, referring to the experience of the United States, where the system of protection has in general prevailed for many years, it is a well-known fact that the department of industry which has been distinguished more than any other by the invention and application of labor-saving machinery is that of agriculture, which has never been protected to any extent; and for the reason that in a country which raises a surplus of nearly all its agricultural products for sale in foreign countries, it never can be. On the other hand, in that department of industry engaged in the primary manufacture of iron, which has always been especially shielded by high restrictive duties, not only from foreign competition, but also from the necessity of the exercise of economy and skill, the progress in the direction of improvement has been so slow, that according to the report of the geological survey of Ohio for 1872–3, there was hardly a furnace at that time in that great iron-producing state that could be compared with the best English furnaces in respect either to construction, management or product; many Ohio furnaces unnecessarily wasting one-fourth of the metal in the ore in the process of smelting. — *Is it profitable to effect a reduction of prices by artificially stimulating production?* It is

here pertinent to notice an idea adopted by a school of American economists or politicians, that it is for the advantage of a country to endeavor to effect a reduction of prices by the creation, through legislation or otherwise, of an excessive or artificial stimulus to production. That the creation of an artificial stimulus to domestic production—such as is almost always temporarily afforded by an increase of the tariff or by war, which necessitates extraordinary supplies—does have the effect in the first instance to quicken certain branches of production, and subsequently to reduce prices through the competition engendered, can not be doubted; but experience shows that in almost every such instance the reduction of prices is effected at the expense or waste of capital, and that the general result, in place of being a gain, is one of the worst events that can happen to a community. Thus, the first effect of creating an extraordinary domestic demand is to increase prices, which, in turn, affords large profits to those in possession of stock on hand or of the machinery of production ready for immediate service. The prospect of the realization of large profits next immediately tempts others to engage in the same branch of production—in many cases with insufficient capital, and without that practical knowledge of the details of the undertaking essential to secure success. As production goes on, supply gradually becomes equal to, and finally in excess of, demand. The producers working on insufficient capital or with insufficient skill are soon obliged, in order to meet impending obligations or dispose of inferior products, to force sales through a reduction of prices, and the others, in order to retain their markets and customers, are soon compelled to follow their example. This in turn is followed by new concessions alternately by both parties, which are accompanied by the usual resort of turning out articles or products of inferior quality, but with an external good appearance. And so the work of production goes on, until gradually the whole industry becomes depressed and demoralized, and the weaker producers succumb, with a greater or less destruction of capital and waste of product. Affairs having now reached their minimum of depression, recovery slowly commences. The increase of the country causes consumption gradually to gain on production, and finally the community suddenly becomes aware of the fact that supply has all at once become unequal to the demand. Then those of the producers who have been able to maintain their existence, enter upon another period of business prosperity; others again rush into the business, and the old experience is again and again repeated. Such has been the history of the industry of the United States under the attempt to restrict the freedom of trade by high duties on imports, frequently modified. To use a familiar expression, it has always been either "high water" or "low water" in the manufacturing industry of the country—no middle course, no stability. What the people have gained at one time from low prices as consumers, they have more than lost at another by the recurrence of extra rates, and they have also lost, as producers, by periodical suspensions of industry, spasmodic reduction of wages, and depression of business. Meantime, the loss to the country from the destruction of capital and the waste and misapplication of labor, has been something which no man can estimate; but to which, more than to any other one agency, the present remarkable industrial depression of the country must be attributed. The illustrations under this head afforded by the recent industrial experience of the United States are very numerous, and are not surpassed in curious interest by anything on record in the whole range of economic history. The following will serve as examples: In 1864–5 it was found that the supply of paper of domestic manufacture was insufficient to meet the consumption of the country, and that the supply from abroad was greatly impeded by an unusually heavy duty imposed in time of war on its import. The price of paper in the country accordingly rose with great rapidity, and the profits of the paper manufacturers, who were then in possession of the machinery of production, became something extraordinary. The usual effect followed. A host of new men rushed into the business and old manufactories were enlarged, so that during the years 1864–6 it was estimated that more paper mills were built in the United States than during the whole of the twelve years previous. As a matter of course, the market became overstocked with paper, prices fell with great rapidity, many abandoned the business through inclination or necessity, and many mills and much machinery were sold for less than the cost of construction; while in the spring of 1869 the paper makers met in convention to consider the desirability of decreasing the production of paper —or, what is the same thing, of allowing their capital and their labor to remain unemployed— on account of the unprofitableness of the business. In October of the same year a storm of great violence swept over the northern portion of the country, and in the flood which followed, many mills engaged in the manufacture of paper were so injured as to be temporarily incapable of working. A leading journal in one of the paper-manufacturing districts, devoted to the advocacy of protection, in commenting on the effects of the storm, used this language: "There seems to have been unusual fatality among paper mills, but this disaster will work to the advantage of those who escaped the flood, and we doubt not that those that did stand will do a better business in consequence of the lessened supply"; or, in other words, the condition of this particular industry had become so bad through the influence of a fiscal policy based on the theory of protection that the occurrence of a great public calamity, with a vast attendant destruction of property, had come to be regarded in the light of a public blessing. — Again, at Kanawha, Virginia, there

are remarkable salt springs, some of which furnish conjointly with the brine an inflammable gas, which flows with such force and quantity that it has been used not only to lift the salt water into tanks at a considerable elevation above the evaporating pans, but also to subsequently evaporate the brine by ignition under the furnaces; thus obviating the expense both of pumping and of fuel. During the war, in order to deprive the army and the people of the southern confederacy of a supply of salt, the springs in question, at Kanawha, were rendered useless by the federal forces; which fact, coupled also with the imposition of excessively high duties (over 100 per cent.) on the import of foreign salt, gave to the manufacturers of salt on the Ohio river such a market, that although the cost of manufacturing was nearly doubled, their profits for a time were enormous; salt that cost in 1868, at points on the Ohio river, twenty-three cents per bushel, in barrel, selling readily in Cincinnati for forty eight cents per bushel. The result was such an increase in the number of salt wells and furnaces on the Ohio river, and such an increase in the power of production, that the available market, deprived of the stimulus of the war, was soon unable to take but little more than one-half of the salt that could be produced. As was natural, the price of salt under such circumstances rapidly declined; and a struggle for existence among the manufacturers commenced. The furnaces built at war prices and based on insufficient capital were soon crushed out of existence; while life was preserved to the remainder only by the formation of a manufacturers' association for permanently limiting production; and in order that such limitation of production and consequent breaking down of prices might not be interfered with, the Kanawha wells (the proprietors of which were not in the association), with all their advantages, were leased for a term of years at a large annual rental, called "dead rent," and all utilization of them suspended and forbidden. "Now had the duty on salt," writes one of the leading members of the association, under date of December, 1874, "never been raised above the present rate, I have no doubt that the capital invested in the business would have been more profitable, and that the waste of the large amount that has been uselessly invested would have been prevented." — *Laws establishing Protection necessarily unstable.* One of the essential attributes of a just law is that it bears equally upon all subjected to its influence; and it would also seem clear that the general effect of an unjust law must be injurious. Now a system of law imposing protective duties must, in order to be effective, be partial and discriminating, and therefore unequal and unjust; for if a law could be devised which would afford equal protection to all the industrial interests of a nation, it would benefit in fact no interest by leaving everything relatively as before; or, in other words, the attempt to protect everything would result in protecting nothing. Any system of laws founded on injustice and inequality can not, furthermore, be permanent. The possibility that it may be further changed to meet the increased demands of special interests, and the instinctive revolt of human nature against legal wrong and partiality, continually threaten its stability. Hence, a system of industry built upon laws establishing protection through discriminating taxes can never have stability of condition; and without such stability there can be no continued industrial prosperity. On the other hand, one of the strongest arguments in behalf of freedom of trade is, that it makes every branch of industry independent of legislation, and emancipates it from all conditions affecting its stability other than what are natural and which can in a great degree be anticipated and provided against. — *Do foreigners pay, in all or part, the taxes upon imports?* It is often asserted, by the advocates of protection, that a tariff on imports "obliges a foreigner to pay a part of our taxes." To this it may be replied that if there were any plan or device by which one nation could thus throw off its burden of taxation in any degree upon another nation, it would long ago have been universally found out and recognized, and would have been adopted by all nations to at least the extent of making the burden of taxation thus transferred in all cases reciprocal. If the principle involved in the proposition in question, therefore, could possibly be true, no advantage whatever could accrue from its application. But the point itself involves an absurdity. Taxes on imports are paid by the persons who consume them; and these are not foreigners, but residents of the country into which the commodities are imported. A duty on imports may injure foreigners by depriving them of an opportunity of exchanging their products for the products of the country imposing the duty, but no import taxes will for any length of time compel foreigners to sell their products at a loss, or to accept less than the average rate of profit on their transactions; for no business can permanently maintain itself under such conditions. Where a nation possesses a complete monopoly of an article, as is the case of Peru in respect to guano, and to a great extent with China in the case of tea, the monopoly always obtains the highest practicable price for its commodity, and the persons who find its use indispensable are obliged to pay the prescribed prices. The imposition of a tax on the importation of such a commodity into a country may compel the monopoly, for the sake of retaining a market, to reduce its prices proportionally; and in such cases the nation imposing the impost may to a degree share the profit of the monopoly. But the price to the consumers is not diminished by reason of the import duty, and the cases in which any interest has such a complete control over the supply of a product as to enable it arbitrarily to dictate prices, are so rare as hardly to render them worthy of serious

consideration in an economic argument. — *The Peace and War Argument.* Another powerful argument in favor of free trade between nations is, that of all agencies it is the one most conducive to the maintenance of international peace and to the prevention of wars. The restriction of commercial intercourse among nations tends to make men strangers to each other, and prevents the formation of that union of material interests which creates and encourages in men a disposition to adjust their differences by peaceful methods rather than by physical force. On the other hand, it requires no argument to prove that free trade in its fullest development tends to make men friends rather than strangers, for the more they exchange commodities and services the more they become acquainted with and assimilated to each other; whereby a feeling of interdependence and mutuality of interest springs up, which, it may be safely assumed, does more to maintain amicable relations between them than all the ships of war that ever were built or all the armies that ever were organized. — Of the truth of this the experience of England and the United States in respect to the Alabama claims is a striking example. The moral and religious sentiments of the people of the two countries undoubtedly contributed much to restrain the belligerent feelings that existed previous to the reference of the claims to arbitration; but a stronger restraining element than all, and one underlying and supporting the moral and religious influences, was a feeling among the great body of the people of the two nations that war, as a mere business transaction, "would not pay"; and that the commerce and trade of the United States and Great Britain are so interlinked and interwoven that a resort to arms would result in permanent and incalculable impoverishment to both countries. — One argument, however, in favor of protection, which is said to take stronger hold on the popular mind than almost any other, is the asserted necessity of artificially stimulating by legislation all manner of domestic industries, in order that the country may not be dependent on other nations for martial requisites in case of possible foreign war. The first answer to this averment is, that whatever may have been our condition heretofore, the power of production at present in the United States is so great, so varied, and so permanently established, that it is hardly possible to conceive of a contingency in which the nation could be inconvenienced by a deficiency of any material requisite for the carrying on of war, with the exception of the two commodities, gold and saltpetre; and it will not be pretended by any one that the domestic supply of either of these articles can be advantageously increased by restricting their importation. Second, with a vigorous, patriotic population, especially if the same be supplemented, as in the case of England and the United States, with favorable natural conditions for defense, that nation, under our present civilization, will be most invulnerable in war which can incur and sustain the greatest and longest-continued expenditure, or which, in other words, is possessed of the greatest national wealth. But national wealth increases in a ratio proportioned to the removal of obstacles in the way of the development of trade, commerce, and all productive industries, whether such obstacles be in the nature of an imperfect education of the people, or in the nature of bad roads, high mountains, impenetrable forests, trackless deserts, popular prejudices, or legal commercial restrictions, which impede a free interchange of commodities and services. In support of these positions two historical illustrations may be cited as evidence. During the late civil war, the confederate states, although deficient in almost all the so-called manufacturing industries, with a population trained almost exclusively to agriculture, and with all their main lines of intercommunication with the external world blockaded, nevertheless managed to obtain at all times adequate military supplies for conducting great campaigns so long as they were able to pay for them, and finally succumbed to the financial rather than to the physical power of their antagonists. Upon this same point the example of Holland is also most instructive. From the commencement of their existence as a nation, the Dutch not only made their country an asylum for the oppressed of all nations, but they took especial care that their trade, industries, and all commercial exchanges should be "unfettered, unimpeded, and unlegislated upon," and this too while all the rest of the civilized world adopted a diametrically opposite policy. The result was that, though possessing a most restricted territory (about four hundred thousand acres of arable land) and a limited population (less than two millions), they not only maintained their independence against the combined hosts of Spain, France and Germany, but for a time became the dominant naval power of the world. Though not raising a bushel of wheat, Holland became the best place for Europe to buy grain; though she did not possess an acre of forests, there was always more and better timber to be obtained in her ports than elsewhere; and though she smelted no iron, and did not raise a "sheaf of hemp," her fleets became the best that sailed the seas; and all because, to use the words of one of her statesmen (Cornelius De Witt, 1745), "she had the wealth to pay for these commodities," and possessed this wealth because trade and all exchanges were left unimpeded. — *Why Free Trade is not immediately and universally accepted and adopted.* But the question here naturally arises, if the above propositions in favor of free trade are correct, and if the doctrine of protection is as false and injurious as it is represented to be, how happens it that free trade does not at once meet with universal acceptance? and how is the adherence of many men of clear intellect and practical experience to the opposite doctrine to be accounted for? One of the best answers to these questions was given by the cele-

brated French economist, Bastiat, in an article written many years ago, entitled "That which is Seen and That which is not Seen," in which he showed that protection is maintained mainly by a view of what the producer gains and a concealment of what the consumer loses; and that if the losses of the million were as patent and palpable as the profits of the few, no nation would tolerate the system for a single day. Protection accumulates upon a single point the good which it effects, while the evil which it inflicts is infused throughout the community as a whole. The first result strikes the eye at once; the latter requires some investigation to become clearly perceptible. Mankind also divide themselves into two classes —producers and consumers, buyers and sellers. The interest of producers and sellers is that prices shall be high, or that there shall be scarcity; the interest of consumers and buyers is that prices shall be low, or that there shall be abundance. Every person will at once admit that it is for the general interest that there shall be abundance, rather than scarcity. But in the case of individuals controlling large agencies for production, their interest as producers and sellers of large quantities of commodities may be made greater than their interest as consumers, if by the aid of legislation the price of what they produce can be raised, by discriminating laws, disproportionately over what they consume, or to the cost of production. Men of this class are generally rich beyond the average of the community, and therefore influential in controlling legislation and in determining fiscal policies; and it is but natural that in so doing they should consult their own interests rather than the interests of the masses. —It is not generally known that Adam Smith, after writing his unanswerable argument in favor of free trade in his "Wealth of Nations," closed the discussion with an expression of opinion that to expect that freedom of trade would ever prevail in Great Britain would be as absurd as to expect that Utopia would ever be there established; and he assigns as the main reason for his opinion "the private interests of many individuals who irresistibly oppose it," and whose influence he declared could not be overcome. And he draws this picture of the danger which threatened any individual who attempts to oppose the claims of the manufacturers, which all must recognize as equally applicable to the present situation. "The member of parliament," he says, "who supports every proposal for strengthening monopoly, is sure to acquire great reputation for understanding trade, but also great popularity and influence with an order of men whose members and wealth render them of great importance. If he opposes them, on the contrary, and, still more, if he have authority enough to be able to thwart them, neither the most acknowledged probity, nor the highest rank, nor the greatest public services, can protect him from the most infamous abuse and detraction, from personal insults, nor sometimes from real danger arising from the influence of furious and disappointed monopolists." It is happily true that Adam Smith's anticipations were not realized, and that his teachings largely contributed to a different result. But it is equally true that this result would have been greatly delayed in Great Britain had not reform been necessary to prevent revolution on the part of a starving, discontented people, made hungry and discontented by restrictions on trade, which in turn made food dear and employment scarce. — In the United States the greatest obstacle to the adoption of free trade, in common with many other economic reforms—such as pertain to currency, banking, bankrupt laws, local taxation, and the like—has been the continued and remarkable prosperity of the country, consequent, not upon legislation, but upon the utilization by the people of their great natural resources, their energy, their skill in the invention and use of labor-saving machinery, and the continued influx of the capital and population of other countries. These conditions have in times past made the people of the United States so indifferent to influences and results which in almost any other country would have been pregnant with national disaster, that the nation at large may be said to have actually preferred to endure many economic evils rather than devote time to their consideration, and meet the political issues contingent upon attempted change or reformation. One striking illustration of this state of affairs is to be found in the matter of the losses through the destruction of property by fire, in the United States. These losses exceed, comparatively and absolutely, those experienced in any other country, and at present exceed on an average $100,000,000 per annum. If products of the various industries of the different states could be gathered in quantities sufficient to represent this valuation—for example, in the form of cloths, furniture, boots and shoes, cotton, corn, wheat, tobacco, and the like—and the same be publicly and arbitrarily burned, the universal sentiment would be one of horror, and that the nation could not annually endure such a calamity of loss. But as it is, the masses of the people are absolutely indifferent to the subject, and do not care to be informed. — For further information on the subject of free trade, reference may be made to the following publications. Bastiat's *Sophisms of the Protectionists;* Grosvenor, *Does Protection Protect?* Prof. W. G. Sumner, *Lectures on the History of Protection in the United States;* Fawcett, *Free Trade and Protection;* Thompson, *A Catechism of the Corn Laws* London (scarce); Horace White, *The Tariff Question; Reports of the Special Commissioner of the Revenue of the United States*, 1865–70; J. S. Moore, *The Parsee Letters*, and *Friendly Sermons to the Protectionist Manufacturers of the United States;* Lieber, *Notes on the Fallacies Peculiar to American Protectionists;* and the various treatises on political economy by Perry, Walker, J. S. Mill, Macleod, Cairnes, etc. [Compare the article PROTECTION in this Cyclo-

pædia, vol. iii., in which the argument for the protective system will be found. ED.]

DAVID A. WELLS.

FRELINGHUYSEN, Theodore, was born at Milltown, N. J., March 28, 1787, and died at New Brunswick, N. J., April 12, 1862. He was graduated at Princeton in 1804, was admitted to the bar in 1808, served as United States senator 1829–33, was chancellor of New York university 1839–50, and president of Rutgers college 1850–62. He was the candidate of the whig party for vice-president in 1844. — See Chambers' *Memoirs of Frelinghuysen.* A. J.

FRÉMONT, John Charles, was born at Savannah, Ga., Jan. 21, 1813, was graduated at Charleston college in 1830, and entered the army as second lieutenant in 1838. He distinguished himself in the Mexican war (see ANNEXATIONS, IV.), and in the exploration of the Rocky mountains 1848–53, was United States senator from California (free-soil) 1851–3; and was the republican candidate for president in 1856. In 1864 he was nominated for president by the "radical men" of the republican party at Cleveland, but declined in favor of Lincoln. He was a major general of volunteers 1861–3, and is now (1881) governor of the territory of Arizona. — See Bigelow's *Life of Frémont;* Savage's *Representative Men,* 273; Upham's *Life of Frémont;* 9 *Atlantic Monthly.* A. J.

FRONTIERS. The European system of balance of power places among the first elements of peace an equalization as perfect as possible of the territories and forces of the different states, thus condemning invasion of frontiers and conquest. Grotius (in book iii., chap. xv.) advises the state against too great an extension of territory. Vattel (book ii., chap. vii.) says that the frontiers of states should be carefully settled, since the least usurpation of foreign territory is unjust. Montesquieu (book ix., chap. vi.) writes of the defensive force of states as follows: "To have proper power a state must be of such size that there shall be due proportion between the rapidity with which an enterprise undertaken against it may be executed and the promptitude with which the state can baffle this attack." Among the laws of Numa is one which prohibits all shedding of blood at the sacrifices to the god Terminus; thus showing, says Plutarch, that there is nothing more efficacious in securing quiet and undisturbed peace than to remain within one's own boundaries, not to be obeyed, which amounts to saying that Numa directed men not to struggle for boundaries—a command just enough, perhaps, from the point of view of attack, but of little value when there is question of defense, and singular enough to find in the beginning of Roman society. —Thus legislators and publicists, for different reasons, but reasons drawn from the independence of nations and the preservation of states, from sentiments of justice and the need of peace, have laid down as a principle the inviolability of frontiers, adding that to secure it in every way frontiers should not be too greatly extended. An excellent maxim for the recognition of this inviolability is in reality respect for the property of others. Inviolability of conscience, inviolability of domicile, inviolability of frontiers: these three principles flow successively from each other, and are the first sign and the greatest characteristic of civilization. — A definitely marked and respected frontier is, with independence, the first condition of existence for a state. Grotius who has laid down the best principles on this subject, and Vattel who has developed Grotius at length, have both sought the surest rules for determining the frontiers of countries. Both these writers are most occupied with defensive frontiers, such as mountains, lakes, rivers, streams and the sea, which Grotius calls natural and sufficient boundaries. But these limits which seem to present most security still offer many subjects of quarrel between bordering states. The following are the principal rules laid down in this regard by the authors whom we have just named: If there is a river or a stream between two states, the boundary is in the middle of this river or stream, unless the first occupant had obtained possession of the entire watercourse and had made his exclusive right recognized by the people subsequently established on the opposite bank. Otherwise it is acknowledged that the two states bordering on the river meant to take the middle of the stream as frontier. In whatever way a navigable river is owned, navigation should be free for states on both banks; each has the right to erect defensive works, but is not allowed to construct any industrial establishments which may throw the current of the water toward the other side. If the stream makes alluvial deposits on one of its banks, this increase is to the profit of the favored side, without the middle of the river ceasing to serve as frontier. But in case of avulsion, that is to say, if an important portion of territory be torn away by the river which then flows over a certain extent of this invaded territory, the first proprietor retains his right to this piece of his property always recognizable, the river belongs to him altogether, in so far as it occupies the place of the detached piece of land, and the middle of the old bed continues to serve as frontier. The same rules are applicable to lakes; the alluvial deposits are to the profit of the neighbor to whom the movement of the water brings them; but if the lake should enter into some valley and form a gulf there, the frontier line drawn through the lake in its old bed is not thereby displaced, and the gulf belongs altogether to the country where it is found. The course of a stream or river flowing from a lake may not be obstructed at its issue by the proprietor of the territory where the lake ends. This would be to expose the inhabitants along the higher banks of the lake to suffer from high water thrown

back on their shores by too high a dam. On the other hand, the proprietor of the lower country might be exposed to serious damage by too abundant and rapid a flow of water. It is for the states menaced by these various dangers to agree to guard against them. The sea belongs to all nations, and a frontier line could not be determined anywhere as in lakes and rivers. Still, Bodin, in his "Republic," tried to establish as a principle that the ownership of each coast power extends over the open sea to a distance of thirty leagues from land. But to give this right a real existence it would be necessary for nations to recognize and enforce it. But their coasts, with the bays, roadsteads, ports and all the rights of fishing, salt works and establishments for commerce, industry and defense, belong naturally and indisputably to maritime countries. Straits which serve to connect two seas are considered free by right. They are declared common property like the open sea, and are not to be closed nor interfered with; in one word, they are not to belong in any way to any particular people. In 1667, when the United Provinces recognized implicitly in England, in accordance with her claims in the treaty of Breda, the sovereignty of the seas which surrounded her, by recognizing as of right particular honors to the English flag, Louis XIV. was formally opposed to naming the straits the English channel. — Such are the most important principles established by publicists of authority concerning *defensive* frontiers. As to other boundaries we must appeal to the general principle recommended by Vattel, that too much care can not be shown in fixing boundaries. In fact, whenever this precaution has not been taken there have remained between neighboring states secret causes of misunderstanding which sooner or later produce their fatal effects. Vattel remarked that in consequence of not having followed this principle scrupulously in the treaty of Utrecht, France and England entered afterward into a disastrous war on the question of the boundaries of their respective possessions in America. In the nineteenth century a certain number of disputed boundaries have been settled or decided by arbitration, as, for example, in 1872, the ownership of the isle of San Juan near Vancouver's island, which had been in dispute since 1846. — After having secured the safety of the nation, frontiers should not become a barrier separating it from the rest of the world and preventing its development. From this point of view they are becoming more and more effaced every day. Treaties of commerce and navigation, the need which each people feels of things lacking in its own country and abounding in others, the communication of ideas, and the diffusion of knowledge, all impel men to go out of their own country; and railways, steam navigation and telegraphs constrain them to open their frontiers at a thousand points in order to obtain free access to each other.

G. CHAMPSEIX.

FRONTIERS, Natural. Natural frontiers is an expression which geography has lent to politics, and which should have its place in the history of the political ideas of our century. — Forty or fifty years ago the system of natural frontiers was very warmly debated. It was pretended that geography itself had determined the limits of states, that mountains and rivers were limits established by nature to determine the question of property between nations. The natural boundaries of France, for example, were the Pyrenees, the Alps and the Rhine; she had then a right to take possession of Belgium, and of the left bank of the Rhine as far as its mouth. This was not usurpation on her part; it was the application of a principle of natural right. That is the manner in which under the empire and again also under the restoration it was the duty of every good Frenchman to understand geography. It is true that on the other side of the Rhine geography was not understood in the same way. The Rhine, instead of being a river forming the boundary between France and Germany, was a river entirely German, and its valley itself, from its source to its mouth, was also entirely German. Alsace by this claim should belong to Germany; France should stop at the Vosges. Lorraine itself, according to some geographical line or other, less visible upon the map than the Vosges are, should also belong to Germany. Its two principal rivers, the Moselle and the Meuse, run toward the Rhine. — It is a curious thing, but I have never seen a single nation which, by virtue of the system of natural frontiers, has dreamt of restricting its possessions and its limits. It is always for the purpose of extending its empire that each nation studies in geography its natural boundaries. It places them always beyond its territory, never within it. — Hence the doubts which I have had for a long time concerning the excellence of the system of natural frontiers; not that I pretend absolutely that there are no natural limits. I willingly recognize that the Mediterranean on the south and the ocean on the west are the natural limits of France. Do these natural frontiers prevent her from possessing, by a very good title, Algeria? Did not England, during the hundred years war, possess, despite her natural frontiers, a great portion of France? And how many different countries does she still possess beyond the seas! Where are then the natural frontiers of England? Try to confine her within them. What does this expression mean which admits of such different applications? Must this system be regarded as an old discredited theory, and worthy of the discredit into which it has fallen? Must it be believed that there are only political frontiers, determined by the varying law of treaties, and dependent upon the chances of war? Have only the workings of force and of hazard a share in the destiny of nations? Has not geography also its influence? — I grant that there are upon the surface of the earth places more or less great in extent, which seem separated

from each other by seas, mountains and rivers, and which form, thanks to these boundaries, distinct domains. Nations willingly occupy these distinct domains, calling them their countries. But we must not believe that these countries are territories always having the same extent and the same configuration. There are ordinarily upon the confines of these domains, more or less separated from each other, more or less clearly assigned to such or such a people, uncertain tracts which seem to belong to both the neighboring nations, and which through chance fall sometimes to the lot of one nation and sometimes to that of the other. It is toward these doubtful countries that ambition and the spirit of conquest are directed. — The states which are the best and most naturally bounded have sides open and wanting in natural defenses. As for instance, France, on the north. It must be said that these natural defenses—seas, mountains, rivers—have, according to the times and the spirit of the people, very different uses. There are times when the sea separates nations, and there are times when it unites them. Horace called the ocean the great divider of nations; we call it, on the contrary, the bond of the world. There are times when mountains are crossed only with infinite trouble. It was necessary to be a Hercules or a Hannibal to cross the Alps; in these days of disunion and division, one side of a mountain is altogether different from the other. The sides differ in language, in manners and in ideas. As nations have the bad habit of hating all the more that which they understand the least, the people of the two opposite sides emulate each other in mutual hatred, and they do not bear the fatigue of crossing the mountain except to go and fight their neighbors on the other side. Do not let us speak too ill of war; it is war ordinarily that commences to open mountains; but once opened by war, the mountains are open also to commerce; merchants pass where soldiers have passed; engineers follow; they mark out paths over these steep mountains. We are astonished, in descending from the Jura into the valley of the lake of Geneva, by a succession of magnificent views varying at each turn of the road. So much for those inaccessible peaks which must separate nations! A carriage drive is all that is necessary to cross them; where are the natural frontiers? — It is the same story for rivers as for mountains. How far we are from the time when Araxes was indignant at the bridge which united the two banks, *pontem indignatus Araxes*. The rivers running under bridges no longer separate countries; they unite them; they are bonds instead of being obstacles; where then, once more, are the natural frontiers? — To these abolitions of obstacles, that is, frontiers, add that last and greatest abolition of space, the speed of the railways, and what do you say now of the separation of states? If governments would only practice more and more the good habit of not awakening travelers, to ask their passports at the frontier, we could while asleep cross five or six states. Are there then no longer frontiers in Europe? Assuredly there are, but frontiers which one runs the risk of not noticing unless he pays great attention, or unless the customs officer comes to warn him that he has passed into another country. Custom houses tend each day to become more and more the only natural and visible frontiers which exist in Europe. I do not advocate the unity of Europe. Far from it. Europe is already rather monotonous. She has the monotony of civilization; make her a unit, and she will have the monotony of servitude. What she preserves of liberty is by reason of her want of unity. — Natural frontiers to-day are the needs and the wishes of the people. Place the Alps upon the Vosges and all that height of mountains will not prevent Alsace from being French, because such is her interest, such is her determined wish. Place the Rhine on the northern frontier of France; if the inhabitants of the Rhenish provinces do not wish to be French; if the ideas, the laws, the administration of France do not please them, it will be difficult to affirm that the Rhine is the natural frontier of France; nature will yield to the will of man; for such is the destiny of our century, that the will of the people is stronger than all fortresses, than all mountains, than all rivers, than all lines of demarcation, natural or not. — Do you think that if Belgium is some day united to France, it will be because the Rhine and the Meuse are the natural frontiers of France? No, the Meuse is no more a natural frontier of France than the Oise or the Somme. Belgium will be united to France because she has the same interests of commerce, of industry and of liberty. A frontier to-day is the opposition and the contrast of two peoples. It is not the Pyrenees which separate France from Spain, it is the difference in manners and customs. Mountains could, during a long time, serve as frontiers, when the nations were divided and hostile: mountains were then ramparts: but these ramparts, like those of St. Quentin, of Leipzig and of Frankfort, the hand of civilization has battered down, as a very long time ago it battered down the old feudal castles, where voluntary captivity alone could guarantee safety. Military dungeons, city ramparts, natural frontiers, are all obsolete expressions, which belong to the past and have nothing to do with the future. — The wish to fix the boundaries of France by the Jura, the Vosges and the Ardennes, or to extend it to the Rhine, is a pretension equally out of date; it is a forgetfulness of the spirit of our century, in which frontiers are made by the will of nations, and no longer by nature. Man no longer obeys nature, nature obeys man. A nation's destiny is no longer determined by its geography; it imposes upon geography the laws of its own will. — Nations make their frontiers; nations themselves sometimes raise up barriers between themselves and their neighbors, and sometimes destroy the barriers which separate

them from a friendly nation; nations themselves close or open their territory to one another, and recede from or approach one another ready to take up arms to repulse whoever would wish to prevent these unions or these divorces, equally peaceable, equally legitimate, provided their wills have strength and perseverance. Such is the new state of the world.

SAINT-MARC GIRARDIN.

FUGITIVE SLAVE LAWS (IN U. S. HISTORY). Before the American revolution the black race in the colonies had generally been impressed with the artificial character, in the eye of the law, of property. (See SLAVERY.) Within his own colony an owner had the same right to reclaim his slave as to reclaim any other stolen, lost or estray property; but the reclamation of a slave who had escaped to another colony depended upon the intercolonial comity which permitted it. Nor was there any legal authority to reclaim fugitive slaves under the articles of confederation, except that which was, perhaps, implied in confining to "the *free* inhabitants of these states" the enjoyment of "the privileges and immunities of free citizens in the several states." Reclamations of fugitive slaves, though rare, sometimes occurred, but were still dependent on interstate comity. In the formation of the constitution by the convention of 1787, it seems to have been an implied part of one of the compromises (see COMPROMISES, III) that a provision should be inserted for the reclamation of fugitive slaves. "By this settlement" [compromise], said C. C. Pinckney, in the South Carolina convention, "we have obtained a right to recover our slaves in whatever part of America they may take refuge, which is a right we had not before. In short, considering all circumstances, we have made the best terms for the security of this species of property it was in our power to make. We would have made better if we could; but, on the whole, I do not think them bad." The result was the fugitive slave provision. (See CONSTITUTION, Art. IV., § 2, ¶ 3.) In this, slaves were indirectly called "persons held to service or labor in one state, under the laws thereof." The provision was mandatory, but upon no particular officer or branch of the government; it simply directed that the fugitive "shall be delivered up, on claim of the party to whom such service or labor may be due." If this was only a direction to the states, it is evident that the only recourse for relief under it was to state courts; and that, if a state should refuse or neglect to execute and obey this provision of the constitution, there was no remedy. Such has steadily been held as the construction of the kindred provision, as to extradition of criminals, immediately preceding the fugitive slave provision, and couched in much the same language. Though the surrender of criminals has sometimes been refused, as by Massachusetts in the Kimpton case in August, 1878, no further remedy has been sought for, nor has congress ever undertaken to pass any general interstate extradition law. The only real argument in favor of the power and duty of congress to pass a general fugitive slave law, was the absence of any such common self-interest, to induce the northern states to execute faithfully the fugitive slave provision of the constitution, as that which was usually certain to induce all the states to surrender fugitive criminals — 1. The first fugitive slave law, entitled "An act respecting fugitives from justice, and persons escaping from the service of their masters," originated in the senate, passed the house without debate by a vote of 48 to 7, and was approved by President Washington, Feb. 12, 1793. It was in four sections. The first two, applying to fugitive criminals, merely specified the manner in which the demand was to be made upon the governor, and made no attempt to enforce a surrender of the criminal, if it should be refused. An abstract of the last two sections, respecting fugitives from labor, is as follows: 3, the owner, his agent or attorney, was empowered to seize his fugitive slave, take him before a circuit or district court of the United States, or before any magistrate of the county, city or town corporate, wherein the arrest should be made, and make proof by oral testimony or affidavit of his ownership, and the certificate thereof by the judge or magistrate was to be sufficient warrant for the removal of the fugitive to the state or territory from which he had fled; 4, rescue, concealment or obstructing the arrest of a fugitive slave were made offenses liable to a fine of $500 — Before 1815 the increase of the domestic slave trade from the border states to the extreme south had brought out complaints of the kidnapping of free blacks in the border free states, under pretense that they were fugitive slaves. In 1817 a senate committee reported a bill to modify the law, but it was never considered. The following year the Baltimore Quakers renewed the question by a petition to congress for some security to free blacks against kidnapping. On the other hand, the border slave states complained of the increased insecurity of slave property, and a member of the house from Virginia introduced a bill to increase the efficiency of the fugitive slave law. It was intended to enable the claimant to prove his title before a judge of his own state, and thus to become entitled to an executive demand upon the governor of the state in which the fugitive had taken refuge; and to any writ of *habeas corpus* it was to be a sufficient return that the prisoner was held under the provisions of this act. Efforts to amend the bill by securing the full benefit of the writ of *habeas corpus* to the fugitive, and by making the state courts of the state in which the arrest was made the arbiter of title, were voted down, and the bill was carried, Jan. 30, 1818, by a vote of 84 to 69. In the senate it was passed, March 12, with amendments requiring other proofs than the claimant's affidavit, and limiting the existence of the act to four years.

April 10 the house refused to consider the bill further. The great objection to the act of 1793 was its attempt to impose service, under the act, upon magistrates who were officials of the states, not of the federal government, and who could not therefore properly be called upon to execute federal laws. The question was brought before the supreme court (in the case of Prigg *vs.* Pennsylvania, cited below), as follows. The state of Pennsylvania had passed an act providing a mode for the rendition of fugitive slaves to their owners by state authorities, and making the seizure of fugitive slaves in any other way a felony. One Prigg, as agent of a Maryland slave owner, found a fugitive slave in Pennsylvania, and, when the local magistrate refused to award her to him, carried her off to Maryland *vi et armis*. For this he was indicted in Pennsylvania, and the two states amicably agreed that judgment should be entered against him, in order that an appeal might be taken to the supreme court. The supreme court, as its opinion was given by Story, held that the Pennsylvania statute was unconstitutional; that the power to legislate on this subject was exclusively in congress; but that the duty of executing federal laws could not be imposed upon state magistrates or officers. Taney, dissenting in part, held that the constitution was a part of the supreme law of every state, which the state could enforce, but could not abrogate or alter; and that the right of a master to seize his fugitive slave was thus a part of the organic law of each state, which the state could enforce, but could not abrogate or alter. The doubts expressed by the court as to the duty of state magistrates caused the passage by various northern legislatures of acts guarding or prohibiting the execution of the fugitive slave law by state magistrates. (See PERSONAL LIBERTY LAWS.)—II. The passage of a more effective fugitive slave law was one of the essential features of the compromise of 1850 (see COMPROMISES, V.), and formed a part of the original "omnibus bill." As approved by President Fillmore, Sept. 18, 1850, it consisted of ten sections, an abstract of which is as follows: 1, the powers of judges under the act of 1793 were now given to United States commissioners; 2, the territorial courts were also to have the power of appointing such commissioners; 3, all United States courts were so to enlarge the number of commissioners as to give facilities for the arrest of fugitive slaves; 4, commissioners were to have concurrent jurisdiction with United States judges in giving certificates to claimants and ordering the removal of fugitive slaves; 5, United States marshals and deputies were required to execute writs under the act, the penalty for refusal being a fine of $1,000, the marshal being further liable on his bond for the full value of any slave escaping from his custody "with or without the assent" of the marshal or his deputies; the commissioners, or officers appointed by them, were empowered to call the bystanders to help execute writs; and all good citizens were required to aid and assist when required; 6, on affidavit before any officer authorized to administer an oath, United States courts or commissioners were to give the claimant a certificate and authority to remove his fugitive slave whence he had escaped; in no case was the testimony of the fugitive to be admitted in evidence; and the certificate, with the seal of the court, was to be conclusive evidence of the claimant's title, thus cutting off any real benefit of the writ of *habeas corpus* from the fugitive; 7, imprisonment for six months, a fine of $1,000, and civil damages of $1,000 to the claimant, were to be the punishment for obstructing an arrest, attempting a rescue, or harboring a fugitive after notice; 8, commissioners were to be paid fees of $10 when a certificate was granted, and of $5 when their decision was in favor of the alleged fugitive; fees of other officers were to follow the rules of the court; 9, on affidavit by the claimant that he apprehended a rescue, the marshal was not to surrender the fugitive to the claimant at once, but was first to take him to the state whence he had fled, employing any assistance necessary to overcome the rescuing force; 10, any claimant, by affidavit before any court of record in his own state or territory, might obtain a record with a general description of the fugitive, and an authenticated copy of such record was to be conclusive evidence, on proof of the identity of the fugitive, for issuing a certificate in any state or territory to which the slave had fled.—An examination of this long and horribly minute act will show the futility of the most taking and popular criticism upon it, that it employed all the force of the United States in "slave catching." This was just what the act was bound to do, if it attempted to enforce the fugitive slave provision of the constitution, and yet avoid the imposition of the duty upon state officials. Nor is there any more force in the objection to the difference in the commissioner's fee for detaining and for releasing a fugitive: the difference in fees was the price of the evident difference in the labor involved in the two cases; and no accusation was ever brought against a commissioner of having sold his honor for the additional $5.—But the refusal of a jury trial to the alleged fugitive, for the ascertainment of his identity, was a defect so fatal as to make the law seem not only unconstitutional, but absolutely inhuman. If the alleged fugitive were a slave (*i. e.*, property), his value was more than $20, above which limit the constitution (amendment VII.) guarantees a jury trial for title; if he were a free man, his right to a jury trial in a case affecting his life or liberty dates from *magna charta*, and is among the rights reserved, by amendment X., from the power of both the United States and the states "to the people"; and in denying a jury trial in either case congress seems to have been an inexcusable trespasser. Webster proposed, and Dayton, of New Jersey, offered, an amendment providing for a jury trial; but this was voted down, on the ground that a fugitive

slave was property, and yet that the owner's title was not disputed or in question, so as to require a jury trial. But this was evidently begging the question, for 1, an alleged fugitive, if a free man, evidently had the right to a jury trial to decide whether he was property or a person; and 2, no federal law could make the affidavit of a citizen of one state so "conclusive" as to exclude entirely the affidavit of a citizen of another state, as any alleged fugitive might possibly be. Against this evil feature of the act many northern legislatures promptly guarded by passing new or stronger "personal liberty laws," and thus practically "nullifying" it. (See NULLIFICATION, PERSONAL LIBERTY LAWS.)—The passage of the act gave a sudden and great impetus to the search for fugitive slaves in the north, which was accompanied by various revolting circumstances, brutality in the captors, bloodshed by the captors or captured, or both, and attempted suicide to avoid arrest. From many localities in the north, persons who had long been residents were suddenly seized and taken south as fugitive slaves; and these latter arrests were more efficacious than the former in rousing northern opposition to the law, for they seemed to show that not merely the execution but the principle of the law was unjust and illegal. Margaret Garner's attempted murder of her children, in Ohio, to save them from slavery, and Anthony Burns' arrest in Boston, were the cases which made most noise at the time. — The political consequences of the passage of the fugitive slave law of 1850 were not only the revival and enforcement of the personal liberty laws, but the demand, first by the free-soil party, and then by the republican party, for the repeal of the fugitive slave law, which the south considered irrepealable, as part of a compromise. The success of the republican party, in 1860, by the vote of the north, was therefore construed by secessionists at the south as a final refusal by the north to enforce the compromise of 1850, and was the principal excuse for secession. — The fugitive slave law was not finally repealed until June 28, 1864. (See COMPROMISES, V., VI.; SLAVERY; REPUBLICAN PARTY; ABOLITION, III.; SECESSION.)—(I.) See 4 Elliot's *Debates*, 286; 1 Benton's *Debates of Congress*, 384, 417; 1 von Holst's *United States*, 310; Prigg *vs.* Pennsylvania, 16 *Pet.*, 539; 6 Benton's *Debates of Congress*, 43, 107, 177; the act of Feb. 12, 1793, is in 1 *Stat. at Large*, 302. (II.) See 16 Benton's *Debates of Congress*, 593; 2 Benton's *Thirty Years' View*, 773; 5 Stryker's *American Register*, 547, 550; *Buchanan's Administration*, 16; Tyler's *Life of Taney*, 282, 392; Ableman *vs.* Booth, 21 *How.*, 506; 2 Wilson's *Rise and Fall of the Slave Power*, 291–337, 435; Schuckers' *Life of Chase*, 123, 171; 2 Webster's *Works*, 558, and 5:354; Moses Stuart's *Conscience and the Constitution;* Still's *Underground Railroad*, 348; Stevens' *History of Anthony Burns;* 1 Greeley's *American Conflict*, 210; 2 A. H. Stephens' *War Between the States*, 674 (in the Declaration of South Carolina); Hamilton's *Memoir of Rantoul*, 729; authorities under articles above referred to; the fugitive slave law is in 9 *Stat. at Large*, 462; the act of June 28, 1864, is in 13 *Stat. at Large* (38th Cong.), 410.

ALEXANDER JOHNSTON.

FUNCTIONARIES. "Public functionaries," says M. Vivien, (*Etudes administratives*, p. 43), "are the dispensers or instruments of the power of society: through their agency justice is done, knowledge is diffused, order is preserved, taxes collected, public property administered, national wealth increased, and the security, dignity and greatness of a country are maintained and guaranteed. — Adam Smith, while recognizing the necessity of the service of functionaries, classed them with those laborers he called *unproductive*. Because he did not discern the product of their labor in any material object, he supposed that no accumulation of wealth could result from it. The erroneousness of this opinion has since been often demonstrated. Industrial production consists in modifying, transporting from one place to another, or transforming, the materials furnished by nature, so as to adapt them to our needs. What it has thus created is not matter, a thing wholly beyond human power to create, but utility; and to that end it must overcome obstacles of various kinds, among which those which arise from the passions of men, and which would arrest production by taking away security, are among the more considerable and the most difficult to vanquish. Now the especial mission of governments is to institute and apply the guarantees indispensable to that security. The functionaries they employ for this purpose co-operate then most certainly in production, while laboring to overcome one of the principal difficulties which hinder its development, and succeeding to a greater or less degree in the effort. When this mission is properly fulfilled, the utility resulting from it attaches to man himself, whom it renders more restrained in his evil inclinations, more enlightened in regard to his duties and his rights, better disposed to observe the former and defend the latter; better fitted, in short, for all the useful functions of social life. One can not, then, fail to recognize that functionaries devoted to such a mission take a considerable part in the production and accumulation of the utilities of human creation which constitute wealth; but it would not be necessary hence to conclude that their co-operation is the more efficacious as they are more numerous and their field of action more extended, for this conclusion would be contrary to the truth; and here a distinction, which appears to us important, should be made between functionaries and other workers. — All labors governed by liberty, that is to say, originating in individual activity and its voluntary combinations, are subject, in their development and their results, to natural laws which observation has caused to be recognized; but the labors of functionaries, governed by authority, that is, by men invested with

the power of constraining the will, do not generally fall under the operation of these laws. A few indications will suffice to give an idea of the difference and even of the frequent opposition of the conditions which govern these two classes of labor. — Free labor has as its determining cause the various needs every one experiences and satisfies at his will, according to the extent of his resources: it can not, in its various applications, take any greater development than comports with the extent of the various classes of wants to which it responds, for no workman has the power to make others accept products or services which do not suit them, nor to oblige them to pay for more than they require. In the absence of all constraint or hindrance, every service, whether it be of labor or of exchange, is necessarily remunerated by reason of its real value, that is to say, the value generally recognized. If a class of services increases faster than the condition of the corresponding wants requires, the value of such services falls, and laborers tend to withdraw from this class. If, on the contrary, a class of services is not sufficiently extensive relatively to the demand for them, their value rises and the tendency is for new workmen to immediately devote themselves to them. Thus freedom insures to every one a part of the general product equal to the recognized value of his co operation, and it maintains, better than could otherwise be maintained, a constant proportion between each branch of labor and the wants it is designed to satisfy. Under this régime every worker has a lively interest, in his special sphere of activity, in multiplying and perfecting his services, because the recompense from them increases with his success in increasing their importance, and because, on the other hand, they would soon fall in value and be neglected if they became inferior to those of his competitors. Hence arises, among all laborers, an energetic and persevering emulation, the assured result of which is a constant improvement in the quality of work, and the progressive increase, as well in quantity as in importance, of all the services we mutually render and whose products constitute our wealth. — Such are the most general conditions which govern free labor. But the case is quite otherwise with the labors of functionaries. The determining cause of these is the needs freely manifested by each of the individuals by which society is composed; it is in the will, that is to say, in the opinions, the views, the passions of the men invested with authority, and in the real or pretended needs which they *suppose*, with more or less reason and disinterestedness, to exist among the population. These labors are not then necessarily proportioned to the extent of the corresponding needs, for this extent is determined only by arbitrary estimates which are more or less independent of the assent of those interested, and also more or less well grounded. Again, those for whom the services are destined, have not the option of refusing them or of limiting the quantity. These services are not then remunerated with reference to their real value, for this value is not discussed and determined by agreement between the one who furnishes it and the one who pays for it, and the determination of its amount is the result of estimates almost inevitably erroneous or partial. Finally, the principal causes of the continued improvements in free labor are not operative in the case of the labor of functionaries, for the latter lack the stimulus of self-interest, which, in public functions, is better satisfied by canvassing and by intrigue than by improvement in the service. Besides, they lack the stimulus of competition and the certainty of a recompense exactly proportioned to the services rendered. It is evident that the labors of functionaries are not assimilable, in scarcely any respect, to free labors, and that the one class could not, in political economy, be confounded with the other; nor could they be considered as subject to the same general laws without opening the way to many errors. — Another conclusion from the preceding indications is, that the labors of functionaries are subject to conditions incomparably less favorable to their improvement than those which govern free labor; and experience fully confirms, on this point, the indications of theory, for improvements in organization or methods of procedure are as rare in the public service as they are frequent in free labors. The latter are constantly transformed or modified under the impetus of discoveries in science or of a constantly stimulated spirit of invention, and there is scarcely an innovation adopted the effect of which is not to increase their productiveness. The former, on the contrary, are distinguished by a sort of immutability, which is rarely disturbed except at revolutionary epochs, and the innovations which are made at such times are far from always constituting true progress. As to the results of labors, such is the inferiority of those directed by public authority that we may affirm, without the least fear of exaggerating, that if free production employed as many faculties and resources to obtain, on the whole, so few useful results, it would not succeed in satisfying a tenth part of the wants for which it provides. This consideration alone would authorize us to conclude that nations which understand their own interests should endeavor to reduce as much as possible the number of public employments, or, in other terms, the functions of their governments; because all the branches of activity which they allow, without absolute necessity, to be taken away from the domain of individual initiative and liberty, and made an apanage of authority, lose, by that very fact, the greater part of their usefulness. But the necessity of restricting, as far as possible, the number of public employments and functionaries appears much greater still, if one observes all the evil results of the contrary system. Among the latter results may be counted the tendency of the system to make people lose the habit of personal effort and the feeling of responsibility, and to

withdraw as much as possible from all individual initiative and expect everything of the government. At the same time this system leads to the creation of an immense number of offices or public employments, and multiplies to a dangerous degree that portion of the population which, aspiring to live on governmental favors or the income from taxation, employs all means to that end—corruption, intrigue, solicitation, mendicity, émeutes, revolutions, counter-revolutions, etc. It thus substitutes, on a vast scale, a harmful activity for a useful activity, and renders infinitely more difficult, more precarious and more onerous the maintenance of security. Finally, it contributes greatly to increase public expenses.

E. J. L., *Tr.* A. CLÉMENT.

FUND, FUNDING, REFUNDING. In finance, "fund" signifies a sum of money set apart for some specific purpose, or a source whence money may be obtained. In England the national debt is called "the funds." The term "funds" is not so applied in the United States.—"The funding of a debt," according to Mr. J. S. Gibbons, "consists in dividing it into parts, or shares, which are represented by certificates, and on which interest is paid to the holder. These certificates are known as stock, or bonds, indifferently." The term "funding," as it is used in the laws of the United States, signifies the conversion of floating or temporary indebtedness into indebtedness having a longer time to run before maturity. (See act of Feb. 25, 1862.) Funding in this sense may consist in converting floating debt, or evidences of public debt bearing no interest (such as United States notes), into interest-bearing bonds, or it may consist in converting one form of interest-bearing bonds or notes into another form having a longer time to run. — "Refunding," as the term is used in laws of the United States, signifies the renewal, or continuance in a new form, of debt that has once been funded and has matured or is about to mature. (See title of act of July 14, 1870.)

HAYDN SMITH.

G

GAG LAWS. (See PETITION.)

GALLATIN, Albert, was born at Geneva, Switzerland, Jan. 29, 1761, and died at Astoria, N. Y., Aug. 12, 1849. He was graduated at the university of Geneva in 1779, emigrated to America, was instructor in Harvard in 1782, and settled in western Pennsylvania in 1785. He took part in the whisky insurrection, was elected United States senator but was unseated by the federalist majority, and served in the house as a democrat 1795–1801. He was secretary of the treasury 1802–14 (see ADMINISTRATIONS), negotiated the treaty of Ghent in 1814, and remained abroad until 1827, as minister to France (1815), and Great Britain (1826). He then became a bank president in New York City. (See WHISKY INSURRECTION; DEMOCRATIC PARTY; FEDERAL PARTY, I.)—See 6 *Maine Hist. Coll.;* H. Adams' *Life of Gallatin,* and *Writings of Gallatin.*

GAMBETTISM. The term "Gambettism," frequently met with in current political discussion in France, has a meaning not very well defined, nor generally very flattering to the man from whose name it is derived. It is more frequently on the lips and the pens of the enemies than of the friends or admirers of M. Gambetta. Usually it suggests the pursuit of an extreme ambition by methods of doubtful character and tinged in some degree with pretension verging on hypocrisy. It is not in this sense that the term is used in this article, nor, so used, could it afford a proper subject of discussion in this work. It is rather proposed to here consider under the term "Gambettism" that phase of the development of republicanism, and especially of the political organization by which republicanism is sustained in France, with which M. Gambetta has been conspicuously identified.—It is not to be denied that the French republic of to-day is very different from either of those which preceded it. Although the government of national defense, organized by insurrection on the morrow of the capture of Napoleon III. at Sedan, proclaimed the republic in name, the republic as it now exists may with reason be said to have proceeded not from revolution but from evolution. It has come into existence because of a general and growing sense on the part of the French people that it was the only practicable form of government for their much-tried country. It has gradually won the respect and to a certain degree the affections of a steadily increasing number of the people of France, and has come to be regarded as the surest and most stable guaranty of order, prosperity, progress and general freedom. Based upon universal suffrage, it is sustained by a large numerical majority of the voters; it counts its firm supporters among all classes; it has enlisted in its service the best talent, the ripest experience, the most ardent patriotism of the nation; it has established itself as the recognized form of government, the valid and sufficient representative of the national life, and it has apparently practically extinguished the factions which, during the first years of its existence, labored, struggled and plotted to overthrow it, and on its ruins to erect

a royal or imperial throne. Judged by any tests which can be fairly applied, the French republic bids as fair to hold its own as any government on the continent of Europe. That it is secure from overthrow by revolution or by usurpation it would be rash to predict. That it may not be able to withstand the peculiar influences that have so often swept away the governments of France within the last hundred years; that the French people may tire of it; that it may involve itself in dangerous foreign complications, and be ruined by attempts to satisfy the passions rather than the real needs of the country—all this is possible, and there is even evidence that it is probable. But that the republic is more firmly grounded than any preceding government; that it is in the direct line of the march of events for the last century; that, if it fall, the requirements of the French nation and of the age will tend to its re-establishment as they now tend to its maintenance; these are conclusions which can be fairly maintained.—The most striking peculiarity of the position of the French republic of to-day is, that it is sustained by a very powerful political organization, which has grown gradually but steadily since the close of the Franco-German war. That organization differs widely from any heretofore known in France. In the first place, it is practically free from a class basis. It rests neither on the peasantry nor the working people, nor the middle or trading class, nor the nobility, nor on any factitious alliance or combination of these, but has its supporters among all, and is opposed by a majority of none, except the nobility, and that only passively. In the next place, this organization is under the control of no one leader or group of leaders, and though it is naturally guided from time to time by prominent statesmen, and has found in M. Gambetta a peculiarly distinguished and efficient representative, it has been shown that its allegiance was not blind nor absolute, and that its fortune was bound up with the fortune of no one person. In the next place (and this is, perhaps, the most significant fact of all), the republican organization in France has definitely set for itself aims which, if fairly carried out, will tend strongly to its future permanence, viz., the spread of free secular instruction and the perfection of the system of popular representation in such form as to promote a continually increasing participation by the people in the management of their public affairs. The development of this organization has been largely the work of M. Gambetta, and it is his personal contribution to it, the methods which he has introduced in perfecting it, and the direction which he has sought to give it, that it will be the purpose of the following article to trace. In doing so, a brief reference to the career of the republican leader previous to the period within which the republic as it now exists in France has been developed, will be requisite — Léon Gambetta was born Oct. 30, 1838, in the town of Cahors, on the Lot, in the old province of Guienne. His family was of Italian origin, the first strain of pure French blood being introduced in it with his mother, a woman of marked intelligence and unusually interested in political affairs. His education was that commonly given to French youth of his generation, first in a Jesuit preparatory school, then in a provincial *lycée*. At eighteen, with his mother's aid, he deserted the commercial life to which his father had destined him, and went to Paris to study law at the Sarbonne, whence he was graduated with honor. He made rapid progress in his profession, entering first the office of the noted criminal lawyer, Maitre Lachaud, and later that of Maitre Crémieux, the lawyer who had the most extensive Jewish *clientèle* in Paris. Gambetta attracted attention by his defense of Greppo, a deputy arbitrarily banished by Napoleon III; by his defense of Delescluze, the editor of the *Réveil*, an extreme radical, and by his ardent activity in the small but very earnest circle of the political opponents of the empire. In 1869, being then but thirty-one, he was elected to the *corps législatif* from the department of *les Bouches du Rhône*, including the city of Marseilles; at his election he received 2,000 more votes than M. de Lesseps, the official candidate, and 5,000 more than M. Thiers, the candidate of the Orléanists. The period was a trying one, but full of promise for those who believed as Gambetta did. The emperor, and, still more, the imperial party, were alarmed at the signs of disaffection throughout the country and particularly in the army, and were struggling desperately, through the Olivier ministry, to discover some ground on which they could safely stand. The particular device adopted was the so-called liberal constitution which, however, left the initiative of all important legislation to the ministry, and left the ministers responsible, not to the *corps législatif*, but to the emperor. It was during the debate on this constitution that Gambetta, amid the jeering interruptions of the right and centre, and cries of "treason" from the imperialists, made the defiant announcement to the premier: "We accept you and your constitutionalism as a bridge to the republic, but that is all!" This declaration, half prediction, half challenge, was characteristic of the man as he then was, at the age of thirty-one. At this period the young orator was often described by unfriendly critics as a "Boanerges of the cafés." He had indeed much of the style and habit of the café of the time. His voice, sonorous and strong, "*voix de porte-voix*," Alphonse Daudet calls it, was used with vehemence and with no effort at modulation. He spoke often and at length, in the *corps législatif* and in Belleville, at Paris and in Marseilles. His speeches were full of metaphor. His periods were long and heavy, varied at rare intervals by sharp, clear-cut sentences. He had but little irony though much sarcasm, bitter to the verge of brutality. In person he was heavy, and the verdict of the varnished politicians of the empire, which they supposed to be final, was, "*Il manque absolument*

de tenue; ce n'est pas un homme sérieux." But if Gambetta bore the marks of the café in his speech or manner, it must be remembered that the cafés of the Latin quarter were at that time, as Daudet recalls, "not merely beer shops for smoking and drinking; but in the midst of Paris muzzled, without public life and without journals, these reunions of studious and generous youth, real schools of legal resistance, were almost the only places where a free utterance might still make itself felt." And the same writer, an intimate friend of Gambetta, adds: "On more than one side this furious son of Cahors betrayed his nearness to the Italian race; the strain of Genoese blood made the Gascon almost a shrewd and keen Provençal. Often, nay always, talking, he did not allow himself to be carried away by the torrent of his utterance; strongly enthusiastic, he knew in advance the point at which his enthusiasm should stop." Gambetta was moreover an ardent and close student. He entered journalism, not as a political writer, but as a critic of art, and his position in his own profession was already assured before he appeared in the political cases which gave him notoriety, at which period, indeed, he had already been given charge of the office work of Maitre Crémieux, the distinguished Israelitish lawyer already alluded to. It was not his eloquence alone, but his penetration, judgment, his untiring industry and energy, and his grasp of the underlying principles as well as of the details of the law, which distinguished him. It is not to be doubted that if he had not embraced the career of a politician, in the higher sense of that word, he would have taken advanced rank in either journalism or the law, two callings which in France are singularly exacting. He arrived at the first stage of the maturity of his powers, however, at a moment when public life was, for a nature like his, irresistibly charming. He was, as we have noted, a republican *de la veille;* the republic was the goal to which all his convictions, sentiments and ambitions alike urged him. But the republic, as he at first conceived it, or, at least, as he first had opportunity to shape its form and policy, was a very different thing from that which he ultimately made the object of his labors. The republic of which he became the leading spirit when the dynasty of Napoleon III. fell at Sedan, was to the last degree arbitrary, violent, and, in the French phrase, *autoritaire.* It was, in fact, a republic only in name, being, so far as concerned its legal sanction, a usurpation and a modified dictatorship. A self-chosen group of theoretical republicans, whose title to power consisted in a proclamation thrown to the national guards and the populace of Paris from the windows of the Hôtel de Ville, and afterward read by Gambetta's stentorian voice from a balcony of the same building, seized the treasury and the executive force of the nation, directed armies, ordered a *levée en masse,* laid taxes, used the credit of the nation for enormous loans in foreign markets—in a word, assumed all the rights and powers of government without a mandate from the people, and with no acknowledged accountability to any representative body. Gambetta, with the functions of minister of the interior and of war, not only directed, almost without consultation, these tremendous instruments of the national energy, but he dissolved the *conseils généraux,* the local representative bodies of the departments, and replaced them by administrative commissions chosen by himself, and, whether or not chosen as well as could be at the time, unquestionably embracing a great many irresponsible and unfit men, mostly advocates and journalists of Paris. And he steadily refused to call together, or to order the election of, any national legislature. When the supreme effort had failed, and the government of national defense had negotiated a treaty of peace, of which the terms required its ratification by a national assembly, Gambetta issued a proclamation forbidding the election of any member of the imperial or royal families, or of any candidate who had been, under the empire, a senator or *conseiller d'état,* or had accepted an "official candidacy." This certainly was a criminal blunder, as well as an outrageous usurpation. It brought France to the verge of civil war. It revived, at a moment when unity was vitally necessary, all possible party hatreds and personal and local jealousies. If it had been carried out, this decree would have deprived France of the services of some of her best and strongest men, with whom Gambetta has since been closely allied. It betrayed a startling and inexplicable distrust of the people, which was bitterly rebuked by the dispatch of the Paris members of the government. "M. de Bismarck," wrote Jules Favre and Jules Simon, *veut que nous soyons libres dans nos élections.*" It is but just to Gambetta to note that his tremendous but ill-fated effort to retrieve the fortunes of war was indirectly of incalculable value to the French people and to the final triumph of the cause of the republic. Had France surrendered when the Germans appeared before Paris, the French people would always have laid their defeat to the vices of the emperor and the empire and the treachery of Bazaine. They learned in the five months of what a high German authority calls Gambetta's "prodigy of administrative energy and ability," that their final defeat was due to the superior military training, the political sagacity, the patient, invincible sentiment of unity in the German people, and the lesson was indispensable in persuading them to submit to the tedious process of acquiring like virtues. Gambetta's campaign *à outrance* made the republic of to-day possible. There is evidence, also, that after the fever of futile exertion and the bitterness of immediate failure had passed away, the experience of that terrible half year largely tempered and guided the mind of Gambetta himself. But his course at that time, with reference to the popular suffrage and popular representation, was a very great obstacle in his

future career, and that he was able to overcome it is evidence that he has won his way, not by mere personal energy or by the arts of the demagogue, but by intimately allying himself with deep and progressive forces in French politics.—In the summer of 1871 he was elected to the national assembly, and in the autumn of that year he founded the *République Française*. In referring to this journal, in which some of his most important and effective work has been done, Gambetta says: "Its true origin dates from the national defense. It was in those tragic experiences that we learned to judge character, and from them that we drew the profound feeling of the formidable responsibilities of public life. We had a firm desire that the government should come to the hands of the democracy through liberty, for the whole country. We never separated in our thoughts the introduction, one after another, of the various strata of the French people to the practice of public affairs from the supreme interest of our re-establishment among the nations. We began our work at a grievous period. France, reduced materially, was morally excluded from what it had been the custom, before her reverses, to call the European concert. The miseries of civil war had been added to those of invasion. For ourselves, we were disavowed, thrust to one side. Far-seeing statesmen recognized that their country could be saved only by a republic, but they wished one without republicans. The aptitude of the republican party for government was strongly doubted. It was a minority in an assembly named under peculiar circumstances, and which, almost immediately put upon its guard by the manifestations of universal suffrage, claimed unlimited authority. This assembly ardently wished a monarchy; it ended by making a republic." This picture of the state of affairs when Gambetta resumed an active part in public life, is substantially just, and for him the most painful feature of it, to which he has alluded, was the isolation, by no means unnatural or unmerited, in which he and his immediate friends found themselves. If "far-seeing men," such as M. Thiers, wished for a "republic without republicans," it was largely due to the fact that the then known republicans had shown no just conception of a republic, and had grossly offended the principles on which alone it can be maintained. Gambetta had, then, a double task: to persuade the avowed republicans of the time to so conduct themselves that they could be trusted, and then to persuade the country to trust them. Thiers had declared that the republic must be conservative, or it could not be at all. Nothing in Gambetta's career justified the opinion that a republic under his guidance, or that of his immediate party, would be conservative, nor could any sudden conversion or any violent protestations in that sense win the confidence of the people. As Gambetta himself observed, the governing aptitude of the republican party was to be proven. He set himself to prove it. On the one hand, he had to hold the friends he had and to gather about him the men who believed in a republic but not in the then republicans, and especially not in him; on the other hand, he had to convince the great body of the French people that a republic would be safe, orderly, efficient and powerful in itself, and that it could be made reasonably stable. In this work, the nature and magnitude of which he now appears to have understood from the start, his first and most potent instrumentality was the journal that he had founded, and which he made in many regards novel, unique and characteristic. Although it was necessarily known as his organ, he adopted the policy of unsigned writing, a policy previously followed but in part by any of the great political journals of Paris, and principally associated only with the smaller and more violent radical and socialist sheets of the second republic. This policy not only gave greater freedom to the writers, while admitting of all necessary discipline among them, but it tended to give prominence rather to the ideas of the paper than to the personality of its contributors. It helped greatly to make it, in the best sense, the political organ not of Gambetta but of the party of the republic. In other regards its editor followed the models furnished by the English and American press. He addressed himself not to any one class but to the country, not to Paris alone but to the provinces as well, and even chiefly. He organized a system, up to that time nearly unknown in French journalism, for obtaining accurate information in regard to political opinion, its shades, its progress and its tendencies. "Our duty to the public," the *République* remarked, "is to tell what is going on and to gather as well as we can what the public thinks." The style of the writing in the *République* was as original and characteristic as its organization and methods. When, after seven years, its editor was chosen president of the chamber, it congratulated itself that "it had in some measure contributed to create and to sustain that confidence in its own powers which has doubtless counted for much in the final triumph of the democracy." And this was, from the beginning, one of the most signal and valuable services rendered by the paper. Its articles were always marked by a tone of singularly sustained self-reliance. It met the many enemies of the republic and the republicans with a constant manifestation of confidence in assured success. No calumny, no taunt, no sarcasm, no denunciation, disturbed its aggressive cheerfulness. The empire had enlisted in its cause much of the brightest talent of Parisian journalism. The royalists never lacked for champions among the *élite* of the cultured, experienced and gifted thinkers and writers. The former were arrogant, caustic, supple and unscrupulous. The latter were generally polished, sincere, weighty, and invariably a little disdainful of the new critics of the "*classes dirigeantes*." But the writers of the *République* were masters of logical statement;

they were thoroughly informed; they were as much at home in the history and the literature of politics as their opponents, and, above all, they were working to prepare the future, not to revive the past. Their articles bore the unmistakable impress of assurance of triumph, not in boastfulness, but in cool raillery, in stinging sarcasm, in easy irony. Nothing like the attitude and bearing of the new journal had been before known in the republican or even the liberal press of France. It reassured the timid, it attracted the doubting, it convinced the sincere; it particularly annoyed, confused and baffled the opponents, who were more used to aiming than receiving the shafts of ridicule. The value of this peculiar style in the leading organ of the republican party can hardly be exaggerated. It was exactly adapted to the work in hand. Among the readers of journals in France the class who were to be won over to the republic had learned to regard that form of government and the men with whom it was associated with distrust, indifference and contempt, and it is hardly too much to say that they were quite as much afraid of the ridicule directed at republicans as of the grave dangers which the republic appeared to involve. The *République* dissipated their fears on the latter score by patient argument and demonstration, and it taught them that there was no safety from ridicule in clinging to those who had previously had almost a monopoly of its use. Victor Hugo has said that the most formidable weapon used against the *ancien régime* was "*le sourire de Voltaire.*" It was a weapon which the *République* resumed. For the past ten years there has been no force more active in undermining the anti-republican forces in France than the persistent, bitter, keen and confident wit of M. Gambetta's journal. — The history of the first seven years of this decade is happily described in the phrase which has already been cited from the pen of M. Gambetta: "The assembly ardently wished a monarchy; it ended by making a republic." There is no doubt that a strong majority of the assembly elected at the close of the war desired some form of monarchy, and, could the majority have agreed among themselves, they could have carried out their desire. Their difficulty was, as M. Thiers bitingly described it, "they wished to seat three men on one throne," and not only did the throne remain vacant, but it was ultimately abandoned. If it was not destroyed, it was at least put away as a piece of furniture quite out of date, of which the future utility was very uncertain. It is usually inferred that the twice repeated refusal of the Comte de Chambord to give up the white flag of the Bourbons for the tricolor, which had waved on all the victorious battle fields of France for nearly a century, was the only obstacle to the union of the two royalist houses and the re-establishment of the monarchy. But this refusal was only the manifestation of a spirit which made monarchy impossible, and which would have made itself felt in any event, fatally for the cause of royalty and perhaps disastrously for France. That refusal, however, practically released the Orléanists from any further obligation to oppose the republic, and, since their own immediate candidate for the throne was an impossible one, it left them free to join the republicans. It was to promote this essential re-enforcement that Gambetta labored, and the bridge which he built for the Orléanists was the "Opportunism" which was so closely united with his name that it is nearly identical with "Gambettism." It consisted in limiting, as far as possible, the demands of the republicans to the removal or prevention of those restraints upon the free exercise of the suffrage and of political activity which the reactionists imposed or sought to impose. The scheme of government which the latter had succeeded in framing, embraced a president with very great power over the action of the legislature; a senate so chosen as to include nearly, if not quite, all the leaders of the reaction; the revival in its most arbitrary and abused form of the "official candidacy" of the empire, and the persistent, unsparing, ingenious suppression of all efficient agencies for influencing public opinion. The vast, complex and potent machinery of patronage centralized at Paris was placed in the hands of Marshal MacMahon, "to whom a special mission of resistance was confided from the first," and who was secured in power for seven years. All the restrictive laws of the empire were maintained in force and stretched to their utmost to frighten, embarrass or suppress republican journals. Political meetings were subjected to the greatest possible restraints, and republican speakers and canvassers were everywhere exposed to the persecution or annoyance of the officials. On the other hand, everything was done to goad the republicans to an infraction of public order, to the manifestation of some revolutionary purpose. And with this policy at home, every effort was made to create the impression that the peace so necessary to France was only to be had through the reactionary government. That this policy, bold, energetic, adroit and unscrupulous as it was, wholly failed was largely due to the wisdom and skill of Gambetta's resistance to it, so largely that, without his resistance, it must have succeeded. He alone was able to hold in check the fiery impulses of the extreme men of his party. He alone could convince them that time was their ally, with whom victory was inevitable, if they had but the patience to await it. It was his conservatism which persuaded the country that the republic would be conservative. It was his determined adherence to the law, when the law was being abused expressly to provoke its violation, that thwarted the reactionists and reassured those who were alarmed lest violence should beget violence. In this work he developed rare powers as a political leader, and particularly as a political speaker. Direct appeal to the judgment and feelings of the voters, such as is so common and so valuable

an element in the working of representative government in Great Britain and the United States, was relatively little practiced in France before Gambetta's day. There had not, indeed, before existed the supreme condition to the growth of this practice—the regular and substantially free exercise of the right of universal suffrage. The suffrage under the restoration and the Orléanist monarchy was narrowly limited; under the empire it was practically valueless except at the intervals of the *plébiscite*, when the whole power of the government was used to pervert it. Political discussion of any effective sort was confined to Paris and two or three large cities. Gambetta carried it directly to the remotest corners of the country and to every class of the population. This was a marked service to the cause of free government, since it provided for free government the solid basis of an active, interested public sentiment, which grew in strength and intelligence with every renewed struggle. — As a political speaker M. Gambetta has rare personal gifts. His voice is sonorous and far-reaching. His professor, M. Valette, at the Sorbonne, had urged Gambetta's father to devote his son to the law because it was a pity that the bar of France should lose such a "remarkable organ." His manner, though emphatic and sometimes even violent, has an essential simplicity and directness which puts him on good terms with his audience. He has much tact, beneath his vehemence, and is rarely provoked beyond self-control. His natural and acquired sympathy with his countrymen is a source of influence for him, and his sarcasm and irony, by no means too refined for the average hearer, are formidable weapons both of attack and defense. During the period commencing with the definite agitation of the constitution finally adopted in 1875 and the famous *coup de tête* of Marshal MacMahon in 1877, M. Gambetta's addresses in various parts of France contributed very largely to the steady increase of republican strength in the chamber, which determined the desperate act of the president in dissolving the chambers and ordering a new election for October of that year. In the brief and brilliant canvass which followed, he was the acknowledged leader of the republican party, and his title to the position was confirmed by the result. The marshal-president had made a singularly adroit attempt at the renewal of the system of personal control in the government. He had in effect dismissed the Simon ministry on the ground that it could not command a majority in the chamber without an alliance with the extreme left, to which he could not consent. He had chosen a ministry of obscure persons, with the avowed mission of administering the governmental affairs without reference to the chamber, and the chamber had promptly declined to enter into relations with it. He had then formed a confessedly reactionist ministry and appealed to the country. The republicans conducted the canvass on the distinct issue of ministerial responsibility to the majority in the legislature, as the absolute condition of parliamentary government. In this canvass Gambetta was untiring. He defined the issue in a phrase at once compact and comprehensive. The president must *se soumettre ou se démettre*, "submit or resign." The ministry seized the words as the pretext for his arrest and trial under a law by which it hoped to deprive him of his political rights and banish him from the chamber. But Gambetta bore himself with the calmness of one who was as sure of his legal position as he was of his political power, and at the last moment the ministry abandoned the purpose which, if carried out, might have brought on popular resistance that it was not ready to meet. The triumph of the republicans was complete, and the more signal that it was won against an administrative pressure which exceeded anything known under the empire, and organized, indeed, by M. de Fourton, who had been the inventor and manager of the imperial system, and now made it even more rigid and arbitrary. The great army of employés and officials were formally notified that their utmost influence must be used for the government candidates; republican journals, addresses, manifestoes, meetings and even private consultations were everywhere suppressed or interfered with; republican candidates were repeatedly harassed by the préfets or the courts; and extreme measures were taken to excite, if possible, some overt act of resistance. In maintaining the orderly and peaceful and law-abiding temper of his party, while asserting its rights and clearly defining its unaltered determination to exercise them, M. Gambetta greatly strengthened his hold on popular confidence, and upon the respect of the great body of conservative and cautious people to whom the reactionists sought to present themselves as the only hope of France for order at home and peace and dignity abroad. — In the chamber which resulted from the elections of 1877, M. Gambetta was chosen chairman of the budget commission and ultimately president of the chamber. His influence constantly grew, and, as it extended, the party of which he was the immediate leader underwent a change which he had foreseen and which was a renewed evidence of the breadth of his views and the elevation of his purposes. It attracted to itself more and more of the members of the moderate groups in the chamber and lost correspondingly from the extreme left. The body of radicals whom he had for five years restrained with increasing difficulty, entered upon open opposition to him. Under the significant title of "*intransigéants*," led by Dr. Clémenceau in the chamber and the Comte de Rochefort in the press, they spared no effort to undermine his influence with the people and to thwart his policy. In November, 1881, Gambetta assumed the task of forming a ministry, which was overthrown in January, 1882, by a chamber freshly elected. This event has been freely commented on as marking the close of his career. The conclusion is a forced

one. M. Gambetta took office in obedience to what he justly conceived to be the essential principle of parliamentary government, that the acknowledged leader of the majority should be the official head of the ministry. He took office as Mr. Gladstone lately did in Great Britain, much against his own desires. He failed, where Mr. Gladstone succeeded, because his party was, as he feared it would be, unequal to the task of submitting to the responsibilities of the situation. The sentiment which he entertained may be gathered from the following passage in the *République Française* of the 11th of January, 1882 (he resumed the direction of the journal on the 30th December, 1881): "When the chamber imposed office upon M. Gambetta, it did not know him. Few have surmised that the formation of his cabinet rested on an equivocal basis. The deputies wished M. Gambetta in power, because they did not wish him elsewhere; but they intended that once at the head of the ministry, he should be contented with the title, without governing, without applying his political ideas. He alone understood this *equivoque*, and it may well be that among the reasons which decided him to accept those high functions, there was a desire to put an end to it. Henceforth it can not exist. When, hereafter, M. Gambetta is called upon, it will be known that he must be taken as he is, with his programme of thorough reforms, of which the *scrutin de liste* is the essential condition." This view is sustained by the course of M. Gambetta in power. When he sought to form his cabinet, the very men who had forced him to undertake the task refused their aid in performing it. He selected the best men he could get—not a strong cabinet politically, but men of energy and experience, and devoted to the republican cause. When he met the newly elected chamber, he announced a series of important measures, most of them those which the party had sustained: an extension of non-sectarian education, a change in the judicial organization, a reform of the military law, a moderate and limited revision of the constitution for the purpose of placing the senate upon a broader popular basis, and, finally, the adoption of the principle of the *scrutin de liste*. The latter is the substitution of the election of all the deputies of each department on one ticket for their election severally by *arrondissements* or districts. The deputies who had "wished him in power, because they did not wish him elsewhere," seized on the latter point to overthrow, and, as they hoped, to crush him. The new chamber had been elected by *arrondissements*. Its members owed much of their prominence and influence to the zeal or skill with which they had advanced the interests of the small districts from which they came, or those of the active politicians of their districts. They were committed to a "*politique de clocher*," or in the homely New England phrase, to a policy of "the town pump." M. Gambetta asked only that in the revision of the constitution, which the majority favored, the principle of the *scrutin de liste* should be embodied. His opponents chose to affirm that he sought a dissolution of the chamber and a new election, in which his name would be returned from so many departments that the election would be in some sense a *plébiscite*, on which he would base the establishment of personal power, of some sort of undefined dictatorship. The passage in which M. Gambetta alluded to this vague and malicious accusation, in his address to the chamber, was eloquent, logical and effective. Triple salvos of applause from all the benches of the chamber greeted it. There is no doubt that the charge was a mere device and subterfuge. M. Gambetta, at the head of the ministry, and able to remain there a long time, had he chosen to accept the *scrutin d'arrondissement*, would have had in his hands the most potent instrumentality for establishing personal power, for it is in the nature of the two methods, and it is shown by the history of France, that the influence of the central government is far more powerful in elections by districts than in elections by departments. "Every time," said M Gambetta, "that France has really belonged to herself, every time that she has had really great legislatures, every time that personal power has been neutralized and foiled, it has had to face an assembly issuing from the *scrutin de liste*. On the other hand, the first act of personal power, the moment it took possession of the country, was to suppress the *scrutin de liste*, and to make of the *scrutin d'arrondissement* the very basis of its authority and of its electoral influence." The real motives of M. Gambetta were clearly and boldly explained in the *République Française* a fortnight before the test vote was taken: "For ten years past M. Gambetta has obeyed but one thought, to make of the French democracy a government. When one thinks of the origin of our republican party, of its habits of vehement opposition, its struggles in which heroism verged on the chimerical, the task undertaken by M. Gambetta seems an impossible one What he has done, with many others certainly, to bring that end nearer, by introducing among us a true political spirit, all his companions in arms in the Versailles assembly and for the last six months of 1877 (when the coalition was overthrown and the election of M. Grévy was assured) may perhaps remember. At this moment the republican party can compare itself fearlessly with all the parties that have held power within the nineteenth century. Yes, but all these parties have ended with failure. In order that the democracy may be more fortunate, in order that it may guide France toward a future of prosperity, of stability and at the same time of progress hitherto unknown, it must do better yet, it must become a government more powerful, much more intelligent, much more fruitful, and far more expansive than the governments of the past. It does not satisfy M. Gambetta to be simply minister; he would be the minister of a democracy possessing the full consciousness of its forces." And after defining the

reforms at which M. Gambetta aimed, the *République* continues: "If the democracy were in possession of the most highly perfected administrative machinery, that would not be enough. It would still be requisite that the shaft which transmits motive power to each of the wheels of state should work with vigor and regularity—the shaft, or rather the motor itself, the democracy in its direct representatives. The more profound is the connection of the legislative assemblies with the nation, not so much with its passions of the hour as with its permanent purposes, impressing them in a manner clear, precise and practical, the more the democracy will feel itself strong and capable of progress. The system which our adversaries of the Versailles chamber imposed upon us, unquestionably clogs the expression of the national will. That is why it is necessary to revise that system and to enlarge the electoral basis of the chamber and the senate. Until that be done the republic can not get out of the ruts traced by previous governments." There is nothing in the recent career of M. Gambetta to throw any serious doubt on the sincerity of this statement of his views and purposes. On the contrary, he staked his possession of power, which he might easily have retained, upon the acceptance by the chamber of reforms broadly conceived to secure the stability, the efficiency, the dignity and usefulness of his party. This was not the act of a restless or selfish *ambitieux;* it was the act of a patriot and a statesman. He was overthrown by a coalition of the extreme democrats and the reactionists, and "with him fell," in the words of M. John Lemoinne, "the republican majority, for the coalition was made up of those who would suppress the senate and the presidential office, and of those who would suppress the republic itself." The same distinguished writer, the most gifted and acute of the many able men whom the Orléanists have contributed to the republican party of France, says: "They mistake who imagine M. Gambetta is annihilated by his fall. He has fallen in defense of the opinions and the cause of conservative republicans. He is stronger now than ever before. He has had no occasion and not even the time to undergo the trials of power. He has expended nothing from the large reserve of strength that he has accumulated in the course of his public life, he fell amid the plaudits of those who overthrew him, and he has fallen erect upon his feet. Those who must now govern will soon perceive that there is a force outside them with which they must make their account." This "force outside" the ministry is what in this article has been termed "Gambettism." It is the force which more than any other now tends to make of the republican party of France a party capable of government, inspiring and obeying responsible leadership, and using the delicate but powerful forces of parliamentary institutions vigorously, steadily and sagaciously. That M. Gambetta completely embodies it, or that it is free from embarrassment from faults and errors in his judgment and character, has not been claimed; but that the creation and development of this force is the aim with which his career has been, when fairly interpreted, most consistent, is a reasonable inference, and one which is full of hope for the future of free representative government in France. EDWARD CARY.

GARFIELD, James Abram, president of the United States 1881, was born at Orange, Cuyahoga county, Ohio, Nov. 19, 1831, and died at Elberon, N. J., Sept. 19, 1881. He was graduated at Williams college in 1856; became a professor in, and afterward president of, Hiram college, Ohio; was admitted to the bar, and served in the army 1861–3, reaching the grade of major general. He was a republican representative in congress 1863–81, was elected U. S. senator for the term 1881–7, but before he took his seat was elected president. July 2, 1881, he was shot by a disappointed office seeker, and the injury resulted in his death.—Garfield's rise from the position of a driver of mules upon the tow-path to the presidency was great, but others before him have compassed as great an interval. His exceptional success, among the crowd of self-made presidents, Jackson, Van Buren, Fillmore, Lincoln and Johnson, lay in his attainment of a breadth of culture which none of the others approached, and which, though it lay outside of politics, had a very strong influence upon his political career. His life and letters show his constant anxiety to develop his mental powers in every department of thought, so that before his untimely death he had become an intellectual athlete. It is unfortunately useless to speculate on the breadth of development to which twenty years further life and activity would have carried him.—In congress Garfield was one of the mass of republican members during Thaddeus Stevens' leadership, and after Stevens' death he was by no means the most prominent republican leader until 1876–8, when he met and was a prime factor in defeating the spread of the greenback or "soft money" idea in his party. (See GREENBACK-LABOR PARTY, REPUBLICAN PARTY.) The extra session of the 46th congress, March 18, 1879 (see VETO), gave him almost the first rank as a party leader. By common consent the work of the debate was left to him. His charge that the southern democrats, having failed to defeat the government in the field, were now endeavoring to "starve it to death," was a very taking and comprehensible point, and did good service for some time afterward. When, in the republican national convention of 1880, it was found that the majority of delegates were divided between Blaine and Sherman, that a strong minority (about 306 in number) were determined upon Grant, and that changes were hopeless, a sudden movement of all the factions nominated Garfield, June 8, on the thirty-sixth ballot, against his own protest. In November he was elected. (See ELECTORAL VOTES.)—Only two points of Garfield's career have seemed vulnerable to his political

opponents: his reception of a fee of $5,000 for arguing the De Golyer claim before a congressional committee, and his alleged complicity in the credit mobilier fraud. (See CREDIT MOBILIER.) As to the former case it need only be said that the arguing of cases, or giving opinions in cases, before courts or committees, by lawyers who are also congressmen, has never been condemned by public opinion and has been unhesitatingly followed by men of all parties; and that in this case the opinion seems to have been worth the fee paid for it. In the latter case the only evidence against Garfield is the naked assertion of Oakes Ames; in his favor are the facts that Garfield was notoriously poor; that he might have used his committee positions to enrich himself with far less danger of exposure than by accepting credit mobilier stock; and, above all, that the stock, which Ames claimed to have given Garfield, remained in Ames' possession for all the five years from 1868 until the explosion in 1873, that its enormous dividends were unhesitatingly appropriated by Ames, and that he showed no notion, until the explosion came, that the stock had ever been the property of any other person than himself. All this would seem absolutely conclusive in the case of any one but a presidential candidate. — The two New York senators, Conkling and T. C. Platt, were republicans of the Grant faction. Immediately after his inauguration in March, 1881, President Garfield attempted to recognize all the factions of his party in the matter of appointments; but, as the most important New York appointment was given to their opponent, the New York senators, after vainly struggling against its confirmation until May, suddenly resigned, left their party in a minority in the senate, and brought about a great political uproar. A disappointed office seeker, thinking that the Conkling faction would justify any method of attack upon the president, chose this time to gratify his resentment for the refusal to appoint him to a consulship, and shot the president, announcing himself as Conkling's champion. The horrible calamity of the president's assassination served at least one useful purpose: it threw a vivid light upon the evils of the American system of appointments to and removals from office. — See Hinsdale's *Republican Text Book of* 1880; Brisbin's *Life of Garfield;* Bundy's *Life of Garfield;* Gilmore's *Life of Garfield;* Balch's *Life of Garfield;* Smalley's *History of the Republican Party.*

ALEXANDER JOHNSTON.

GENET, Citizen (IN U. S. HISTORY), the name usually given to Edmond Charles Genet, the ambassador of the French republic to the United States in 1793. — In the early months of 1793 the government of the French republic was still nominally under the control of the Girondins, but the massacre of the royal guards, Aug. 10, 1792, the general massacre, Sept 2–7, 1792, and the execution of the king, Jan. 21, 1793, showed that the destructive element, of which the Jacobins were the best known faction, had learned the virtues of terror as a political force and was gaining upon the more moderate Girondins. Hitherto the revolution had been confined to France; the fighting of the first campaign of the war declared against Austria and Prussia, April 20, 1792, had been done on French soil; and American interest in the events in France was entirely speculative. The opening of the year changed all this. The execution of the king was given, and taken, as a defiance to every neighboring monarchy; the declaration of war against England and Holland, Feb. 3, 1793, was the first movement of the expansion which was soon to make all Europe the theatre of the revolution; and it was inevitable that this outward movement of the revolution should involve somewhere a call for active sympathy and assistance upon France's only ally, the United States. To obtain this assistance Genet was sent in January in the Ambuscade frigate, and arrived at Charleston, April 8, bringing with him 300 blank commissions for privateers. — Genet was only in his twenty-eighth year, but a master of that half-purposed and half-delirious declamation, which seems absurd now, but which was then the surest weapon of a French revolutionary envoy: he came to a country whose people were already very strongly disposed to war against Great Britain on their own account, and equally disposed to consider the French revolution as having every claim upon their active support; and, for the moment, he swept the American people off their feet and almost into the war. That he was not entirely successful was altogether due to the overmastering influence which Washington possessed, and which he did not hesitate to use for the maintenance of neutrality. (See EMBARGO, I.; JAY'S TREATY; EXECUTIVE.) — The whole web of difficulties of which Genet became the centre turned upon the treaties with France of Feb. 6, 1778. There were two treaties of this date, the first of alliance and the second of amity and commerce, and the general meaning of the former and the special applicability of two articles of the latter were the questions at issue in 1793. — The treaty of alliance (see REVOLUTION) is by its terms a treaty "eventual and defensive"; the "essential and direct end of this defensive alliance" is stated in the second article as the maintenance of the liberty, sovereignty and independence of the United States; and to every intent and purpose its provisions are confined to the then existing war between the United States and Great Britain, and the French intervention therein, with the exception, perhaps, of the mutual guaranty of possessions in the last two articles. Genet claimed, and many Americans were inclined to agree with him, that the treaty of alliance was still in existence and binding on both parties, and that it had not been terminated by the peace of 1783. It was not difficult to disprove the claim, in itself considered, but it was re-enforced by another consideration, invulnerable to reason, which weighed still more

heavily with the mass of the American people. The selfish reason of the French court for making the treaty, its desire to dismember the British empire, was then a state secret to all but a few, and the sentimental obligations to alliance seemed far more binding upon the United States in 1793 than they had been upon France in 1778. The burden of the argument for maintaining the alliance was therefore the idea that the United States was under obligations to requite the assistance which France had rendered during the revolution. — The treaty of commerce offered more difficulties. In its terms it was to be permanent, not limited to a single object; by its seventeenth section free entrance was to be allowed to prizes made by either party into the ports of each nation, and enemy cruisers against one party were not to be allowed to remain in the ports of the other; by its twenty-second section privateers of a third power at enmity with either nation were not to be permitted to fit out or sell prizes in the ports of the other; and, by the twenty-ninth section, each nation was allowed to have consuls in the ports of the other. In themselves considered, it is plain that the first two of these provisions, however beneficial to the United States in 1778, were very embarrassing in 1793, but Genet succeeded in rendering them even more embarrassing. He insisted on turning the prohibition of the arming, in this instance, of British privateers into a permission to arm French privateers and enlist men on the soil of the United States; and he also insisted that the powers of French consuls should include that of complete admiralty jurisdiction, in condemning and selling prizes. These were the two main questions at issue in 1793; the other exasperating pretensions and the unbounded insolence of language of Genet were only subsidiary to his main design, the exercise of such powers of sovereignty as would really convert the United States into French soil. — Five days before Genet's arrival at Charleston, a British packet had brought to New York city the news of the French declaration of war against Great Britain. April 18, Washington sent to his cabinet thirteen questions, probably drawn up by Hamilton. The most important of these were: 1, should a proclamation issue to prevent American interference in the war, and should it contain a declaration of neutrality; 2, should the French minister be received, 3, absolutely or with qualifications; 4, should the United States consider the treaties abrogated or suspended during the present state of government in France; 8, whether the war was offensive, defensive, or mixed and equivocal on the part of France; 11, whether the twenty-second section of the treaty of commerce applied to privateers only, or to ships of war also; and 13, whether congress ought to be called together. By the unanimous advice of the cabinet a proclamation of neutrality was issued, April 22, declaring the neutrality of the United States between the parties to the war, exhorting citizens of the United States to avoid infractions of neutrality, and giving notice that violators of neutrality would not be protected by the United States, but would be prosecuted, whenever possible, by federal officers. — The cabinet was also unanimous in advising in favor of the reception of the French minister, and against an extra session of congress. As to the treaties the cabinet was divided: Hamilton and Knox thought that France, while so acting as to provoke war against her, had no right to hold the United States to treaty stipulations made for entirely different circumstances; Jefferson and Randolph considered the treaties as made with the French nation, not with the king alone, and as unaffected by the change of government and policy. No reasoning, however, can reconcile the treaty of alliance and the declaration of neutrality; in so far, then, the whole cabinet seem to have considered the treaty of alliance really at an end, including its guaranty. Among the conflicting arguments and statements as to the treaty of commerce, it is only clear that Washington decided not yet to hold it abrogated: in plain words, to say nothing about it, but to follow it until forced to abrogate it. — Genet soon gave Hammond, the British representative, good cause for complaint. Immediately after his landing, he had fitted out two privateers which made captures of British vessels along the coast. His own frigate, the Ambuscade, arrived at Philadelphia May 2, bringing with her a British merchantman, the Grange, which she had captured within the capes of the Delaware. Genet had not yet been recognized or received by the federal government. His progress northward had been marked by expressions of popular enthusiasm as warm as those which had first met him, and misled him, at Charleston. He arrived at Philadelphia May 16; banquets were arranged in his honor, at which Genet himself sang the Marseillaise, and the guests, wearing the red cap of liberty, took turns in plunging a knife into the severed head of a pig, which represented the late king; British and French sailors engaged in armed conflicts in the streets of Philadelphia, the latter being generally supported by the populace; and all the initial steps of the process by which French agents of the time were in the habit of "revolutionizing" other peoples were successfully taken. — The first damper upon this process in America was the calm and entirely business-like tone of the president's answer to Genet at the latter's official reception, May 18. The next was a refusal of his request, May 23, that the United States should pay $2,300,000 of their French debt, not yet due, though Genet offered, as an inducement, to expend the amount in the United States. These rebuffs were followed by a notification from Jefferson to Genet, June 5, that "the arming and equipping vessels in the ports of the United States, to cruise against nations with whom they are at peace, was incompatible with the territorial sovereignty of the United States," and must be stopped; and this notification was emphasized by the arrest of two of Genet's American recruits,

Henfield and Singletary, and their indictment for breach of neutrality, for a crime, Genet wrote, with almost frantic indignation, "which my mind can not conceive, and which my pen almost refuses to state, the serving of France and the defending with her children the common and glorious cause of liberty." This last step, indeed, was the most serious of all to Genet's plans, and, if submitted to, cut the ground from under his feet; and in protesting against it, he first began to show that insolent ill temper, which for the next four months was the most prominent feature of his intercourse with the state department. He was now convinced that the neutrality proclamation of April 22 was no legal fiction, designed to delude Great Britain, but was to be literally fulfilled by the executive. — Had Genet been fortunate enough to find congress in session, he would certainly have now precipitated matters by endeavoring to open direct communication with that branch of the government, and would probably have been supported by some of the more reckless Gallicans among the representatives. It can hardly be supposed that the attempt would have succeeded. Congress can not officially know of the existence of a foreign minister except through the president (see EXECUTIVE, III.); and the exercise even of consular functions is dependent on revocable permissions, known as *exequaturs*, from the president. Congress, however, was not regularly to meet for six months. June 14, in a letter relating to the payment of the debt due to France, Genet very directly intimated that the federal government had "taken it on itself" to decide the question "without consulting congress upon so important a matter." He then repeated without success official and unofficial demands for an extra session of congress until, Sept. 18, in a final burst of passion, he declared that he was "persuaded that the sovereignty of the United States resides essentially in the people, and its representation in the congress; that the executive power is the only one which has been confided to the president; that this magistrate has not the right to decide questions, the discussion of which the constitution reserves particularly to the congress; and that he has not the power to bend existing treaties to circumstances and to change their sense." In this connection it is worthy of note that Genet's instructions of the previous January had designated him as "minister plenipotentiary to the congress of the United States," a phrase which, if construed by the knowledge of the American constitution elsewhere shown in the instructions, could only argue a possible view to this very phase of affairs. — In this general manner, by passing over the executive and interfering with domestic concerns, the revolutionary envoys had usually succeeded in making the friendship of France almost as dangerous as her enmity to any government with which they came in contact, and in this case it must be acknowledged that the trial was a severe one for a form of government as yet hardly four years old. It was increased by the facts that the only definite, active sympathy of the country was with France, that the mass of the people was indifferent to, or strongly inclined to approve, any course of action which would make against Great Britain; and that the only opposing influence was negative, rather an incipient dislike to the violence of the French revolution than any active sympathy with Great Britain. In the cabinet Jefferson represented the first class, Randolph and Knox the second, and Hamilton the third. Hamilton undertook the defense of the administration in a series of seven letters, signed "Pacificus," in which, with great ability, he defended the proclamation on the very evident ground that, while a declaration of war lay in the power of congress, it was the president's duty to see that the peace was kept until war was declared Madison, at Jefferson's request, replied in five letters, signed "Helvidius."— From Genet's first arrival he had encouraged the formation of the French faction into associations to further "the principles of the revolution" (see DEMOCRATIC CLUBS), and these, and their newspaper organs, Bache's *Advertiser* and Freneau's *Gazette*, attacked the president freely. One of them, in a pasquinade called "the funeral of Washington," went so far as to represent him upon the guillotine. The president seems to have kept his equanimity until, at a cabinet meeting, Aug. 2, when Genet's race had been almost run, he got, says Jefferson, "into one of those passions when he can not command himself," and declared "that he had never repented but once the having slipped the moment of resigning his office, and that was every moment since; that by God he had rather be in his grave than in his present situation; that he had rather be on his farm than to be made emperor of the world; and yet that they were charging him with wanting to be a king."—About July 1, Genet seems to have become satisfied that the government of the United States was not composed of easily inflammable material, and that congress was not to be called together at his bidding, and to have decided upon the next step in such cases, an appeal to the people He had hitherto disregarded the prohibition of the equipment of privateers; and had equipped and sent to sea eight privateers, which, with two French frigates, had captured about fifty British merchantmen, some of them, like the Grange, within the jurisdiction of the United States. When he proceeded to equip another privateer, the Little Democrat (formerly the Little Sarah), in Philadelphia itself, then the national capital, he seems to have sought to force an issue with the government Orders were sent to detain her, July 6; Genet, after threatening an appeal to the people, evasively declared that the vessel was not ready, and was not yet going to sea; and, July 8, when the guards had been removed, the vessel sailed. The acquittal of Henfield by a jury, in spite of evidence, led Genet further in the course he had marked out. Passing to New York city, he had

begun to expedite the cause there, when he found himself impeded, rather than helped, by a rumor of his threat to appeal from the government to the people. Some of his partisans denied the story, whereupon Chief Justice John Jay and Senator Rufus King, of New York, issued a card in the newspapers, Aug. 12, vouching for the truth of it. This practically closed Genet's career. Hitherto he had been a danger; henceforth he was only a nuisance. The drift of the public meetings began to run continually more strongly against him personally, not against France or in favor of Great Britain. He took the liberty of demanding a contradiction of the story from the president himself, who refused to hold communication with him except through the state department; he then demanded a prosecution of Jay and King for libel; and when this was refused, he published the whole correspondence and began a prosecution on his own account in November, but soon abandoned it. The "appeal to the people," which Genet had threatened and Hamilton had urged upon the president in July, had thus been finally made, to Genet's complete discomfiture and astonishment. The whole episode is interesting as almost the only case in which a French revolutionary envoy, having a fair opportunity and freedom of speech in a neutral or friendly country, failed to overthrow or convert the constituted authorities to the "principles of the revolution."—A request for Genet's recall had already been determined upon at three cabinet meetings, Aug. 1–3, and it was made in a long and able letter of Aug. 16, to Morris, the American minister in Paris, written by Jefferson. It rehearsed Genet's persistent misconstructions of the treaties, his disregard of American neutrality, and his various insolences of language to the president in his state papers, declared the continued friendship of the United States for France, and asked the recall of Genet. A copy of the letter was sent to Genet. Hammond had previously been informed, Aug. 5, that the United States would make compensation for British vessels captured by French privateers equipped in American ports after June 5, the date on which Genet had been informed that such equipments must cease; but that, after Aug. 5, the British government must be satisfied with the active exertions of the federal government to maintain neutrality. Aug. 7, Genet had been informed that his illegal captures must be restored; otherwise the federal government would make restitution for them and look to France for indemnity. The French government, Oct. 10, disavowed all responsibility for the "punishable conduct" and "criminal manœuvres" of their agent in the United States, and promised his prompt recall; but at the same time they requested, in return, the recall of the American minister at Paris, Gouverneur Morris, whose active antipathy to the dominant party of France had operated to lessen his usefulness in that country. Genet's recall was not known until the following January. Before the middle of September, 1793, he had been compelled to perceive that he would only be recognized through his official intercourse with the executive; that the executive was determined to maintain neutrality, not active alliance with France; and that he had nothing to hope from an appeal to the people, further than barren editorials in a few newspapers. His mission, therefore, as far as its essential object was concerned, was already a failure; but he still had some power, personally or by his subordinates, to annoy the administration, and this power he exercised throughout the remainder of the year. Some of the French consuls persisted in attempting to exercise admiralty jurisdiction in prize cases; and the administration, Sept. 7, threatened to revoke the *exequatur* of any consul who should so offend. The penalty was enforced in the case of the French vice-consul at Boston, A. C. Duplaine, who had rescued a libeled French prize from the United States marshal, Aug. 21, with the help of a body of marines from a French frigate in the harbor. Genet's agents had two expeditions under way, one from Georgia against Florida and the other from Kentucky against New Orleans, France being now at war with Spain also. For the support of his soldiers and sailors, whose number he stated, Nov. 14, to be about 2,000, he again urged the United States to pay in advance a portion of the debt to France. This was refused, for the assigned reasons that payments had already been made in advance to cover the year 1794, and that there was no fund from which to legally draw the money for any more payments; a still more cogent reason was the natural unwillingness of a neutral administration to furnish Genet with funds whose expenditure could only involve fresh breaches of neutrality. — Before the month of November the administration felt strong enough to take a higher tone toward Genet; but a fair opportunity did not come until Nov. 14. In a letter of that date, in reply to one from Jefferson objecting to certain French consular commissions which had not been addressed directly to the president, Genet assumed to state the constitutional functions of the president, relative to the reception of foreign ministers, as "only those which are fulfilled in courts by the first ministers for their pretended sovereigns, to verify purely and simply the powers of foreign agents accredited to their masters and irrevocable by them when once they have been admitted." In his answer, Nov. 22, Jefferson emphatically stated that the president was the only channel of communication between this country and foreign nations; that foreign agents could only learn from him what was or had been the will of the nation; and that no foreign agent could be allowed to question what he communicated as the will of the nation, to interpose between him and any other branch of the government, under pretext that either had transgressed its functions, or to make himself the arbiter between them. 'I

am therefore, sir, not authorized to enter into any discussions with you on the meaning of our constitution, or to prove to you that it has ascribed to him alone the admission or interdiction of foreign agents. I inform you of the fact by authority from the president. In your letter you personally question the authority of the president, making a point of this formality on your part; it becomes necessary to make a point of it on ours also; and I am therefore charged to return you these commissions and to inform you that the president will issue no *exequatur* to any consul or vice-consul whose commission is not directed to him in the usual form." To restrict Genet to legitimate diplomatic functions was to deprive him of most of his capacity for mischief; accordingly his career in the United States may be considered finally ended. A message from the president, Jan. 20, 1794, announced that the request for the recall of Genet had been agreed to by the French government; but the utter destruction which had already overtaken his party, the Girondins, at the hands of the Jacobins, was a plain warning to Genet not to return to France. He therefore remained in New York, where he married a daughter of Governor Clinton. He attracted no further public attention until his death in 1835. — The most ambiguous position in regard to the whole affair of Genet and his mission is that of Jefferson. *Prima facie*, the whole case is strongly in his favor: his state papers are all exceedingly creditable, being frank, explicit, and yet very temperate, even including the last crushing letter of Nov. 22. His private correspondence, however, and, still more, two dispatches of Genet to the French government, July 25 and Oct. 7, 1793, have thrown some doubts on Jefferson's earnestness: Genet says, in terms, that Jefferson had at first fraternized with him, had cautioned him against the influence which Hamilton and Gouverneur Morris were exerting on the president's mind in favor of Great Britain, and had aided him in organizing his expedition against New Orleans. In an official letter of Sept. 18 to Jefferson, Genet did not hesitate to charge him with having made himself the "generous instrument" of the request for Genet's recall, "after having made me believe that you were my friend, after having initiated me into mysteries which have inflamed my hatred against all those who aspire to an absolute power," and significantly remarked, that "it is not in my character to speak, as many people do, in one way and act in another, to have an official language and a language confidential." The last covert charge is utterly unwarranted: so far as all the evidence goes, Jefferson's language, both official and confidential, was at first cordially in Genet's favor, and as cordially against him when his plan of action had become evident. In the authorities cited below, the reader will find the case fairly given in von Holst, unfavorably to Jefferson in Hildreth, and favorably to him in Randall. — The case of Genet got little notice from congress, whose attention, in the winter of 1793–4, was entirely taken up by the first proposition to attack the commercial intercourse of Great Britain and the United States. (See EMBARGO, JAY'S TREATY.) Both the Genet episode, and that of Jay's treaty which immediately followed it, are instructive instances of the almost invariable influence which successive presidents have exerted in favor of peace abroad. Washington's example was closely followed by Adams in 1798, by Jefferson during his terms of office, and by Madison until he yielded to the force of the war feeling in 1812. (See DEMOCRATIC-REPUBLICAN PARTY, III.; MONROE DOCTRINE; EXECUTIVE, III.) — See 4 Hildreth's *United States*, 413; 1 von Holst's *United States*, 113; 2 Pitkin's *United States*, 357; 1 Schouler's *United States*, 246; 1 Tucker's *United States*, 504; 2 Spencer's *United States*, 318; 2 Marshall's *Washington* (ed. 1831), 260, and note ix.; 31 *Atlantic Monthly*, 385; Sparks' *Life of Washington*, 452, and 10 Washington's *Writings*, 534; Trescott's *Diplomatic History*, 91; 2 Sparks' *Life of Gouverneur Morris*, 288; 1 Jay's *Life of Jay*, 298; J. Q. Adams' *Life of Madison*, 53; 2 Rives' *Life of Madison*, 322, 1 Wait's *American State Papers*, (2d edit.), 157, 198, 4 Hamilton's *Works*, 360; 4 Jefferson's *Works* (ed. 1829), 490; De Witt's *Jefferson*, 221; 2 Randall's *Jefferson*, 157; 1 Tucker's *Jefferson*, 432. The proclamation of April 22, 1793, is in 1 *Statesman's Manual*, 46.

ALEXANDER JOHNSTON.

GENEVA ARBITRATION. The commissioners who negotiated the treaty of Washington, recorded in a protocol so much of the history of the negotiations which preceded it as they desired to preserve. They say that in the conference of March 8, 1872, the Americans made the following statement of the demand then and since known as the "Alabama claims". "That the history of the Alabama and other cruisers which had been fitted out, or armed, or equipped, or which had received augmentation of force in Great Britain or in her colonies, and of the operations of those vessels, showed extensive and direct losses in the capture and destruction of a large number of vessels with their cargoes, and in the heavy national expenditures in the pursuit of the cruisers, and indirect injury in the transfer of a large part of the American commercial marine to the British flag, in the enhanced payments of insurance, in the prolongation of the war, and in the addition of a large sum to the cost of the war and the suppression of the rebellion," and added "that in the hope of an amicable settlement no estimate was made of the indirect losses, without prejudice, however, to the right to indemnification on their account in the event of no such settlement being made." The British commissioners replied, "that the British government could not admit that Great Britain had failed to discharge toward the United States the duties imposed on her by the rules of

international law, or that she was justly liable to make good to the United States the losses occasioned by the acts of the cruisers to which the American commissioners had referred." Then "the American commissioners expressed their regret at this decision of the British commissioners." The parties then negotiated for the submission of the claims to arbitration, and concluded the treaty of Washington in part for that purpose. The first article of the treaty, after reciting that claims against Great Britain "exist, growing out of the acts committed by the several vessels which have given rise to the claims generically known as the Alabama claims," provides that "all the said claims growing out of the acts committed by the aforesaid vessels" shall be referred to a tribunal of arbitration. This tribunal assembled Dec. 15, 1871, in Geneva, in Switzerland. It consisted of the following arbitrators: Count Federigo Sclopis, of Salerano, named by the king of Italy; Baron Itajuba, named by the emperor of Brazil; Mr Jaques Staempfli, named by the president of Switzerland; Charles Francis Adams, Esq., appointed by the president of the United States, and lord chief justice Sir Alexander Cockburn, appointed by the queen of Great Britain. J. C. Bancroft Davis, Esq., represented the United States as their agent; Lord Tenterden represented Her Britannic Majesty in the same capacity. On motion of Mr. Adams, seconded by Sir Alexander Cockburn, Count Sclopis was made president, and Mr. Alexander Favrot, of Switzerland, was elected to be the secretary of the tribunal. In accordance with the terms of the treaty the agent of each government then presented printed volumes containing the "case" of his government, with accompanying proofs. — The American agent laid claim for damages for injuries committed by thirteen vessels, viz.: the Sumter; the Florida, and her tenders, the Clarence, the Tacony and the Archer; the Alabama and her tender; the Tuscaloosa; the Retribution; the Georgia, the Tallahassee; the Chicamauga; and the Shenandoah. The British agent denied that the arbitration covered more than the acts of the Alabama, the Georgia, the Florida, and the Shenandoah. The tribunal took jurisdiction of all the vessels submitted by the American agent, and exculpated Great Britain from liability for the acts of any except the Florida and her tenders, the Alabama and her tenders, and the Shenandoah after leaving Melbourne. The American demands for damage were laid in the exact language of the protocol cited above, in which they were classified as "direct" and "indirect." On Feb. 3, 1872, Lord Granville informed the American minister in London, that "the British government held that it was not within the province of the tribunal of arbitration at Geneva to decide upon the claims for indirect losses and injuries put forward in the case of the United States." — Pending the diplomatic discussion which followed, the two agents met at Geneva, April 15, to put in the counter cases of their respective governments, and while there discussed the mode of settling the difficulty in case it could not be settled diplomatically. Soon after the reassembling of the tribunal in June (no diplomatic adjustment being reached) the plan discussed by the agents in April was practically carried out. The tribunal, of its own accord, declared that without expressing an opinion on the political question which had arisen, they were individually and collectively of opinion that the "indirect claims" did not "constitute, upon the principles of international law applicable to such cases, good foundation for an award of compensation or computation of damages." This decision was accepted by both governments as a satisfactory disposition of the disputed matter — With the scope of the arbitration thus settled, the tribunal made the following disposition of the matters before it. The treaty laid down three rules for the guidance of the arbitrators, viz.: "That a neutral government is bound, 1, to use due diligence to prevent the fitting out, arming or equipping, within its jurisdiction, of any vessel which it has reasonable ground to believe is intended to cruise or carry on war against a power with which it is at peace; and also to use like diligence to prevent the departure from its jurisdiction of any vessel intended to cruise or carry on war as above, such vessel having been specially adapted, in whole or in part, within such jurisdiction, to warlike use; 2, not to permit or suffer either belligerent to make use of its ports or waters as the base of naval operations against the other, or for the purpose of the renewal or augmentation of military supplies or arms, or the recruitment of men, 3, to exercise due diligence in its own ports or waters, and, as to all persons within its jurisdiction, to prevent any violation of the foregoing obligations and duties." — The United States rested their demand on these propositions: that the British government, by the indiscreet haste with which the proclamation of neutrality (see ALABAMA CLAIMS) was issued, by the preconcerted action with France respecting the declarations of the congress of Paris, by refusing to amend the defective neutrality laws, by the delay in seizing a vessel which was evidently being fitted out at Liverpool and intended to carry on war with the United States, a country with which Great Britain was then at peace, and other unfriendly acts, and individual members of the government by open expressions of sympathy with the insurgents, had exhibited an unfriendly feeling which might affect their own course, and must have affected the action of their subordinates; that these facts proved an animus in the government and imbued with a character of culpable negligence many of the acts of its subordinates complained of for which a government might not otherwise be held responsible; and that Great Britain had always maintained a right to permit vessels like the Alabama to be constructed and equipped in her ports, so that in point of law she held that there was no

obligation to exercise due diligence to prevent their departure. — On these points the tribunal decided that "the due diligence referred to in the first and third of the said rules ought to be exercised by neutral governments in exact proportion to the risks to which either of the belligerents may be exposed from a failure to fulfill neutrality on their part." "The circumstances out of which the facts constituting the subject matter of the present controversy arose were of a nature to call for the exercise on the part of Her Britannic Majesty's government of all possible solicitude for the observance of the rights and duties involved in the proclamation of neutrality." — The American case also contended that the treaty required that when a vessel which had been especially adapted for war within a neutral port for the use of a belligerent in war comes again within the neutral's jurisdiction, the neutral should seize and detain it. The British papers contended that the obligations created by the treaty refer only to the duty of preventing the original departure of the vessel, and that the fact that it was, after the original departure from a neutral port, commissioned as a ship of war, protects it against detention. On this point the tribunal decided as follows: "The effects of a violation of neutrality, committed by means of the construction, equipment and armament of a vessel, are not done away with by any commission which the government of the belligerent power benefited by the violation of neutrality may afterward have granted to that vessel; and the ultimate step by which the offense is completed can not be admissible as a ground for the absolution of the offender, nor can the consummation of his fraud become the means of establishing his innocence. The privilege of exterritoriality, accorded to vessels of war, has been admitted into the law of nations, not as an absolute right, but solely as a proceeding founded on the principles of courtesy and mutual deference between different nations, and therefore can never be appealed to for the protection of acts done in violation of neutrality." — It was further contended in the American case that the insurgent cruisers had such advantages in British ports over the vessels of the United States in the storing and receiving of coal as made the ports bases of hostile operations against the United States. On this point the tribunal said: "In order to impart to any supplies of coal a character inconsistent with the second rule, prohibiting the use of neutral ports or waters as a base of naval operations for a belligerent, it is necessary that the said supplies should be connected with special circumstances of time, of persons, or of place, which may combine to give them such a character;" but Viscount d'Itajuba, while signing the award, recorded in the protocol his opinion that "every government is free to furnish to the belligerents more or less of that article." — The American case also contended that Great Britain could not escape liability by reason of alleged deficiencies in internal legislation enacted for the purpose of enabling the government to fulfill its international duties. The tribunal held that "the government of Her Britannic Majesty can not justify itself for a failure in due diligence on the insufficiency of the legal means of action which it possessed." — The American pleadings urged the importance of awarding a sum in gross, and thus closing the political question; and contended that interest should form a part of the sum so awarded, that the United States should be repaid for its outlays in pursuit of the cruisers, and that the sufferers should be compensated for the loss of prospective earnings. The tables of damages presented by the United States also presented claims for gross freights The tribunal decided that no compensation should be made for the pursuit of the cruisers; that none should be made for prospective earnings, "as they depend in their nature on future and uncertain contingencies", that net freights only should be allowed; and that "it is just and reasonable to allow interest at a reasonable rate"; and "by a majority of four voices to one awarded to the United a sum of $15,500,000 in gold as the indemnity to be paid by Great Britain to the United States as the satisfaction of all the claims referred to the consideration of the tribunal." This award was signed by Count Sclopis, Viscount d'Itajuba, Mr. Staempfli and Mr. Adams, Sept. 14, 1872. Sir Alexander Cockburn refused to sign it, and filed a long dissenting opinion. The president then declared the tribunal to be dissolved.

J. C. Bancroft Davis.

GEORGIA, one of the thirteen original United States. Its territory was originally included in the charter of 1662–3 to the lords proprietors of the Carolinas, but was set apart by a royal charter of June 9, 1732, to a company organized by James Oglethorpe to provide homes in America for indigent persons. The boundaries of the new colony were laid down in the charter as follows: "All those lands, countrys and territories situate, lying and being in that part of South Carolina, in America, which lies from the most northern part of a stream or river there, commonly called the Savannah, all along the sea coast, to the southward, unto the most southern stream of a certain other great water or river called the Alatamaha, and westerly from the heads of the said rivers respectively in direct lines to the south seas." This boundary was more precisely defined by the state constitution of 1798 as beginning at the mouth of the Savannah, running up that river and the Tugalo to the headwaters of the latter, thence straight west to the Mississippi, down that river to parallel 31° north latitude, thence east on that parallel to the Appalachicola or Chattahoochee, along that river to the Flint, thence straight to the head of the St. Mary's river, along that river to the Atlantic, and thence along the coast to the place of beginning. June 20, 1752, the charter was surrendered, and the colony became a royal province. — The first state constitu-

tion was adopted by a state convention, Feb. 5, 1777. It changed the name of parish to that of county, gave the choice of the governor to the legislature, fixed the governor's term at one year, and forbade the election of any person as governor for more than one year in three. A new constitution was formed by a state convention which met at Augusta, Nov. 4, 1788, and was ratified by another convention at the same place, May 6, 1789. Among other changes, it prolonged the governor's term to two years, and directed the senate to elect the governor from three names to be selected by the house. By an amendment adopted by a new state convention at Louisville, May 16, 1795, Louisville was made the permanent seat of government. Another constitution was adopted in state convention at Louisville, May 30, 1798. It abolished the African slave trade, but forbade the legislature to emancipate slaves without the consent of their owners, or to prevent immigrants from other states from bringing their slaves with them. Various amendments to this constitution were made up to and including the secession convention of 1861, the only one necessary to specify here being that of Nov. 17, 1824, which transferred the election of governor to the people. The changes produced by the rebellion will be given hereafter. — The territory originally claimed by Georgia, extending from the Atlantic coast to the Mississippi, was diminished in 1798 by the formation of Mississippi territory, from which the states of Mississippi and Alabama were afterward formed. (See those states.) All this territory was claimed by Georgia under her charter, the king's proclamation of 1763, and a cession by South Carolina, in April, 1787, of her claims under the original charter. The United States claimed it on the ground that it had been annexed to the British province of West Florida before the revolution, and had been ceded by Great Britain to the United States by the peace of 1783. The controversy was settled by the convention of April 24, 1802, between the United States and Georgia, by which the latter ceded her claims to the territory in dispute, in consideration of $1,250,000, and a stipulation that the United States would extinguish the Indian title to lands within the state of Georgia, for the use of Georgia, "as soon as the same can be peaceably obtained upon reasonable terms." (See CHEROKEE CASE.) — In presidential elections the electoral votes of Georgia have always been cast for democratic candidates, except in 1840 and 1848, when they were cast for Harrison and Taylor respectively, the whig candidates. In 1789 and 1792 the Georgia electors voted for Washington for the presidency and for various democrats for the vice-presidency. (See ELECTORAL VOTES.) In 1824 the Georgia electors voted for Crawford, and in 1836 for White (see those names), both of these being democrats. Until 1844 the congressional elections were by general ticket, a majority of the electors of the state choosing all the congressmen of the state. Under this system the congressmen were regularly democratic. The federal party made little opposition to the dominant party in the state, but soon after 1830 a strong whig vote appeared and endured until 1855, its best known members being John M. Berrien, Alexander H. Stephens, Thomas Butler King, and Robert Toombs. In 1838 the whigs, by a coalition with the "state rights" faction, elected all the nine congressmen, though four of them afterward declared for Van Buren; and in other years the legislature occasionally chose a whig United States senator. After the adoption of the district system in 1844, the eight districts of the state were at first evenly divided between the two parties. In 1848 the whigs permanently lost one of their districts and in 1850 another; but the seventh and eighth districts, composed of the central counties of the state eastward to the Savannah river, and represented by Stephens and Toombs, remained whig until the final overthrow of the party. The majorities in the democratic districts, though steady, were always very small. After the death of the whig party, an American party appeared in the state. (See WHIG PARTY, AMERICAN PARTY.) Until 1861 it held two of the congressional districts of the state, and maintained a strong vote in the others. To sum up, Georgia was, from 1830 until 1861, one of the most evenly divided of the southern states, and yet one of the steadiest in general vote and in proportional party strength. — The state elections until 1830 were undisputedly democratic, and all political struggles were entirely personal between different members of the same party. From 1796 until 1810 the claim of land companies to the Mississippi lands claimed by Georgia was the controlling issue in state politics, as was the case from 1825 until 1835 with the removal of the Creek and Cherokee Indians from the state. (See YAZOO FRAUDS, CHEROKEE CASE.) The "state rights party" of Gov. Troup retained its organization after its victory in the Cherokee case. It was still often known as the "Troup party" until about 1837; but in 1832 Thos. B. King and others of its leaders so committed it against Jackson that it gradually became the Georgia whig party. — After 1830 the state elections resulted almost as steadily in democratic success, but with much greater difficulty. Although but one governor, Crawford, was an avowed whig, the whig party in the state disputed every election vigorously, aided in electing at least one governor, Gilmer, in opposition to the national or regular democratic candidate, and frequently controlled the legislature, generally in years not affected by a presidential election. As a general rule the whig vote in the state may be reckoned at from 47 to 49 per cent. of the total, occasionally rising to a majority. — The formation of the so-called American party in the state reduced the opposition vote to about 40 per cent., and this proportion represents the opposition in 1860–61 both to the election of Breckinridge and to secession. The oppo-

sition to the latter measure, as elsewhere mentioned, was to the advisability, not to the principle, of secession, and ceased when the majority had pronounced the decision. Indeed, the leader of the so-called union party of the state, A. H. Stephens, was almost immediately elected vice-president of the new southern confederacy. (See ALLEGIANCE, SECESSION, CONFEDERATE STATES.) — In November, 1860, an act of the legislature provided for a special election for delegates to a state convention, which met at Milledgeville, Jan. 16, 1861. Jan. 19, by a vote of 208 to 89, an ordinance of secession was passed. It repealed the ordinance ratifying the constitution, and the acts ratifying the amendments to the constitution, dissolved the union between Georgia and the other states, and declared "that the state of Georgia is in the full possession and exercise of all those rights of sovereignty which belong and appertain to a free and independent state." The minority, however, signed the ordinance, as a pledge that they would sustain their state, with the exception of six; and these yielded so far as to place on the minutes a pledge of "their lives, fortunes and honor" to the defense of the state. Ten delegates were chosen by the convention to represent the state at the organization of the provisional government in Montgomery, and Georgia thus became one of the confederate states. The progress of the war developed a considerable opposition in Georgia to the confederate government. In the leaders it took the form of a sublimated state sovereignty, in opposition to the despotic acts of the executive; but in the mass of voters there seems to have been a strong undercurrent in favor of reconstruction in its first form, that is, re-entrance to the Union on terms. April 30, 1865, the Sherman-Johnston agreement ended the rebellion in Georgia. (See CONFEDERATE STATES, REBELLION, RECONSTRUCTION.) — June 17, 1865, James Johnson was appointed provisional governor of the state Under his directions a convention met at Milledgeville, Oct. 25, repealed the ordinance of secession, voided the war debt, and adopted a new state constitution, Nov. 7, which was ratified by popular vote. It recognized the abolition of slavery by the federal government as a war measure, but reserved the right of its citizens to appeal to "the justice and magnanimity of that government" for compensation for slaves; it made the governor ineligible for re-election; it confined the right of suffrage to free white male citizens; and it enjoined upon the legislature the duty of providing by law for "the government of free persons of color." State officers were elected Nov. 15, 1865, the legislature met in December, and the state remained under the new form of government until March, 1867. (See RECONSTRUCTION.) The state then became a part of the third military district, under Maj. Gen. John Pope. Under the direction of Maj. Gen. Meade, who succeeded him, a state convention met at Atlanta, Dec. 8, 1867, and formed a new constitution, which was ratified, April 20, 1868, by a popular vote of 89,007 to 71,309. It declared the paramount allegiance of the citizen to be due to the constitution and government of the United States, voided all state laws "in contravention or subversion thereof," declared all persons born or naturalized in the United States, and residents in the state, to be citizens of the state, forbade the legislature to abridge the privileges or immunities of citizens, abolished slavery and the limitation of suffrage to white males, prolonged the governor's term to four years, and voided all contracts for the encouragement of rebellion, made and not executed. Some changes, not affecting any of the above points, were made in congress, and the state was readmitted by act of June 25, 1868. — The election at which the constitution had been ratified had resulted in the choice of republican state officers, a republican senate, and a democratic house of representatives. In July the new state officers entered on their duties and the legislature ratified the congressional changes in the constitution, but during this and the next month the legislature proceeded to declare negroes ineligible to membership in it, and to admit to membership several persons who, it was alleged, were disqualified to hold office by the 14th amendment. During the year the state supreme court decided in favor of the eligibility of negroes to office, but the action of the legislature provoked an unfavorable feeling to Georgia in congress, and was construed as an effort to avoid the terms of reconstruction. In December, therefore, the Georgia senators were not admitted, and did not obtain their seats until January and February, 1871; the representatives had been admitted July 25 1868. The Georgia electors, in obedience to a state law passed under the confederacy and not repealed in 1880, voted Dec. 9, 1868, the second Wednesday of December, instead of the first, as required by the federal statute. On this nominal ground a vigorous effort was made in February, 1869, to reject the vote of Georgia, but it was counted "in the alternative." (See ELECTORS, VII.) — Nothing, however, could save Georgia from re-reconstruction. The act of Dec. 23, 1869, authorized the governor to reconvene the legislature, with only such members as the reconstruction acts allowed, prohibited the exclusion of qualified members, authorized the use of the army and navy to support the governor, and imposed upon the legislature the ratification of the proposed 15th amendment as a condition precedent to the admission of senators and representatives from Georgia. The seats of the representatives also were thus vacated until January and February, 1871. The organization of the legislature in January and February, 1870, was only effected with great difficulty by the governor, and his irregular course of action was condemned by the senate investigating committee; but the organization was finally accomplished, the conditions fulfilled by the legislature, and the

state admitted by act of July 15, 1870. The first election under the new régime took place Dec. 20–22, 1870, and resulted in the choice of democratic state officers, and of five democratic and two republican representatives in congress. At the next election for congressmen, 1872, the state having been re-districted, the republicans lost one congressman and gained one At the next election, 1874, the democrats elected all the nine congressmen; in two districts the republican vote entirely disappeared, and in all the others it was much reduced. Since that time the state has been democratic in all elections, state and national, and the political contest has been confined to factions of the dominant party. The peculiar state law, requiring electors to vote on the *second* Wednesday of December, excited some comment in 1881, but the undisputed republican majority in the presidential election of 1880 allowed the state's electoral votes to be admitted without objection.—A new constitution was formed by a convention which met at Atlanta, July 11, 1877, and was ratified by popular vote, Dec. 5. Its only noteworthy changes were its location of the state capital at Atlanta, and its limitation of the right of suffrage by prohibiting any one convicted of a penitentiary offense, and not pardoned, from registering, voting or holding office.—The most prominent citizens of the state in national politics have been William H. Crawford, Herschel V. Johnson, and Alexander H. Stephens. (See those names.) Reference should also be made (see also list of governors) to John M. Berrien, democratic United States senator 1825–9, attorney general under Jackson (see ADMINISTRATIONS), and whig United States senator, 1841–52; Joseph E. Brown, democratic United States senator 1879–85; Howell Cobb, democratic representative 1843–51 and 1855–7, speaker of the house 1849–51, and secretary of the treasury under Buchanan (see ADMINISTRATIONS); John Forsyth, democratic representative 1813–18, United States senator 1818–19 and 1829–34, minister to Spain 1819–23, and secretary of state under Jackson and Van Buren (see ADMINISTRATIONS); Joseph Habersham, postmaster general 1795–1801; Benj. H. Hill, democratic United States senator 1877–82; Thos. Butler King, whig representative 1839–43 and 1845–9; Wilson Lumpkin, democratic representative 1815–17 and 1827–31, and United States senator 1837–41; John Milledge, democratic representative 1792–3, 1795–9, and 1801–2, and United States senator 1806–9; and Robert Toombs, whig representative 1845–53, democratic United States senator 1853–61, and secretary of state of the confederate states. — The name of Georgia was given to the colony in 1732 in honor of King George II. The prosperity of the state and its vast possibilities of future growth have encouraged its citizens to give it the popular name of the empire state of the south. — GOVERNORS. George Walton (1789–90); Edward Telfair (1790–3); Geo. Matthews (1793–6); Jared Irwin (1796–8); James Jackson (1798–1801); Josiah Tatnall (1801–2); John Milledge (1802–6); Jared Irwin (1806–9); David B. Mitchell (1809–13); Peter Early (1813–15); David B. Mitchell (1815–17); William Rabun (1817–19); John Clark (1819–23); George M. Troup (1823–7); John Forsyth (1827–9); George R. Gilmer (1829–31); Wilson Lumpkin (1831–5); William Schley (1835–7); George R. Gilmer (1837–9); Charles J. McDonald (1839–43); George W. Crawford (1843–7); G. W. B. Towns (1847–51); Howell Cobb (1851–3); Herschel V. Johnson (1853–7); Joseph E. Brown (1857–65); James Johnson (provisional, 1865); Charles J. Jenkins (1865–7); John Pope and G. G. Meade (military governors, March, 1867 – June, 1868); Rufus B. Bullock (June, 1868 – October, 1871); Benjamin Conley (acting, October, 1871 – January, 1872); James M. Smith (chosen by special election, January, 1872 – January, 1877); Alfred H. Colquitt (1877–83).—See 1 Poore's *Federal and State Constitutions;* 3 Hildreth's *United States*, 532; 1 *Stat. at Large* (Bioren and Duane's edition), 448, 488; White's *Hist. Coll. of Georgia;* Hewitt's *Historical Account of Georgia* (to 1779); *Georgia Hist. Soc. Collections;* Stevens' *History of Georgia* (to 1798); McCall's *History of Georgia* (to 1816); W. H. Carpenter's *History of Georgia* (to 1852); Muller's *Bench and Bar of Georgia;* 2 A. H. Stephens' *War Between the States*, 297, 312; 1, 4 Force's *Tracts;* *Tribune Almanac*, 1838–81; Appleton's *Annual Cyclopædia*, 1861–80.

ALEXANDER JOHNSTON.

GERMAN EMPIRE. I. *Area and Population.* The geographical position of Germany is almost in the centre of Europe, it being situated between the Slavonic lands of the East, and the Romanic countries of the West and South, and bordering in the north on Denmark, the home of a people who are the kinsfolk of the Germans. At one time the whole country from the Rhone to the eastern banks of the Vistula was tributary to the German king, when he, as emperor of Rome, extended his supremacy even over Italy. Of Poland, which was also tributary to him, the German rulers retained Silesia and Posen, and of Denmark they held Schleswig-Holstein; but all the land in the west, Lotharingia (Lorraine) and Arles, was in the course of time incorporated into France, which succeeded in securing even provinces whose population was chiefly of the Teutonic stock — Elsass (Alsace) and German Lotharingia (Lorraine), which, however, through the war of 1871, again came under German rule. Others, such as Switzerland and the Netherlands, were, through the peace of Westphalia, completely cut off from the empire. The only province which, until the wars of the French revolution, still formed part of the imperial dominion—Belgium—was, by the congress of Vienna, ceded to the Netherlands. For her losses in the west, Germany was partly compensated by an acquisition of territory in the east, where it made some inroads upon the Slavonic population. — The

present territory of the German empire, by the terms of the treaties between the North German confederation and the South German states (December, 1870), and through the acquisition of Elsass (Alsace) and German Lotharingia (Lorraine), embraces all the territory of the German league (Deutsche Bund), excepting Austria, Luxemburg and Liechtenstein, and includes the Prussian provinces—Prussia, Posen and Silesia—and the imperial province or territory of Elsass-Lothringen (Alsace-Lorraine). It is bounded on the north by the North sea, Denmark and the Baltic; on the east by Russia, Poland and Galicia; on the south by Austria from the Vistula to the lake of Constance, and Switzerland; on the west by France, Luxemburg, Belgium and the Netherlands. The present area and the population of the different states and principalities of the empire, including Elsass-Lothringen, according to the census of Dec. 1, 1880, are shown in the following table:

	STATES OF THE EMPIRE	Area, English square miles	Population Dec 1, 1875.	Population, Dec. 1, 1880.
1.	Prussia	137,066	25,742,404	27,278,911
2.	Bavaria	29,292	5,022,390	5 284,778
3	Würtemberg	7,675	1,881,505	1,971,118
4	Saxony	6,777	2,760,586	2,972,805
5.	Baden	5,851	1,507,179	1,570,196
6	Mecklenberg-Schwerin	4,834	553,785	577,055
7	Hesse	2,866	884,218	936,340
8.	Oldenburg	2,417	319,314	337,478
9.	Braunschweig	1,526	327,493	349,367
10.	Saxe-Weimar	1,421	292,933	309,577
11.	Mecklenburg-Strelitz	997	95,673	100.269
12.	Saxe-Meiningen	933	194,494	207,075
13.	Anhalt	869	213,565	232,592
14.	Saxe-Coburg	816	182,599	194,716
15.	Saxe-Altenburg	509	145,844	155,036
16.	Waldeck	466	54,743	56,548
17.	Lippe	445	112,452	120,246
18.	Schwarzburg-Rudolstadt	340	76,676	80 296
19.	Schwarzburg-Sondershausen	318	67,480	71,107
20.	Reuss-Schleiz	297	92,375	101,330
21	Schaumburg-Lippe	212	33,133	35,374
22.	Reuss-Greiz	148	46,965	50,782
23	Hamburg	148	338,618	453 869
24.	Lübeck	127	56,912	63,571
25.	Bremen	106	142,200	155,723
26	Elsass-Lothringen	5,580	1,531,804	1,566,670
	Total	212,036	42,727,360	45,238,829

As may be seen from the above table, the free towns, Hamburg, Bremen and Lübeck, take the lead as regards the increase of population during the census period, 1875–80; next comes Saxony, while Prussia comes last. As far as the decrease of the population is concerned, it was largest in the imperial province of Elsass-Lothringen. Of the total number of the population given, there were in the empire 22,185,433 males and 23,048,628 females; 275,856 were foreigners. The population of the principal cities having over 100,000 inhabitants, was, according to the census of 1875 and 1880, respectively, as follows:

CITIES.	Population, Dec 1, 1875.	Population, Dec 1. 1880.
Prussia—		
Berlin	966,872	1,122,360
Breslau	239,050	272,390
Köln (Cologne)	135,371	144,751
Königsberg	122,636	140,896
Magdeburg	122,789	137,109
Frankfort-on-Maine	103,136	137,600
Hanover	106,677	122,860
Danzig	97,931	108,549
Bavaria—		
München (Munich)	193,024	230,123
Würtemberg—		
Stuttgart		117,303
Saxony—		
Dresden		220,818
Leipzig		149,801
City of Hamburg, with suburbs	345,801	410,127
Elsass-Lothringen—		
Strasburg		104,501

—Emigration, which had been on the decline for a short time, mainly owing to the unsettled condition during the civil war, of the United States, which received the largest average number of emigrants, has again been on the increase, especially since 1879. The number of German emigrants during the period 1870–80 was 625,425. Out of every 10,000 emigrants 9,345 went to the United States, 22 to Canada, 4 to Central America and Mexico, 13 to the West Indies, 351 to Brazil, 73 to other states of South America, 21 to Africa, 5 to Asia, and 166 to Australia. Taking the census of 1875 as a basis, 13.9 out of every 1,000, emigrated from the German empire. Emigration was at its highest in 1854, when over a quarter of a million persons left Germany; after which it gradually declined till 1862, in which year the number was as low as 27,529; it rose again slowly, with fluctuations, till 1872, when there were 155,595 persons who left for the United States alone. In 1873 the total number was 130,937; in 1874 it was 75,502; in 1875 it declined to 56,289; in 1876, to 37,803; in 1877, to 21,964. In 1878 it again rose to 24,217; in 1879, to 33,327; and in 1880, to 106,190. Of the latter there were 63,778 men and 42,412 women, and about 103,115 emigrated to the United States of America, and 2,119 persons to Brazil. In 1881 emigration materially increased again. During the period 1846–80 the total number of emigrants to the United States was over 3,000,000. — II. *Trade and Industry.* As a branch of the industries whose province it is to develop the natural resources of a country, agriculture has attained a high state of perfection in Germany. Almost two-thirds of the entire population are engaged in it. The largest crops are returned by the low lands in the province of Prussia, the districts at the foot of the Alps in Bavaria, those at the foot of the mountain range from the upper Oder to the Maas river, the fertile marshes along the North sea, the strips along the Baltic, and those along the rivers and in the valleys.—On the basis of the statistics taken in 1878, showing the state of agriculture in the empire, the following figures are obtained:

	Hectare	Per cent. of the Total Area
Arable and garden land	26,059,108	48.3
Vineyards	131,846	0 2
Meadow land	5 917,739	11 0
Pasture	4,611,803	8.5
Forest and woodland	13,872,7.8	25 7
Lands neither used for agricultural purposes nor for forestry	3,400,543	6.3
Total area	53,995,767	100.0

An approximate estimate of the cultivable and uncultivable area is given by the official returns, of the same year, from the states and districts named in the following tables:

STATES AND DISTRICTS.	Cultivable.		Uncultivable	
	Square Miles.	Per ct. of Total	Square Miles	Per ct of Total
Prussia, including the minor states of North Germany.	134,400	97.7	12,130	8 8
Thüringia	4,450	93.7	300	6.3
Saxony	5,570	96 0	230	4.0
Bavaria	27,500	93 8	1,800	6.2
Würtemberg	7,200	95.6	330	4.4
Baden	5,200	89.4	630	10 6
Elsass-Lothringen	5,200	90.9	520	9.1
Hesse	2,850	96.0	120	4 0
Total	192,370	92 3	16,050	7 7

The following table shows the principal products during the year 1880:

PRODUCTS.	Area.	Quantity.	Percentage.
	Hectare.	Tons.	
Wheat	1,815,230	2,345,278	1.29
Spelt	386,417	489,340	1 26
One-grained wheat	6,919	6,223	0.89
Rye	5,920,6?8	4,962,525	0 83
Barley	1,623,999	2,145,617	1.32
Oats	3,793,252	4,228,128	1 13
Buckwheat	244,644	133,679	0 35
Maize	8,713	10,683	1.25
Pease	467,592	376,297	0.80
Lentils	33,882	29,093	0 86
Beans	151,591	209,459	1.31
Vetches	173,448	154,145	0 89
Lupines	410,125	174,056	0 42
Maslin	358,915	399,220	1.14
Potatoes	2,767,934	19,466,242	7 05
Beet-root	507,192	11,438,852	22.21
" (Seeds)	4,122	6,888	1 67
Rape	179,054	157,444	0.93
Flax	129,310	76,432	0.59
Hemp	17,944	10,800	0.60
Tobacco	20,415	34,955	1.71
Hops	39,049	23,450	0.60
Chicory	10,396	201,428	19.37
Clover	1,900,616	6,930,996	3.65
Lucern	227,559	1,083,536	4.76
Timothy	13,626	35,?98	2 65
		Hecto. wine.	
Vine products	115,640	523,560	4 50

Comparing the crops of 1880 with the products imported and exported, our table shows the following results regarding the quantities of the principal products:

PRODUCTS.	Harvest, 1880, 1881.	Imports, 1880-1.	Exports, 1880-1.	Total.	Seed	Left for Consumption.
	Tons.	Tons.	Tons	Tons.	Tons.	Tons.
Rye	5,562,435	758,002	18,239	5,712,288	832,827	4,879,463
Wheat	2,278,606	477,965	145,364	2,707,879	313,271	2,394,608
Barley	2,057,358	362,003	106,602	2,399,018	235,547	2,163,471
Oats	4,264,25?	202,698	3,877	4,392,055	595,538	3,796,517
Potatoes	18,904,596	25,971	282,477	19,209,736	5,523,568	13,687,262

—The development of the mines is a very ancient branch of German industry, which at present employs a large number of men, and gives a powerful impetus to kindred branches of industry. Though the precious metals, such as gold and silver, are not very abundant, the production of silver is probably the largest of any country in Europe. The quality of zinc obtained is only second to that of English zinc; lead is found in abundance; copper is also found in large quantities. Iron is found in quantities greatly exceeding those of any other mineral product; especially in Westphalia and the Rhenish provinces. The quantity of hard coal obtained is increasing from year to year, while the yield of salt is also very large. The production of metals and minerals in 1880 shows an increase over that of the year previous, as appears from the following table:

	Quantity Produced, in tons of 1,000 Kg.		Value of Production, in mark.	
	1880.	1879.	1880.	1879.
Hard coal	46,973,566	42,025,687	245,665	205,703
Lignite (Braun-Kohle)	12,144,469	11,445,029	36,710	35,227
Rock salt	272 270	238,160	1,805	1,591
Cainite and other salts	665,849	661 673	6,783	6,114
Iron ore	7 238,640	5,859,440	34,453	26,692
Zinc ore	632,896	589,546	11,930	8,050
Lead ore	159,726	149,055	19,122	17,843
Copper ore	480,854	398 828	11,996	10,073
Gold and silver ore	20,578	22,314	3,812	3,908
Salt	450,187	429 051	11,867	11,328
Pig iron	2,729,038	2,226,588	163,390	112,32.2
Zinc	99,646	96.757	33,871	27,825
Lead	85,928	82,362	35,415	22,877
Copper	13 839	9,859	18 447	11,960
Silver	186,010	117,506	28,608	26,560
	88 Kg.	8 Kg.		
Gold	462,96 Kg.	466,68 Kg.	1,292	1,302
Cast iron	514,847	448,016	94,716	81,232
Forged iron and steel	1,358,470	1,215,679	200,514	169,524
Smelted iron	660,591	500,901	136,413	112,811

The growth of the iron industry is shown by the following figures:

	1878.	1879.	1880.
Manufactured iron, in tons	2,125,320	2,190,356	2,570,783
Value, in mark	362,269,641	367,171,641	437,457,614
Laborers.....No.	92 026	96,956	106,968

The number of laborers employed in the manufacture of iron was, in 1878, 135,973; in 1879, 144,534; and in 1880, 163,899. —The census taken in 1875 regarding the different trades gives the following figures:

PERSONS ENGAGED.	German Empire.	Prussia	Bavaria.	Saxony.	Wurtemberg.	Baden	Elsass-Lothringen.	The other States.
1. Horticulture	25,464	11,911	4,610	2,954	855	833	778	3,523
2. Fisheries	19,626	15,285	1,245	139	161	554	359	1,893
3 Mines	433,206	361,406	10,209	32,008	2,407	742	14,308	12,126
4. Mason work and potteries	265,555	142,747	36,427	21,720	8,575	8,198	11,945	35,343
5 Metal	419,752	246,953	48,511	28,881	22,262	19,898	12,092	41,155
6. Machinery	322,029	174,539	32,612	32,198	17,305	14,680	13,273	37,422
7. Chemical industries	51,698	26,428	8,353	3,505	1,542	2,170	1,841	7,859
8. Heating and illuminating material	42,507	25,755	3,806	2,955	2,153	1,364	1,430	5,044
9. Textile fabrics	926,717	441,918	75,599	203,780	39,470	27,686	75,481	62,774
10. Paper and leather	187,285	98,060	18,660	21,555	10,467	7,962	5,180	25,401
11. Lumber and fancy woods	464,048	242,582	61,977	35,873	26,006	20,764	15,905	60,941
12. Provision business	692,600	384,876	87,259	49,163	35,843	33,463	14,600	87,396
13. Garments	1,058,142	605,667	128,435	73,544	50,150	39,455	29,850	126,041
14. Building	467,309	244,589	67,387	30,644	26,582	21,608	12,535	63,964
15 Polygraphic arts	55,719	28,730	5,157	8,350	2,721	1,788	1,894	7,581
16 Artists	13,400	5,903	1,232	1,497	467	820	832	2,649
17. Commercial business	66,149	376,409	68,004	56,781	22,346	22,149	21,439	95,366
18. Transportation	134,330	78,762	9,705	8,779	3,119	3,243	2,626	28,096
19. Inns, boarding and lodging	234,697	113,378	38,273	18,018	15,543	11,434	9,922	28,129
Total	6,470,630	3,625,948	707,451	632,344	287,985	238,409	245,790	732,703
Percentage	100.	56 04	10.93	9.77	4.45	3 68	3 80	11.33
One to number of inhabitants	6 60	7.10	7.10	4 37	6.53	6 32	6 23	5.48
In wholesale trades	2,311,399	1,367,565	159,526	262,885	70,565	80,163	119,313	251,382
Percentage	100.	59 16	6 90	11 37	3 05	3 47	5.12	10.93

—The growth of German commerce was greatly aided by the customs union (*Zollverein*) organized in 1833, under the lead of Prussia, and which gradually took in all the states of Germany. Through it and the formation, under the constitution, in 1871, of the territory subject to the uniform operation of the customs and excise laws of the empire (*Zoll-u-Handelsgebiet*), Germany was at last enabled to secure the position it now holds among the commercial nations of the world; a position it could not have achieved without it, divided as it had been from a political and economical point of view. The present union embraces all the states of the empire, with the exception of the free towns of Hamburg and Bremen, and localities which, owing to their geographical position, can not properly be incorporated into it. The free towns are to remain outside the union until they themselves demand admittance. Under the constitution, the powers and the duties of the former Zollverein parliament were vested in the imperial diet, while those of the council were transferred to the Bundesrath, which has three standing committees, namely, on finance, on taxes and customs, and on trade and commerce. All the receipts of the union are paid into a common treasury, and distributed among the several states of the empire in proportion to their respective population. The chief sources of revenue are customs duties, principally on imports, and taxes on spirits, wine, sugar manufactured from beet root, and tobacco. The population of the territory included in the customs union is estimated at 42,337,974, according to the census of 1875.—The following statement gives the estimated value of the imports and exports in 1880 (figures are given in thousands):

	Imports	Exports.
Articles of Consumption.	Mark.	Mark.
1 Grain	330,704	194,228
2. Fermented liquors	39,914	54,804
3. Colonial wares	172,324	144.000
4. Tobacco and cigars	23,905	3,746
5. Seeds and fruit	110 670	52,063
6 Animals and fodder	317,599	196,373
Total	985.146	645.214
Raw Materials.		
7. Fuel	30,539	57,139
8. Vein material, ores and stone	62,916	63,811
9 Metals	45,553	68,698
10. Hair, hides and leather	198,106	144,126
11. Spinners' material	474,214	118,297
12. Building and other lumber	99,229	49,857
Total	910,557	501,928
Manufactured Articles.		
13 Pottery and glassware	13,912	67,483
14. Metals (manufactured)	7,460	74,221
15. Metal wares	17,246	136.577
16. Machines, boats, etc.	33 015	94,152
17. Leather and peltries	9,898	71,092
18 Yarn	269,444	149 301
19. Cordage and weavers' goods	95,289	646,583
20 Rubber goods and oil cloths	5.693	15,314
21. Paper, etc	5,745	45 306
22. Woodenware and carvers' ware.	12,042	42,038
23. Ornaments, jewelry, etc	17,214	75,708
24 Manuscripts and printed matter.	7,912	18,912
Total	494,870	1,436,687
Miscellaneous Goods.		
25. Fertilizers	65,026	21,997
26. Drugs and chemicals	190,152	354,906
27. Tar, grease and oils	189,831	85,995
28. Miscellaneous items	.....	39
Total	445,009	462,317
Coins and precious metals	40,831	53,321
Grand total	2,876,413	3,099,467

—The following is a statement of the gross receipts on import and excise duties of the empire during the fiscal year 1880–81 (figures given in thousands):

DISTRICTS.	Import Duties.	Tax on Beet Sugar	Duty on Salt	Tobacco Tax.	Tax on Bonded Spirits.	Malt Tax.
	Mark	Mark	Mark	Mark.	Mark.	Mark
Eastern Prussia	5,986		49	43	2,016	781
Western Prussia	4,812	1,473	273	151	3,585	433
Brandenburg	15,715	2,532	1,063	706	9,611	2,564
Pomerania	9,295	960	1,273	328	4 868	413
Posen	1,818	1,242	2,022	27	8,189	270
Silesia	11,686	12,265	2,418	152	8,403	1,322
Saxony	6,889	46,191	4,615	140	5.744	1,610
Schleswig-Holstein	5.694	449	898		690	56
Hanover	10,071	9,924	3,604	236	2,952	643
Westphalia	4,899	227	2,579		1,901	1,083
Hessen-Nassau	6,740	191	936	66	585	1,122
Rhenish Province	27,950	3,754	2,838	126	1,780	2,103
1. Prussia	111,355	79,211	22.068	2,011	50,264	12,908
In addition:						
Volkenroda						
Birkenfeld						
Hohenzollern	1		105		10	10
Lübeck	2,166		97		83	40
Bremen	2,672		5		1	7
Hamburg	5,995					
2. Bavaria	11,417	385	4,730	1,590		
3. Saxony	17,062		1,433	1	3,583	2,815
4. Würtemberg	3,270	1,384	1.422	40		
5. Baden	8,017	395	1,396	2,339		
6. Hesse	3,614		859	290	442	717
7. Mecklenburg	1,098	510	361	57	519	225
8. Thuringian States	1,349	1,397	2,192	55	248	1,309
9. Oldenburg	863		122		200	76
10. Brauneschweig	1,157	9,045	479	19	545	236
11. Anhalt	192	8,620	8	54	1,245	154
12. Elsass-Lothringen	10.596		1,164	791	348	
13. Luxemburg	1,406	193	662			
Total 1880-81	182 230	101 140	37,239	7,247	57,388	18,611
Total 1879-80	141,883	76,935	36,587	1,167	53,535	17,832

—The merchant marine of Germany numbered, on Jan. 1, 1880, 4,777 vessels, of an aggregate tonnage of 1,171,286. Of these there were 374 steamers, of 196,343 tons. The following is a tabulated statement of the shipping as distributed among the different states:

STATES	Sailing Vessels and Steamers.			Steamers.		
	Number	Tonnage.	No. Crew.	Number	Tonnage.	Power.
Prussia	3,193	480,390	19,537	158	86.793	1,710
Hamburg	481	239,862	7,568	111	88,960	3,267
Bremen	320	261,357	6,666	67	59,460	2,672
Mecklenburg	391	113,362	3,956	11	4,489	146
Oldenburg	349	66,649	2,106			
Lübeck	43	9,666	456	27	6,641	336
or						
North Sea	2,788	723,730	23,530	195	150,915	6,088
Baltic	1,989	447,556	16,759	179	45,428	2,043
Total 1880	4,777	1,171,286	40,289	374	196,343	8,131
Total 1879	4,804	1,129,129	39,978	351	179,662	52,313
Total 1878	4,805	1,117,935	40,832	336	183,879	50,603
Total 1877	4,809	1,103,650	41,844	318	180,946	49,875
Total 1876	4,745	1,084,832	42,362	319	183,569	50,756

— The number of sailing vessels and steamers coming to and going from the different ports of the empire in 1880, with tonnage, is shown by the following table:

	Total.		With Cargo.		Steamers	
Entered—	Number.	Tonnage.	Number.	Tonnage.	Number.	Tonnage.
German	36,435	3,295,019	29,603	2,957,474	6,790	1,710,249
Foreign	15,402	4,066,704	13,478	3,685,240	6,306	2,960,473
Total	51,837	7,361,723	43,081	6,642,714	13,096	4,670,722
Cleared—						
German	36,287	3,338,113	26,125	2,472,004	6,822	1,717,200
Foreign	15,504	4,063,112	9,573	2,486,702	6,292	2,964,466
Total	51,791	7,401,225	35,768	4,958,706	13,114	4,681,666

—The railways of the empire as far as completed on July 1, 1881, and open for traffic, had a total length of 33,872 kilometres, or 21,000 English miles. The policy of the imperial government is to acquire, as soon as practicable, the right of property in all these lines, and place them under its exclusive control and management. — As regards the telegraph service, we find that the total number of dispatches in the year 1880 was 14,412,598, of which 9,448,128 were inland, and 4,964,470 foreign. The telegraph lines had, at the end of 1880, a length of 59,961 kilometres. — The imperial postoffice carried 575,309,050 letters, 140,981,960 postal cards, 8,463,070 patterns, 104,100,720 stamped wrappers, and 348,973,287 newspapers, in the year 1880. The total receipts of the postoffice (including telegraphic service) in 1880–81, amounted to 136,647,195 mark, and the total expenditure to 120,237,476 mark. The postoffices were 7,540 in number, with 5,659 telegraphic stations, at the end of 1880, and 63,413 persons were employed in the service. — III. *Religion and Education.* In regard to the constitution and organization of the leading churches in the empire, it must be noticed, that of these churches the Protestant, or Evangelical, are not all alike in the several states. Though Prussia has circuit and provincial synods, it still is in want of a general representative body of the entire church, in which ecclesiastical authority might be completely vested. The supreme executive and administrative authority of the church is represented by the ecclesiastical council. The synodic system may be found in a more perfect form in Bavaria, Saxony, Würtemberg, Baden, Hesse, Saxe-Weimar, Oldenburg, Brunswick and Waldeck. In all these states, and in Elsass-Lothringen and the Hanse Towns, the organization and constitution of the church is presbyterial; in most of the other states the consistorial system prevails. The higher clergy are the general superintendents, the superintendents (deacons). and in Elsass-Lothringen the ecclesiastical inspectors. The total number of ministers of the Protestant church in the empire is 16,000. The Catholic church has five archbishoprics: Köln and Gnesen-Posen in Prussia; München-Freising and Bamberg in Bavaria, Freiburg in Baden, Würtemberg, Hohenzollern, Hessen-Nassau—twenty bishoprics: Ermland, Kulm, Breslau, Hildesheim, Osnabrück, Münster, Paderborn, Fulda, Limburg and Trier, in Prussia; Augsburg, Passau, Regensburg, Eichstädt, Würzburg and Speyer, in Bavaria; Röttenburg in Würtemberg, Mainz in Hesse, Strasburg and Metz in Elsass-Lothringen, and three apostolic vicariates. In the several states of the empire there are, in all, about 20,000 priests and more than 800 monastic institutions. The Jesuits and a number of similar orders were, by the act of July 4, 1872, excluded from the territory of the empire. The Old Catholics have one bishop, who has his seat at Bonn. — According to the census of 1875, the different churches and denominations were, as regards the number of their adherents, as follows:

STATES.	Protestants.	Roman and Old Catholics	Christian Sects of various Denominations.	Israelites.	Members of other Denominations and such Persons as do not belong to any.
Prussia	16,712,700	8,625,840	59,400	339,790	4,674
Bavaria	1 392,120	3,573,142	4,899	51,335	904
Saxony	2 674,905	73,349	6,541	5,360	431
Würtemberg	1,296,650	567,578	12,881	5,167	229
Baden	517,861	956,916	3,842	26,192	68
Elsass-Lothringen	285,329	120,408	3,198	39,002	194
Hesse	602,850	251,172	3,889	25,652	855
Mecklenburg-Schwerin	548,741	2,258	----------	2,786	----------
Oldenburg	245,054	71,743	909	7,578	80
Anhalt	208,238	3,473	91	1,763	----------
Other States	2,234,375	39,675	4,968	22,650	8,942
Total	26,718,823	15,371,227	100,608	520,575	16,127
Per cent.	62.5	36 0	0.2	1 2	0 1

—Popular education in Germany is of the highest order, and in regard to the number of people enjoying an average education, Germany is among the first. Since 1854, until the establishment of the empire, the secular authorities in the Protestant states even indulged in the opinion that the revolutionary and liberal spirit residing in the masses might be kept down by handing the schools over to the absolute control of the clergy. But those who fathered this surrender of the secular character of the people's schools, could not prevent the ultramontanes from taking advantage of the discontent that was aroused among the people, and securing for themselves whatever benefits there were in the reaction of the church against the spirit of liberalism aroused among the masses, as an incident to the revolutionary movement that swept over Germany in 1848. Since the establishment of the German empire under the headship of a state whose population is largely Protestant, the dangers which lay in handing over an institution—which, as the common schools, exercises such a powerful influence on the character of the people—to the exclusive control of the clergy, became even more apparent, and a movement is slowly setting in, which is in favor of placing the educational institutions of the people on a more liberal basis and making them more independent of the authority of the church. The census taken in Prussia in 1871 also paid some attention to education. There were, in Prussia, 16,008,417 persons over ten years of age who could read and write; of 296,084 persons over ten years, the educational condition was not stated; while 2,258,490 persons, or 12 per cent., over ten years, were reported as without any education. The proportion in the several provinces is somewhat different, as the following table shows:

STATES.	Educated Persons.	Persons who can Neither Read nor Write.	
Prussia	1,568,789	709,692, or 30	per cent
Brandenburg	2,067,223	123,188, 6	"
Pomerania	924,288	123,478, 11	"
Posen	696,741	420,090, 36	"
Silesia	2,369,045	398,406, 14	"
Saxony	1,514,780	58,260, 4	"
Schleswig-Holstein	723,495	30,790, 4	"
Hanover	1,387,689	89,237, 6	"
Westphalia	1,238,895	67,772, 5	"
Hessen-Nassau	1,003,977	40,263, 4	"
Rhenish Province	2,463,689	196,741, 7	"

In the other states the same fluctuations were noticeable, though in some the period of reaction was of shorter duration than in Prussia, in consequence of which the schools in states like Saxony, Baden, Brunswick and Würtemberg outstripped the rest. The number of the common or primary schools in the empire is estimated at about 60,000, in which about six millions of pupils are instructed. To every thousand inhabitants there are 150 pupils. The total number of teachers, male and female, is calculated at 75,000. As connecting schools between those of the lower grade and the higher, are the intermediate schools. Those of the higher grade are divided into so called *real schulen* and gymnasia. The *real schulen*, which are again divided into those of the first and of the second grade, and into the so-called higher citizens' schools—*bürger-schulen*—furnish the rudiments of the technical arts and sciences. In 1874 there were 106 *real schulen*, 42 of the second grade, and 107 *bürger-schulen*, with 82,000 pupils. The course of the gymnasia embraces the sciences and arts, and prepares the pupils for public service, and for admission to the universities. In 1874 they were 333 in number (183 Evangelical, 57 Catholic, and 93 mixed), besides 170 progymnasia and Latin schools, having, in all, 108,000 pupils. For the education of primary school teachers there are 156 seminaries, of which 110 are Evangelical and 41 Catholic. Then there are quite a number of theological seminaries, both Protestant and Catholic. The universities have principally four faculties: the theological, the law, the medical, and the philosophical. The oldest university in the German empire is the university of Heidelberg (1386); the youngest, that of Strasburg (1872). There are in all, including the academy of Münster, twenty-one universities, of which ten are in Prussia, three in Bavaria, one in Saxony, one in Würtemberg, two in Baden, one in Elsass-Lothringen, one in Hesse, one in Thüringia, and one in Mecklenburg. The number of students averages 20,000; the number of professors, 1,800. In addition to all these schools there are a number of polytechnic, commercial, military and agricultural schools, colleges of music, and naval academies. Education in the primary schools is made general and compulsory throughout the empire, which is certainly the most effective means of securing an average education to the largest number of people.—IV. *Army and Navy.* As one of the results of the war of 1866, the military organization of Prussia was introduced into the armies of all the North German states; after the establishment of the German empire in 1871, it was adopted by all the states in South Germany. The leading provisions were either incorporated in the constitution and in the act of May 2, 1874, concerning the organization of the military, or they were adopted as part of the laws of the empire. Added to these are the acts passed in 1874 concerning the control of the troops not on active duty and relating to the organization of the *landsturm;* also the act of May 6, 1880, increasing the imperial army on the peace footing. The military forces of the empire are composed of the army, the navy and the *landsturm;* the army is divided into regular troops and the militia, the navy into the fleet of war and the marines. In the regular army and the fleet, all those who are liable to military service are disciplined and prepared for active duty. These bodies are always ready for service, while the militia and the marines are only called out in case of actual war, and the *landsturm* is employed only on the de-

fensive, in case the safety of the country should require it. By article 57 of the constitution the obligation to serve in the army is made general; it provides that "every German shall be liable to service, and no substitution is allowed." Under article 59 of the constitution, every German capable of bearing arms has, as a rule, to be in the standing army for seven years, from his twentieth till the commencement of his twenty-eighth year. Of the seven years three must be spent in active service, and the remaining four in reserve duty; he is obliged to join the *landwehr* or militia for another five years. The service of the *landsturm* takes in all those capable of bearing arms, from seventeen to forty-two years of age, who are not otherwise on military duty. The German army, as at present organized, numbers about 1,800,000 men. The 63d article of the constitution provides that the whole of the land forces of the empire shall form a consolidated army, which in war and peace shall be under the command of the emperor. The sovereigns of the principal states have the right to select the lower grades of officers; and by the stipulation of Nov. 23, 1871, the king of Bavaria has reserved the privilege of superintending the general administration of that portion of the consolidated army raised within his dominions. Yet the emperor must approve of all appointments made, and nothing which may affect the superior direction of the troops of any state of the empire can be done without his consent. By article 64 all German troops are bound to obey unconditionally the orders of the emperor, and must take the oath of fidelity. Article 65 invests the emperor with power to order the erection of fortresses in any part of the empire, and by article 68 he has the power, in case the public order and safety are threatened, to declare any country or district in a state of siege. — The army of the German empire, as constituted in October, 1879, consists of 150 regiments of infantry, including the guards, 20 battalions of jäger, or riflemen; 93 regiments of cavalry; 49 regiments of artillery; 20 battalions of engineers, including a railway regiment, and 18 battalions of military train. The following shows the strength and organization of the imperial army on a peace footing:

BRANCHES OF SERVICE.	Officers.	Rank and File.	Horses.	Guns.
Infantry, 150 regiments	8,894	258,652	4,298	.....
Jäger, 20 battalions	482	11,247	140	.....
Cavalry, 93 regiments	2,902	66,512	68,515	.....
Field artillery, 36 regime te	1,800	30,637	17,100	1,200
Fortress artillery, 29 batt.	640	14 985	224	.....
Engineers, 20 battalions	400	10 150	250	.....
Train, 18 battalions	300	5,049	3,600	.....
Depots of Landwehr, 274 battalions	600	4,703	3	.....
Staff division	2,961	3,329	.....	.....
Total	18,079	400,935	97,389	1,200

The strength and organization of the imperial army on the war footing is as follows:

BRANCHES OF SERVICE.	Officers.	Rank and File.	Horses.	Guns
Infantry, including guards	19,426	885,388	20,988	.....
Jäger, or riflemen	780	41,184	1 008	.....
Cavalry	3,487	108,276	112,304	.....
Field artillery	2,213	88,319	78,066	2,124
Fortresses and coast artillery	1,370	56,800	8,200	576
Engineers	837	33,669	8,251	.....
Train and administration	724	44,010	44,255	.....
Railway and telegraph division	250	8,700	1,780	.....
Staff division	2,108	7,000	6,600	.....
Total	31,195	1,273,346	281,542	2,700

In the above statement are not included the troops of the field reserve, organized in 1876, numbering about 250,000 men, and those of the *landsturm*. The calculation is that, with the addition of the *landsturm*, Germany may place in the field at any time two and a half millions of armed men without drawing upon the last reserves. For military purposes, the empire is divided into seventeen districts, each represented by one army corps. The guards, taken from Prussia and Elsass Lothringen (Alsace-Lorraine) do not belong to any special division. — The fortress system of Germany has, since the Franco-German war, been remodeled; a number of old fortified places, which were considered useless, have been abolished; many new ones have been constructed, and others enlarged. The empire is divided into nine fortress districts, which are, together with the fortified places contained in them, as follows:

	Districts.	Fortresses.
1.	Königsberg	Königsberg, Marienburg, Dirschau, Memel, Pillau.
2.	Danzig	Danzig, Thorn, Kolberg, Stralsund, Swinemünde.
3.	Posen	Posen, Glogau, Neisse, Glatz.
4.	Berlin	Küstrin, Magdeburg, Spandau, Königstein, Torgau
5.	Mainz	Mainz, Rastatt, Strasburg, Ulm, Neu-Breisach.
6.	Metz	Metz, Diedenhofen, Saarlouis, Bitsch.
7.	Köln	Köln, Koblenz, Ehrenbreitstein, Düsseldorf, Wesel.
8.	Altona	Sonderburg, Döppel, Travemouth, Friedrichsort, Emsmouth, Kiel, Elbemouth, Wesermouth, Wilhelmshaven.
9.	München	Ingolstadt, Germersheim.

— So far as the navy is concerned, rapid progress has been made for the last ten years. The fleet of war at the command of the empire consisted at the close of 1881, of twenty-two ironclads, including three not completed, fifty-nine other steamers, and four sailing vessels. The following gives a detailed list of them:

ARMOR-CLAD SHIPS.	Armor (Thickness at Water Line)	Guns		Indicated Horse Power.	Displacement or Tonnage.
		No.	Weight.		
Frigates—					
Kaiser	10	8 3	22 ton 18 ton	7,800	7,560
Deutschland	10	8 3	22 ton 18 ton	7,800	7,560
König Wilhelm	8½	25	18 ton	7,800	9 602
Friedrich der Grosse	8½	4 2	26 ton 21 ton	5,327	6,550
Preussen	8½	4 2	26 ton 21 ton	5,327	6,748
Friedrich Karl	5	18	12 ton	3,450	5,819
Kronprinz	5	18	12 ton	4,735	5,303
Corvettes—					
Hansa	6	10	12 ton	2,960	3,553
Sachsen	8	8	22 ton	5,600	3,497
Bayern	8	8	22 ton	5,600	7,135
Würtemberg	8	8	22 ton	5,600	7,135
Baden	8	8	22 ton	5,000	7,135
Gunboats—					
Arminius	4½	4	7 ton	1,200	1,588
Wespe	4	1	30 ton	600	1,000
Viper	4	1	30 ton	600	1,000
Biene	4	1	30 ton	600	1,000
Skorpion	4	1	30 ton	600	1,000
Mücke	4	1	30 ton	600	1,000
Basilisk	4	1	30 ton	600	1,000
Camaeleon	4	1	30 ton	600	1,000
H	4	1	30 ton	600	1,000
I	4	1	30 ton	600	1,000

— According to a plan proposed by the imperial government in 1873, and adopted by the diet, the German navy is to be largely increased. By March 31, 1883, the date set for the completion of the reforms in the navy, Germany will in all probability have a floating armament of eight ironclad frigates, six ironclad corvettes, one monitor, thirteen gunboats also ironclad, twenty wooden corvettes, six dispatch boats, nine other large and nine small gunboats, two artillery ships, three sailing brigs and twenty torpedo boats. At the close of 1880 the German navy was manned by 5,189 seamen and officered by one admiral, one vice-admiral, three rear admirals, fifteen captains and 401 lieutenants. There were, besides, 1,297 marines; artillery, numbering 458 men; in all 7,365 officers and men. The sailors of the fleet and marines are raised by conscription from the seafaring population, which on this account is exempt from other military service. The seafaring population of Germany is estimated at 80,000, of whom 48,000 are employed in the inland merchant navy, and about 6,000 in foreign navies. There are three ports of war, at Kiel and Danzig on the Baltic, and at Wilhelmshaven in the bay of Jade on the North sea. — V. *Constitution and Government.* The political unity of Germany being an accomplished fact, it is a matter of more than curious interest to know that it required not only the slow process of history, but all the consolidating influences of great events, the combined powers of a successful war and of a diplomacy of the first order, to unite a country which was divided into so many principalities, great and small, as the land over which the Carlovingians and their successors once exercised their mighty sway. At the beginning of and during the eighteenth century, when the political division of Germany was greatest, there were no less than 1,762 rulers, who, though by no means equal in influence, dignity and power, occupied each an independent dominion, and who were only loosely kept together in some sort of political union by the imperial power, whose dignity and influence, however, were fast declining. As a consequence of the revolutionary wars of France, the frail fabric of the Holy Roman empire of the German nation fell to pieces, and finally led, Aug. 6, 1806, to the abdication of Francis II. as the head of the empire, and the relinquishment by him of its office and dignity. The fall of Napoleon I. brought about, with some slight exceptions, the same territorial and political divisions which Germany enjoyed in 1792; when finally the proceedings at the congress of Vienna resulted in a confederation, *Deutsche Bund*, which was as little capable of uniting the nation politically, as the empire which had preceded it. It was not till after the successful wars of 1866 and of 1870–71 that Germany realized the sense of political unity and the powers which none but a close political compact could give. The first of these wars, which resulted in shutting out Austria, and leaving the South German states to themselves, had the effect of uniting the other states under the leadership of Prussia, in what became known as the North German confederation, (*Nord-Deutsche Bund.*) The successful issue of the Franco-German war finally led to the establishment of the German empire, which, under the headship of Prussia, includes besides the members of the North German confederation, the South German states and Elsass-Lothringen (Alsace-Lorraine). — The organic laws of the new empire consist of the constitution, which the German governments agreed on, and which is but a slight modification of the constitution of the North German confederation, the treaties concluded with the South German states for its ratification, and by which to some of these states certain reserved rights were guaranteed, and the military stipulations made with the several states comprising the new confederation. The imperial constitution is dated April 16, 1871. A few amendments were made in 1873. It is composed of seventeen chapters and seventy-eight articles. Chapter one defines the territorial extent or dominion of the new government. The government of the empire, in its broadest sense, is composed of the emperor, (as presiding or executive officer), the imperial chancellor, and the various subordinate executive and administrative officers, the Bundesrath (which see) and the imperial diet or Reichstag, as constituting the legislative and representative powers of the nation. There is no strict division or limitation of powers, as in the constitution of the United States, exercised by the different branches of the government, as will be seen by a reference to the organization and the functions of each of these branches. The Bundesrath is the chief exec-

utive and administrative body of the empire; yet, exceeding the ordinary functions of such a body, it has the power of originating, submitting and approving legislative measures, and thus acts as a sort of upper house to the imperial diet. (Constitution, chap. iv.) For a further enumeration of its powers and its organization, see article BUNDESRATH. The imperial diet or Reichstag is composed of representatives elected by universal suffrage and ballot. The Reichstag constitutes, together with the Bundesrath, the legislative branch of the government. Bills or legislative measures originating with the latter, require the approval of the former, in order to become a law. Before the laws thus passed can take effect, they must be assented to by the emperor, and countersigned by the chancellor of the empire. The Reichstag has the power to originate, and, with the advice and consent of the Bundesrath, to enact laws. Petitions sent into the Reichstag may be referred to the Bundesrath for further action. The members of the imperial diet, who receive no compensation for their services, are elected for three years in the ratio of one representative for every 10,000 inhabitants, according to the last census. A state having less than 100,000 inhabitants is entitled to one representative. Every German, being twenty-five years of age, has the right to vote in the state in which he may reside. Every German is eligible as a representative to the Reichstag, who is twenty-five years old, and has resided in one of the states of the empire at least one year previous to the election, except he be rendered ineligible for the same reasons that disqualify him as an elector, such as his being under guardianship or because of some legal disability, that he is in bankruptcy, a public pauper, or deprived of the rights of citizenship by the judgment of a court of competent jurisdiction. According to the last census the several states are entitled to the following number of representatives: Prussia, 236; Bavaria, 48; Würtemberg, 17; Saxony, 23; Baden, 14; Mecklenburg-Schwerin, 6; Hesse, 9; Oldenburg, Saxe-Weimar, Brunswick, and the free town of Hamburg, 3 each; Saxe-Meiningen, Anhalt, Saxe-Coburg-Gotha, 2 each; Mecklenburg-Strelitz, Saxe-Altenburg, the principalities of Waldeck, Lippe, Schwarzburg-Rudolstadt, Schwarzburg-Sondershausen, Reuss-Schleiz, Schaumburg-Lippe and Reuss-Greiz, and the free towns, Lübeck and Bremen, 1 each; Elsass-Lothringen, 15; making, in all, 397 representatives. A dissolution of the imperial diet short of the term of three years for which the members are elected, can only be effected by a resolution of the Bundesrath, and with the advice and consent of the emperor; in which case a new election must take place within sixty days, and the new diet must convene within ninety days, from the dissolution of the old diet. The diet can not, without the consent of its members, be prorogued for a longer period than thirty days, and not oftener than once during any one session. Government officials, who may be elected to the Reichstag, require no leave of absence in order to attend its sessions; yet if a member of the diet be appointed to a public office, or promoted, he must submit to a new election. The members of the Reichstag are, when in session, privileged from arrest, except when seized in the commission of some public offense; any previous proceeding pending against a member may, should the diet so demand it, be stayed during the sessions. Each member may exercise the right of free speech on the floor of the legislative assembly, and can not be held responsible outside the diet for his acts or speeches relating to the proceedings of, or touching any measure pending before that body. The proceedings of the Reichstag are public; each vote requires an absolute majority, a majority of the members duly elected being present. The diet elects its presiding officers and appoints its clerks and committees. (Constitution, chap. v.) Both the imperial diet and the Bundesrath are convoked once a year for the purpose of fixing the public budget. — The third branch of the government is represented by the executive or presiding officer, the emperor. Though forming the head of a federation composed of independent states or sovereigns, the imperial office and dignity is essentially the embodiment of monarchical traditions. Though, by law, made hereditary in the crown of Prussia, the imperial dignity is, in the opinion of him who exercises it, as much a gift of divine grace as any kingly crown since the days when Charles the Great styled himself *Carolus serenissimus Augustus, a Deo coronatus qui per misericordiam Dei rex.* And the exercise of the imperial office and its prerogatives is looked upon by the rulers of the empire as of divine right, as much as the royal prerogatives they individually enjoy as rulers of their several dominions. The emperor has the power of appointing and receiving ambassadors, of representing the German empire in its relations with foreign governments and in all international affairs, of declaring war, (though without the consent of the Bundesrath only in case of a foreign invasion), and of concluding treaties of peace, of forming alliances and of entering into diplomatic and other treaties with foreign governments —Under chapter two of the constitution, the legislative powers of the government are vested in the Reichstag and the Bundesrath. They have power to pass laws defining the right and regulating the change of domicile (excepting as to Bavaria), regulating the rights of citizenship, passports, the police surveillance of resident foreigners, and the trades, as also insurance, colonization and immigration; to raise revenue and regulate commerce, the coinage of money, the issue of currency; to fix the standard of weights and measures, and regulate the banking system; to prescribe the rules for issuing and for the protection of patents and copyrights; to pass laws for the encouragement and protection of German commerce and navigation and for the establishment of a proper consular system, for

the control of the railway system, and for the improvement of streams, and the construction of highways and canals in the interest of trade and commerce, and the regulation of internal navigation; to establish and prescribe rules for the postal and telegraph service (excepting as to Bavaria); to provide for the manner of enforcing in one state judgments and decrees rendered in another state, and for the authentication of public documents; to pass civil and criminal laws of uniform application throughout the empire, and to establish courts of competent jurisdiction for the enforcement and administration of these laws; to organize and prescribe rules governing the military and naval service; to pass sanitary rules and regulations; and to control and regulate the public press and the organization of private societies. Article three of the same chapter provides that the citizens or subjects of each state shall enjoy the rights and immunities of citizens in the several states composing the empire, and shall be in all respects equal before the law throughout the federal dominion. This is a provision somewhat similar to the one contained in the constitution of the United States. Chapter six relates to the tariff and commerce. Under it, the operation of the tariff laws and such as regulate public commerce extends throughout the dominion of the empire, which, to that end, forms a close union: excluded from this union are such districts as are not, on account of their geographical position, fit to be incorporated, while the free cities of Hamburg and Bremen are also excluded, until they move to be incorporated in the union. The revenues provided for by the imperial government are raised and administered by the governments of the individual states; the emperor, through proper officers, sees to it that the provisions of the law in the raising of the revenues are properly observed and carried out by the revenue officers of the different states. Chapter seven gives the control of the railways, except those of Bavaria and Würtemberg, to the imperial government. By virtue of chapter eight the postal and telegraph service is also placed under the control and management of the imperial government. Chapter nine relates to the navy and navigation, giving the chief command of the navy and the appointment of its officers to the king of Prussia. Chapter ten provides that the consular service shall be under the control of the emperor, who, with the advice of the committee of the Bundesrath on trade and commerce, shall appoint the several consuls. Under chapter eleven the military forces of the empire form one consolidated army, whose commander-in-chief shall be the emperor, and which is to be governed by the rules and regulations established for the organization and discipline of the army of Prussia. Chapter twelve relates to the finances of the empire, and provides that all receipts and expenses shall be fixed by law before the commencement of the next fiscal year. The chancellor is required to submit annually an account of the receipts and expenditures of the empire to the Bundesrath and the Reichstag. In case the revenues raised by the several states are not sufficient to meet the expenses of the government, and as long as the empire does not raise its own revenue, the chancellor has the power to call upon the several states for special contributions in proportion to their population, in order to meet the deficiency. In case of necessity the imperial government may also make loans, and pledge the public credit. Chapter thirteen relates to legal remedies and penalties; it confers on the court of appeals of Lübeck exclusive jurisdiction in cases of treason; all other offenses against the imperial government or any of its public officers are tried by the courts having competent jurisdiction under the laws of the state where the offense may be committed. Controversies between two or more of the states composing the empire, and whose organic laws do not provide for some mode of redress, are to be referred to the Bundesrath for adjudication; in case the Bundesrath is unable to reach a decision, the controversies are to be settled by the legislative powers of the empire. In case a suitor should be without a remedy under the laws of the state in whose courts he may apply for legal redress, he may invoke the aid of the Bundesrath, whose duty it is to compel the government of the particular state to furnish the proper remedy. Chapter fourteen provides that amendments to the constitution may be proposed by either of the legislative bodies; and are declared rejected, if fourteen votes of the Bundesrath are against their adoption. Chapter fifteen contains some general provisions declaring certain laws passed by the North German diet part of the laws of the new empire.—At the head of the administrative department of the empire is the chancellor's office, with the several departments, such as form the office of the postmaster-general, those presided over by the general director of the telegraph service, and those having charge of the affairs of Elsass-Lothringen (Alsace-Lorraine). Connected with the chancellor's office are also the statistical bureau, the bureau regulating the right of domicile, and the board of railway managers. The chancellorship and the ministry of foreign affairs are at present held by one and the same person, Prince Bismarck; the ambassadors and consuls of the empire are subject to his order and control. Added to the imperial administration are committees or boards on customs and excise duties, on emigration, on education, and a board of auditors; there was, also, until the establishment, in 1877, of the imperial court of last resort, a court of commerce, located at Leipzig, having original jurisdiction touching matters of trade and commerce.—The German empire has as yet no so-called federal judiciary, except the imperial court of last resort, established at Leipzig by an imperial act passed March 24, 1877. The civil and criminal jurisdiction of the country is vested in the several state courts. Yet a series of laws passed by the imperial diet in 1877 gave

these courts a uniform organization, and uniformity in both their civil and criminal procedure. The first is the law on the organization of the judiciary passed Jan. 27, the second is the code of civil procedure passed Jan. 30, and the third is the code of criminal procedure passed Feb. 1; added to these is the bankruptcy act passed Feb. 10, 1877. All these laws took effect on and from Oct. 1, 1879. A very important step toward consolidating the government and strengthening the feeling of nationality throughout the empire was the passage of the act, Dec. 20, 1873, whereby the whole range of civil and criminal law was placed within the sphere of the legislative powers of the empire. Aside from their procedure and organization, the state courts constitute the judiciary of the several states whose governments appoint the judges, though their qualifications are fixed by the law of the empire; the government of each state also establishes and defines the judicial districts within its territory, and fixes the rules of practice governing its courts. The imperial court has both original and final jurisdiction in all cases of high treason and treasonable offenses against the government or its head, the emperor, the same jurisdiction, which, by the original draft of the constitution, had been conferred on the supreme court of appeals in Lübeck. Its appellate jurisdiction extends to all cases of appeal properly so called, whereby a new trial and decision, touching both the facts and the law of such cases as are tried by the *schoeffengerichte*—courts of inferior criminal jurisdiction, composed of judges learned in the law and two or more laymen—may be obtained, and such cases may be remanded to the supreme court of the particular state where the case originally arose. As a court of last resort it also acts as a court of error; as such it has the power to review the proceedings of the courts in banc (*landsgerichte*) and of such courts as have trial by jury (*schwurgerichte*). Either the decisions rendered in such cases are reviewed, or the cases are remanded for further proceedings. Cases arising under the laws of an individual state are remanded to a court of review, composed of five judges of the supreme court of such state. If, however, the cases arise under the laws of the empire, the imperial court does not remand such cases on appeal, but exercises exclusive and final jurisdiction as a court of error. — The German empire is now composed of twenty-five states or principalities, including the free towns of Hamburg, Lübeck and Bremen, having governments of their own, and the imperial province of Elsass-Lothringen (Alsace-Lorraine), which, as such, is placed under the direct control of the government of the empire. Under its constitution, the empire forms a perpetual union of the states for the protection of the realm and the care of the welfare of the German people. — VI. *Finances.* As will be seen by a reference to what we have said in speaking of the constitution of the empire, the ordinary expenditure of the empire is defrayed from the revenues arising from customs, certain branches of excise, and the profits of the postal and telegraph service. In case the receipts from these various sources of income should not be sufficient to cover the expenditures, the individual states may be assessed to make up the deficit, each state being required to contribute in proportion to its population. The ordinary expenditure is, as a rule, to be voted only for one year, but, in special cases, may be voted for a longer term. The fiscal year, formerly coincident with the calendar year, was made to run from April 1 to March 31, in 1877. — In the public budget for the fiscal year 1881-2, the total amount of the revenue of the empire was fixed at 592,956,554 mark; the amount of expenditure was the same. By an act dated June 27, 1881, an additional appropriation was made, amounting to 395,846 mark, 365,000 mark of which were set down for extraordinary (*einmalige*) expenditure, which are to be either taken from surplus funds, or raised by special contributions on the part of each state. The revenues consist of:

	Mark
Customs and excise duties	335,490,150
Stamps on cards	11,100,000
Stamps on negotiable instruments	6,100,900
Statistical fees	300,000
Profits of posts and telegraphs	18,697,145
Profits of railways	11,039,400
Profits of government printing office	1,061,520
Imperial bank	1,505,430
Various receipts of the administration	5,815,501
From the invalid fund of the empire	31,071,344
Surplus of former years	6,529,730
Interests of imperial funds	3,842,605
Extraordinary supply	67,108,306
State contributions	103,288,523
Total	592,956,554

The customs and excise duties exceed those of the previous year by twenty-eight million mark. Contributions from such provinces as are not included in the tariff union, amount to 6,790,540 mark, exceeding those of the previous year by 389,940 mark. The receipts of the postal and telegraph service are estimated at 137,721,760 mark (four million more than those of the previous year), and the ordinary or continual expenses at 119,024,605 mark. The receipts of the railways are fixed at 37,635,000 mark (one and a fourth million more than those of the year before), and the expenses at 26,595,600 mark. — The extraordinary contributions, besides the special contributions of the states, serve to balance the accounts of the budget. As will be seen from the table on next page, the extraordinary or special expenditures are estimated at about 81½ million mark; of these, 14½ million are raised by state contributions, while the balance is to come partly from the imperial funds, partly from loans. — The state contributions as estimated exceed by 21½ million mark those of the previous year. They are levied upon the several states as follows:

	Mark
Prussia	52,501,405
Bavaria	20,149,588
Saxony	5,624,998
Würtemberg	7,281,433

	Mark.
Baden	5,185,472
Hesse	1,806,698
Mecklenburg-Schwerin	1,129,139
Saxe-Weimar	597,474
Mecklenburg-Strelitz	195,125
Oldenburg	651,238
Braunschweig	667,804
Saxe-Meiningen	396,669
Saxe-Altenburg	297,448
Saxe-Coburg-Gotha	372,449
Anhalt	435,562
Schwarzburg-Sonkershausen	187,625
Schwarzburg-Rudolstadt	136,379
Waldeck	111,648
Reuss-Greiz	95,823
Reuss-Schleiz	188,275
Schaumburg-Lippe	67,575
Lippe	229,343
Lübeck	116,070
Bremen	290,016
Hamburg	792,583
Elsass-Lothringen	3,810,854

These are, however, to be somewhat revised by the government in the course of the year on the basis of the census of 1880. — The expenditures are distributed as follows:

ITEMS	Ordinary or Continual.	Extraordinary or Special.
	Mark	Mark
Imperial diet	403 770	.....
Chancellor and chancellor's office	125,770	.....
Foreign department	6,564,890	131,400
Department of the interior	2,843,692	894,605
Imperial army	342,190,985	51,130,733
Imperial navy	27,518,326	11,573,558
Imperial judicature	1,700,852	200,000
Imperial treasury	69,461,336	3,680,766
Board of railway affairs	303,115	3,388,064
Board of auditors	46,458	8,000
Public debt	10 602,500	110,000
General pension fund	18,399 993	.....
Invalid fund	31,071,344	.....
Postal and telegraph service	.....	9,159,122
Imperial printing office	.....	30,000
Expenses in consequence of the war against France	.....	1,693,245
Total	511,652,026	81,304,493

Barring the surplus of previous years and the state contributions, the resources of the empire have been increased about twenty-eight million mark, owing to the increase in the amount of customs and excise duties. The draft of the public budget for 1882–3 estimates the receipts and expenditures at 607,234,771 mark. Of the expenditures, those that are extraordinary or special are fixed at 72,093,979, and 534,140,792 mark is the amount of those which are ordinary or continual. The fiscal year 1880–81 resulted in a deficiency of twelve million mark, which must be made up. In order to balance the receipts and expenditures, the state contributions are calculated at 115,712,740 mark, an increase, therefore, of more than twelve million mark. The fiscal year 1881–2 is expected to yield a surplus of fifteen million mark.— At the time of the establishment of the German empire, it had, as such, no public debt. The public debt has been created in recent years. On Feb. 1, 1881, the total funded debt amounted to 251,000,000 mark; added to which is a new debt of 102,540,088 mark, contracted in virtue of certain acts passed March 28 and May 24, 1881. The whole debt bears interest at 4 per cent. Besides the funded debt, there is an unfunded debt represented by *reichs-kassenscheine*, or imperial treasury notes, to the amount of 155,785,540 mark, outstanding on April 1, 1881. As offsetting this debt, there are a number of invested funds, amounting in all to 865,487,928 mark. Among these funds are the invalid fund of 546,418,885 mark, the fund for the erection of fortresses, amounting to 64,913,470 mark, and a war fund of 120,000,000 mark. — In regard to the monetary system of the empire, on Jan. 1, 1872, a law for the uniformity of coinage throughout the empire, passed by the imperial diet, was published, under which law, the standard of value is gold. The same law provided for the substitution of the mark, of 100 pfennig, as the general coin, to commence on Jan. 10, 1875. There are gold five-mark, ten-mark and twenty-mark pieces, the first called *halbe-krone* (half-crown), the second *krone*, and the third *doppel-krone* (double crown). — VII. *History.* On July 19, 1870, France followed up its threatening and daring attitude toward Prussia by a declaration of war. Contrary to the expectations of the French monarch and his advisers, not only the South German states took up the cause of Prussia, but the people throughout the land were willing to flock to the banner of the Prussian monarch, in order to resent the insult which in their opinion he had received; and to settle the old issue, which, since the days of Andernach, divided the French and the Germans, and which, later on, had been formulated in the literature of the two nations as the contest between the spirit of the Germanic races on the one hand, and that of the Latin races on the other.— In spite of a small body of opponents in southern Germany, who were either jealous of the supremacy of the Hohenzollern, or, for some other reason, opposed to the unity of the German states, the large body of the people was unanimous in encouraging the government to insist on the observance of the terms, which called for an alliance between the South German states and the North German confederation; and in hastening the general uprising of the nation against its traditional foe. The unity of the German people, on which, for generations, the aspirations of its patriots and poets had been centered, seemed to have become at once an accomplished fact. With the masses of the German people that unity soon became the leading idea of that short but memorable war, which taxed all the material and intellectual resources of the two nations.— With the fall of the French capital the war came to a close, resulting in the acceptance by the French of all the conditions imposed upon them, of which conditions the surrender of Elsass-Lothringen (Alsace-Lorraine) was hailed by the conquering nation as the only rational means of settling the traditional disputes flowing from the territorial division of the kingdom of Ludwig (Louis) the Pious.— The enthusiasm in which the German people indulged over their glorious achievements

in the field, soon deepened into the feeling that they were again a nation, not only bound together by the ties of blood, but also, a nation worthy of a common government, in which the traditions of the empire might be perpetuated, and the liberties of the people safely lodged. The call of the people for such a government, one which might realize their aspirations toward unity, became so imperative that the South German states could no longer resist it. It had become quite evident that their safety, no less than that of the rest of Germany, depended upon the consolidation of the different German branches, into which the nation was divided, and that, in the defeat of its traditional foe on the other side of the Rhine, a most powerful enemy to all attempts at uniting the Germans politically had been defeated. The principal difficulties lay in the way of deciding upon some form of government, which, while satisfying the desire of the people for unity, was calculated to infringe as little as possible upon the relative independence of the individual states, especially those of South Germany, and upon the sovereignty which they had hitherto enjoyed in the regulation of their internal affairs. Baden was the first state which raised the question, on Sept. 2, 1870, of consolidating the German states into a more perfect and permanent political union. Bavaria followed, by proposing a conference in which this question should be discussed. On Sept. 21, Delbrück, the chancellor of the North German confederation, went, at the request of Count Bismarck, from Ferrières, where the Prussians had their headquarters, to Munich, to receive the propositions of the South German states in regard to the matter. In these conferences, however, in which the head of the judicial department of Würtemberg, Minister Mittnacht, took part, the claims of Bavaria were of such a nature that no agreement was arrived at. Bismarck then invited the South German governments, except Bavaria, to send plenipotentiaries to Versailles, with a view to a conference to be held there, the attendance on which was left optional with Bavaria. In the several conferences held at that place during the month of October, and at which the South German states were represented by two plenipotentiaries each, and the North German confederation by ministers Delbrück, Roon and Friessen, the negotiations resulted, on Nov. 15, in an agreement with Hesse and Baden, by which they accepted the constitution of the North German confederation, after some slight changes had been made in it concerning the administration and control of the postal department and the railroads, and the regulation of the revenue. In regard to the military condition of Hesse a special stipulation was made; a conference held on Nov. 25 regulated those of Baden, whose military quota became part of the German, that is, Prussian, army. The treaty was finally ratified on Dec. 16 and 19 respectively by the two chambers of Baden and on Dec. 20 and 29 by those of Hesse. On Nov. 23 the treaty was signed by Bavaria, after it had secured some special privileges. Bavaria retained its right to be represented at foreign governments by its own ambassadors; the control and regulation of its military, its postal and telegraph service, and its railroads; and the right to pass certain revenue laws and laws defining and regulating the right of domicile. Bavaria secured, in addition, a permanent seat in the committee of the Bundesrath on the army and fortifications. The Bundesrath was to have a committee on foreign affairs, consisting of representatives of the kingdoms of Bavaria, Saxony and Würtemberg, the chairmanship of which was conceded to Bavaria. In this committee any amendment of the constitution might be defeated by a veto of the fourteen members of which the committee was to be composed. Though the national party was of the opinion that the terms of this compact recognized the independence of the several states to a greater extent than was just, it met, on grounds quite opposite to this, with a powerful opposition in the Bavarian chamber of deputies, and was not ratified until Jan. 21, 1871; whereas the federal council had ratified it on Dec. 30 of the year previous. — The treaty with Würtemberg was concluded on Nov. 25, 1870. Its provisions were in the main similar to those contained in the treaty with Baden, with the exception that Würtemberg retained the right to regulate its postal and telegraph service within its own territory and as far as it extended into the territory of adjoining states. At the same time a stipulation was entered into by Prusssia and Würtemberg, according to which the military forces of Würtemberg were to be united into one corps, and form, as such, an integral part of the consolidated army. The newly elected chamber of deputies finally ratified the treaty on Dec. 23, while the upper chamber sanctioned it on Dec. 29. Official notice of the ratification of the treaties with Baden, Hesse and Würtemberg was given in Berlin on Dec. 30, 1870, and that of the treaty with Bavaria on Jan. 29, 1871, after the diet of the North German confederation, which had convened in Berlin, Nov 24, had sanctioned it on Dec. 9, 1870. In the meantime the king of Bavaria suggested that the title of German emperor should be given to the head of the new confederation, and thus the splendor and dignity of the imperial office be revived. The federal diet issued an address to the king of Prussia, expressing a similar desire, which was presented to him at Versailles by President Simson, heading a delegation of thirty members of the North German diet, on Dec. 18, 1870. Whereupon, on Jan. 18, 1871, the king of Prussia, Wilhelm I., was, on motion of the princes and representatives of the free cities of Germany, assembled at Versailles, invested with the hereditary dignity and accepted the office of German emperor. Thus, after Germany's traditional foe, who was bent upon destroying the integrity of the German nation, had been defeated, and the people of Germany were once more united, it was natural that they should

connect in thought their present great achievement with the glories of the past, and indulge in the illusion that the imperial office of Charles the Great and the empire of Otto I. had been revived. Intense as the enthusiasm of the people was over the results of the war, they hailed with equal delight the assurance of a peaceful policy, which the first proclamation of the new emperor of the Germans gave to his people. After referring to the constitution of the North German confederation, in which provision had been made for a revival of the imperial dignity, the emperor said that he considered it his duty to accept that dignity; that, in doing so, he was mindful of the duty to protect with that fidelity which was a national characteristic of the German people, the prerogatives of the German empire and the countries composing it; to maintain the peace, and to defend, with the aid of the combined powers of the nation, the independence of Germany. In conclusion, the emperor trusted that he and those to whom the imperial crown would be handed down, might forever add to the power and dignity of its dominion, not by military conquests, but by increasing the blessings of peace, thus promoting the general welfare, freedom and civilization of the nation. — The proclamation was issued from the headquarters at Versailles on Jan. 17, 1871. The acceptance of the imperial office had the effect of changing the name by which the union of the German states was henceforth to be known; the designation *Deutsches Bund* was now changed into *Deutsches Reich*. Thus the German league, or, more strictly speaking, the North German confederation, ceased, and the German empire took its place. The great gain made by the Germans, through the successful conclusion of the war, was in a great measure due to the fact that they had carried on the war without foreign aid, and had persistently rejected all foreign intervention in securing the terms of peace finally agreed upon. There had been no want of a disposition on the part of some of the European powers to interfere. Among the European powers the czar of Russia was the only one who was decidedly in favor of the Germans. Italy and Austria sympathized with France. Denmark likewise hoped for the success of the French arms. England, at first, showed some indignation at the policy of the French government which aimed at a disturbance of the peace of Europe. Subsequently, however, the French were furnished with arms and ammunition from British soil, an active aid, which was not interfered with by the English government until Bismarck remonstrated against it. — On March 17, 1871, William I., now emperor of Germany, returned to Berlin. On March 21 the first imperial diet convened. The elections had returned a majority decidedly in favor of the new order of things, and in support of a national policy; yet among the 382 members of that body, there were 60 ultramontanes, who formed a persistent opposition to this policy. The address of the emperor pointed at the great achievements which had hitherto been the object of the people's aspirations: the unity of Germany, permanent protection against foreign invasion, a uniform system of laws, and an equal administration of justice throughout the land. Simson was elected president of the diet. The address to the crown, prepared by Lasker, was approved by a large majority, despite the objections of the clerical party. A proposition, submitted on April 1 by Reichensperger, in the interest of this party, which, among other things, advocated the freedom of the press, the right of establishing private associations, and the independence of the church, was rejected on April 4 by a vote of 223 against 54. The assembly also decided that its members should receive no compensation for their attendance and services. On April 14 the constitution of the German empire was adopted, only seven voting against it. — Of more than ordinary interest were the debates touching the state of Elsass-Lothringen. The government submitted a bill which provided for a permanent incorporation of this province with the German empire; but that the constitution of the empire was not to take effect in the province before Jan. 1, 1874; until then its affairs were to be administered by the emperor, with the advice of the Bundesrath. From different quarters the desire was expressed that the province should be united with Prussia; yet on June 3 the bill, with some amendments changing the date on which it was to take effect from Jan. 1, 1874, to Jan. 1, 1873, was passed by a large majority. On June 15 the session was closed, and on the day following the German troops entered and marched through the streets of Berlin in commemoration of the recent events which resulted in the establishment of national unity and a central government as a fit representative of the common bond which again united the German people. — The next session of the imperial diet commenced Oct. 16. The principal business of this session was the passage on Nov. 6 of a bill providing for the establishment of a war fund to the amount of 40,000,000 thalers; the adoption of a military budget, for which the gross sum of 90,373.275 thalers was voted; the granting of a subsidy to the St. Gothard railway, amounting to 10,000,000 francs; then the enactment of the law regulating the coinage of the empire, which established the *mark* as the general coin. Lasker's bill, which proposed to extend the legislative and political powers of the empire both in criminal and civil matters, was not finally acted upon by the diet, partly owing to the opposition it received from certain political factions and from the majority of the Bundesrath. The bitter struggle between church and state, to which the dogma concerning the infallibility of the pope gave rise, was foreshadowed in this session of the diet, when von Lutz, the Bavarian minister, submitted the bill, which had been approved by the Bundesrath, providing that any minister or other member of the clergy,

who while officiating in that capacity, either in a church or elsewhere, should discuss the affairs of state in a manner calculated to disturb the public peace, should be punished by imprisonment for two years. The leaders of the clerical party, Windthorst, Reichensperger, Mallinckrodt and others, rose with great indignation, and protested against a bill which they deemed so hostile to the best interests of the empire and the rights of the Catholic church. In spite of this protest the bill was passed on Nov. 28. The diet finally adjourned on Dec. 1, 1871. A further step toward political unity and a centralized government was taken by the total or partial abolition, on the part of the smaller states, of their embassies or foreign legations. In 1872 the clerical contest assumed a more threatening character. It was principally in Prussia that, in consequence of the indulgence shown by the government, the Catholic clergy became aggressive. The conduct of the clergy, which received a new impulse by the heated discussions concerning the dogma of infallibility, gave sore offense to the government, and aroused its latent energy to resist the aggressive policy of the church. On Dec. 14, 1871, a bill was submitted in the Prussian chamber of deputies, which provided that the control and superintendence of all public and private schools should be handed over to the government. This bill was passed by both chambers on Feb. 13, and March 8, 1872. But it was not only in Prussia that this doctrine, which insisted upon a revival of the idea that the religious behests issued from the see of Rome should be received by the Christian world as a finality, disturbed the public peace and divided the people; in Bavaria, too, the religious contest assumed a threatening aspect. There the advocates of this dogma were arrayed not only against the liberals, but also against those of their own church, who, like Doellinger and his followers, calling themselves Old Catholics, opposed the dogma of infallibility as an innovation, which was neither warranted by the faith of the primitive Christians nor supported by the ancient traditions of the church. As the contest seemed to spread all over Germany, it soon became evident that, if its baneful influence were checked by governmental interference, it could successfully be done only by some action taken by the imperial diet. The imperial government still tried to observe a conciliatory policy toward the pontiff at Rome; in March, 1872, Bismarck submitted the proposition to the pope, according to the terms of which the latter was to accredit Cardinal Hohenlohe, a zealous Catholic, though unfriendly to the Jesuits, as ambassador of the imperial government to the see of Rome. The decided manner in which this proposition was rejected by Pius IX. indicated that no agreement between the papacy and the empire could be arrived at. In the session which commenced on April 8, the attention of the imperial diet was first called to the question whether the budget should provide for the retention of the embassy at Rome; at the suggestion of Bismarck it was retained. The struggle, however, between the different parties, to which church issues had given prominence, began when the two bills against the Jesuits came up for discussion on May 15 and 16. One was introduced by Gneist, the other by Wagner-Marquardsen, both aiming at limiting the powers and checking the spread of this order. After an excited discussion, the bill introduced by Wagner-Marquardsen, which was more stringent in its provisions, was passed by a vote of 205 against 84. The action of the Bundesrath, whereby some of the most stringent provisions were modified, so as to make the supervision by the police not mandatory but directory, led to further discussions, which resulted in the bringing in of a new bill, providing that the order of Jesuits and similar orders as well as congregations should be excluded from the German empire, and their future settlement within it prohibited; that those existing were to disband within six months; that such members as were foreigners were to be banished the realm, while the natives might be confined to certain districts. This bill passed the diet by a vote of 181 against 93 on June 19, and was unanimously approved by the Bundesrath on June 25; it went into operation on July 4. In some of the German states—Bavaria, Saxony, Würtemberg and Baden—the Jesuits were not permitted to reside. In Prussia, however, their numbers had increased considerably during the last fifty years, especially in the Rhenish province, in Westphalia and in Posen, in Elsass-Lothringen, too, they formed no insignificant body. On the taking effect of the law in question, the monasteries were closed in the course of the summer, though not without causing disturbance, which required the interference of the military. Among the nobility, those of the Rhenish province and of Westphalia showed a good deal of sympathy for the Roman pontiff. In consequence of a resolution adopted by the Bundesrath on May 13, 1873, orders, such as that of the Redemptorists, the Lazarists, etc., came within the operation of the law. The Catholic bishops were greatly agitated by this action of the Bundesrath; they held a conference at Fulda, which lasted from Sept. 18 to Sept. 20, and resulted in the issuing by the assembled prelates of a memorial wherein they discussed the state of the Catholic church in the German empire, and declared open war against the imperial government. They announced a set of principles touching the freedom of the church and the independence of the clergy, which could hardly fail seriously to affect the sovereignty and independence of the government. The contest between the clergy and the government had now assumed alarming proportions. The gain of the Old Catholic party in the number of its adherents, while it added to the opposition against the aggressive policy of the Catholic church, intensified the struggle, and did much to give the contest the character of a war of principles, rather than that

of a struggle for power. The government now earnestly commenced to assert its authority, and the conflicts between the refractory bishops—Krementz in Frauenburg, Ledochowski in Posen, and others—and the public authority, showed that each of the contending parties was determined to carry the struggle to the bitter end. The pope expressed great indignation at the coercive measures employed by the imperial government against the bishops. The language employed by the pope when delivering his address on June 25, showed that the demands of the church and the interests of the state, as a system of public and private forces governed by law, were absolutely at war with each other. In his allocution of Dec. 23, the pope showed himself even more implacable, in consequence of which the Prussian legate at Rome took leave. Thus the *Culturkampf*, the struggle for civilization, as the foemen who were arrayed against Rome were pleased to term it, was inaugurated, and formed one of the most important factors in the development of the new empire. As against this formidable contest, which engrossed not only the attention of the government, but of the people at large, the other proceedings of the imperial diet, though important in themselves, gave no cause of serious disagreement. The more important measures discussed were the appropriations for the navy, the distribution of the French war contribution, the duties on salt and brewers' materials, the prolongation of the "dictatorship" in Elsass-Lothringen to Jan. 1, 1874, the exclusive control of the Luxemburg railroads by the imperial government, the revision of the military code, and Lasker's bill providing for the establishment by the imperial government of courts of original jurisdiction, which was again approved by the diet but still awaited the action of the Bundesrath. — The position of the South German states toward the empire still gave proof that they were not equally willing to assist the government in the promotion of its national policy. Baden had made the greatest concessions. In making civil marriage obligatory it had done even more than was expected. Hesse also had early changed its policy in favor of national unity. In Würtemberg, the proposition submitted by the democratic faction to the assembly, touching the "reserved rights"—that each particular change in the treaty of Nov. 25, 1870, should require the consent of the Landtag — was, in February, 1872, owing to the strenuous opposition of Minister Mittnacht, defeated by a vote of 60 against 29. A similar proposition introduced about the same time in the chamber of deputies in Bavaria met with the same fate. Some doubt, however, as to the policy of the Bavarian government was caused, when, in 1872, Count Hegnenberg-Dux, the prime minister, whose attitude toward the empire was of a friendly nature, having died, the king commissioned one of the most uncompromising opponents of the empire and a friend of the ultramontanes, *von Gasser*, to form a new cabinet. As the latter could not find the proper men willing to enter the new cabinet in support of his views, the uneasiness which had taken hold of those in favor of a national policy and who were friends of the empire, was removed, when von Pfritzschner, the minister of finance, was appointed president of the cabinet, and as such took charge of the foreign affairs of the government. This attempt on the part of the Bavarian government to yield to a policy unfriendly to the empire was all the more astonishing, as the meeting of the three emperors, William of Germany, Alexander II. of Russia and Francis Joseph of Austria, which took place about the same time at Berlin, although it did not result in a formal alliance, indicated that the three emperors meant to pursue a uniform policy, that Russia and Austria were willing to recognize the establishment of the German empire as a fact not in conflict with their own interests, and that they approved of the national policy of the German government; all of which did much to check the renewed warlike spirit on the part of France. — The fourth session of the imperial diet commenced March 12, 1873. The address of the crown suggested various measures touching the protection of the German empire, the extension of its powers, and the requirements of trade and commerce and other interstate relations; and with a tone of assurance referred to the friendly relations of the empire with neighboring governments as a circumstance which would certainly give Germany the support of these powers, should France ever avail herself of the first opportunity to gratify her desire for revenge. The comparative strength of the different parties represented in the imperial diet was as follows: the national liberal party had 115, the German imperial party 34, the liberal imperial party 30, the conservatives 50, the *progressists* 45, the centre 66 and the Poles 13 representatives; 23 members belonged to no party. Simson was chosen president. The bill introduced by Lasker, providing for the extension of the legislative and judicial powers of the empire so as to cover all civil and criminal matters, was adopted on April 3 by a decided majority, and its approval by the Bundesrath was promised by Minister Delbrück; the diet was also advised that the Bundesrath contemplated a civil code of uniform operation throughout the empire. The bill for the establishment of a general office superintending and regulating the railroad system of the empire was likewise passed. The same disposition was made of the bill granting the members of the imperial parliament compensation. The bill by which civil marriage was to be made obligatory on persons engaging in matrimony, as well as the different measures introduced for the surveillance of the public press, were not finally acted upon The postal treaty with Italy was approved May 28; an amendment to the postal treaty with Sweden, June 6; and the commercial treaty with Persia, June 21 An amendment to the revenue law was passed June 25, whereby the duty on

iron, steel, etc., was in some instances wholly abolished, in some reduced, Jan. 1, 1877, being fixed as the date of its total abolition. The coinage bill, passed June 24, definitely fixed the mark as the unit, and provided, among other things, for the withdrawal of all paper money heretofore issued by Jan. 1, 1876, and the issue of paper money by the imperial government, in regard to which a special bill, regulating the details of the matter, was to be submitted by the government to the diet at its next session. The special stipulations agreed upon with France, on June 29, 1872, and March 15, 1873, respectively, were also approved by the diet, which in doing so acknowledged the skill and wisdom displayed by Bismarck in obtaining from France the concessions embodied in these stipulations. The last stipulation provided that France should pay the entire war indemnity by Sept. 5, 1873, and that, in consequence, the German troops should commence on July 1 to evacuate the four departments, still held by them, and the fortress Belfort; that until the payment of the last installment Verdun should remain under the control of the German troops; the last installment being paid, Verdun was to be evacuated and the German troops withdrawn from French soil within fourteen days. The bill whereby the German constitution became operative in Elsass-Lothringen, and which was passed June 18, provided that the military rule to which it had been subjected should cease on Jan. 1, 1874; and, furthermore, that these imperial provinces were to be represented in the diet by fifteen delegates. Yet this bill, as well as the discussion of the report concerning the legislation and administration in Elsass-Lothringen, was not allowed to pass without giving the ultramontanes and democrats a chance to complain of the tendency they supposed in these proceedings to curtail the civil and religious freedom of the citizens in these provinces. The further discussions of this subject came to a close in the diet at last, when it adjourned June 25. — In Elsass Lothringen, whose administration was in charge of the chancellor of the empire, the sentiment of the inhabitants, which was not at all friendly to the new rule, was constantly kept alive by the encouragement it received from the ultramontanes and the French. Against all the influences which were brought to bear upon the inhabitants of these provinces to resist the German rule, and to set up the traditions of a few centuries, which had made them subjects of the government of France, against the fact that the stock and body of the people shared with their new rulers the same national origin, the government of the German empire, with singular firmness and energy, followed up its policy of drawing the political union between these estranged provinces and the rest of Germany closer, and of coercing the inhabitants of Elsass-Lothringen into a patriotic sentiment in favor of their German kinsfolk on the other side of the Rhine. Rapp, the vicar general of Strasburg, at the head of a committee whose object was to offer decided opposition to the new rule, was, on March 17, banished from the provinces; Lauth, the mayor of Strasburg, who had officially declared himself in favor of the restoration of French rule, was deposed April 7; and the board of councilmen, who had protested against this action of the German government, was suspended for two years; the superintendent of police was invested with the powers until then exercised by the mayor and the municipal council. In regard to the management of the schools, the government provided that it should be in the hands of its own officers; that the examination and appointment of teachers, the organization of the schools and the course of study should be determined by the government; that such schools as did not conform to the regulations laid down by the government were to be closed; and that from and after Oct. 1, in those districts whose population was German, no language but the German should be taught. At the election of members to the district and circuit councils, the clericals and all those governed by French sympathies, desired that either none but such as favored the opposition to and "protested" against German rule should be chosen, or that no election should take place. Yet the elections, especially in Lower Alsace, turned out more in favor of the government than was anticipated. Gradually a third party was organizing against those parties which were opposed to Germany, and adopted the name of the Alsacian party, whose spokesman was the Alsacian *Journal*. The members of this party, though recognizing the existing condition of things, were determined to remain Alsacians; they were not willing to cut loose from the traditions which had made them for centuries independent of their kinsfolk on the other side of the Rhine; their aim was to promote the political development and the industrial interests of their own country. — On Sept. 5 the last installment of the war indemnity was paid by France; on Sept. 8 the Germans commenced to evacuate Verdun, and on Sept. 16 the German troops crossed the borders of France. — The line of policy observed by the Prussian government in its struggle with the ultramontanes, which was in the main defined by the four laws introduced by the Prussian diet and passed in May, 1873, regulating the conduct of the church, was a very important factor and exercised the greatest influence upon the political and religious condition of the German empire. There arose a general opposition in all parts of the empire to the claims of the Roman pontiff, claims which were calculated not only to offend the dignity of the temporal government, but also to seriously disturb its relations with its subjects, who might set their fidelity to the church above their allegiance to their government. The orders of the Redemptorists, of the Lazarists, of the Priests of the Holy Ghost and of the Society of the Holy Heart of Jesus, associations similar to the order of the Jesuits, were, by virtue of a

resolution passed by the Bundesrath, dissolved by the imperial chancellor on May 20. Pius IX., in order to secure more favorable terms to the Catholic clergy, appealed, in a letter dated Aug. 7, to the emperor himself. The answer of the emperor, dated Sept. 3, charged the Catholic clergy with being the cause of all the difficulties and disturbances, and of refusing to yield, as the constitution and the laws required, obedience to the public authorities. The publication of these communications had the effect of making the emperor the recipient of a large number of addresses from all parts of Germany and from abroad, warmly approving the position he had taken, and encouraging the government to persist in the course it had adopted in opposition to the rebellious tendencies of the Catholic clergy. The meeting which took place about this time between the emperor and the czar of Russia at Ems, and the one between the former and the emperor of Austria, was followed by a visit, which Victor Emanuel, king of Italy, paid to the emperor at Berlin; the king had come in company with two of his ministers, and remained two days. All these events seemed to indicate that the temporal powers were agreed, if not openly to oppose, at least to discourage the overreaching policy of the clergy. The fact that Lasker's bill, which had been passed by the imperial diet, and which extended the authority and powers of the government of the empire so as to give it complete jurisdiction in civil and criminal matters, and enable it directly to control the conduct of its citizens throughout its territory—the fact that this bill was, on Dec. 12, approved by the Bundesrath by a vote of 54 against 4, did much to strengthen the position of the general government in the difficulties and disturbances the clergy had caused, and to lend the opposition to clerical pretensions the strong aid of the government throughout the empire. The movement inaugurated by the advocates of Old Catholicism gained in strength. In the convocation held by them at Köln on June 4, Reinkens was elected bishop. Having been ordained in his new dignity by Bishop Heykamp at Rotterdam, Aug. 11, Reinkens took the required oath before Minister Falk, and was at once confirmed in his office as Catholic bishop by the Prussian government. A few months later, on Nov. 9, Prince Bismarck was re-appointed prime minister, and again set about to shape the home policy of the Prussian government. At the election of delegates to the Prussian Landtag, which took place on Nov. 4, the conservative party lost fifty-nine members, whereas the clericals and the national liberals gained in strength. In this connection we may mention the fact, as one of more than ordinary significance, that within a few months a bill was submitted in the Prussian Landtag, by which civil marriage was made obligatory on persons engaging in matrimony; that the chamber of deputies in Bavaria and in Würtemberg approved Lasker's bill, which had passed both the imperial diet and the Bundesrath; and that in the lower house of deputies in Hesse certain bills were introduced, which placed the management of the schools and the organization of the church on a more liberal basis, and which were more particularly intended to free in a great measure the former from the control of the latter. The principle also, which seems to have been tacitly agreed to and acted upon by most of the German governments, that a change or amendment of the imperial constitution did not require the express approval of the diets or representative bodies of the several states comprising the German empire, but might take effect after having been passed by the imperial diet and having received the approval of the representatives of the several governments in the Bundesrath, was now insisted upon as a uniform rule, when, contrary to the established practice, the representatives of Saxony in the Bundesrath, pending the adoption of Lasker's bill, hesitated to cast their vote before being expressly authorized by the Landtag of that principality to do so.—The elections to the next imperial diet, which took place on Jan. 10, 1874, except in Elsass-Lothringen, where they were held Feb. 1, were held under great popular excitement, to which the issues pending between the different political factions had given rise. The clericals were very hopeful of success, and the result of the elections showed that they had gained in strength, especially as against the conservatives in Bavaria and some Prussian districts; the social democrats carried their candidates in nine electoral districts. Yet, as the diet was finally made up, the clericals, who numbered 101, were opposed by 155 members of the national liberal party, while the 135 members, who were opposed to the policy and government of the empire, had to make a stand against the imposing array of 240 representatives, including the *progressists*, who supported that policy; the conservative party, which had been reduced to twenty members, stood entirely outside of the working forces of the diet, and carried no appreciable influence. In Elsass-Lothringen, the election resulted in the return of ten clericals, including the bishops of Strasburg and of Metz, and of five members from the faction whose policy consisted in protesting against the administration of Elsass-Lothringen by the imperial government. The diet was now in session. At its opening on Feb. 5 the address of the crown mentioned several measures, which the government proposed to submit to that body, such as a bill concerning the press and a bill for the regulation of trade. On Feb. 16 the fifteen deputies from Elsass-Lothringen appeared in the halls of the assembly, and at once surprised the members of the diet by the propositions they submitted. One of these propositions was, that the population of Elsass-Lothringen should, at that late day, have the right of passing upon the question, whether they were willing to give their assent to the incorporation of that province into the German empire. This measure, however, was voted down by a decided

majority, without even being made the subject of discussion. The next proposition asked for the repeal of the law which invested the head of the administration of that province with certain dictatorial powers, including the right to call upon the military in case the public peace and safety required it. This proposition was taken up and discussed March 3, but was finally rejected by a vote of 196 against 138. On Feb. 14 the postal treaty between the government of the empire and Brazil was ratified, and on the 16th of the same month the extradition treaty with Switzerland. The bill by which vaccination was made compulsory was passed on March 16, but not without giving both the social democrats and the ultramontanes an opportunity to protest against and oppose it as a measure infringing upon the personal rights and liberties of the citizen. A bill providing for the establishment of a board of health was also passed on the same day. On April 24 a law was enacted, providing for the issuing of treasury notes to the amount of 120,000,000 mark, which were to take the place of the paper money issued by the several states, all of which was to be retired by Jan. 1, 1876. Several amendments to the law regulating the different trades, especially the one which made a breach of contract punishable as a criminal offense, were, Feb. 19, on the first hearing, most vigorously opposed by the members of the social democratic party; being referred to a committee, it did not reach a second reading during this session. The act regulating the press, which had been amended in many respects by the committee to which it had been referred on the first reading, was again taken up. After meeting with the united opposition of the social democrats and the clericals, which was principally directed against the right of seizure and the responsibility of the press, it was finally passed by a decided majority on April 19, although a motion to extend its operation also to Elsass-Lothringen was lost. Another source of discomfiture for the clericals was the bill making civil marriage obligatory, which was finally adopted on March 28. Yet this did not deter them from making a vigorous fight against the passage of the act prohibiting the unlawful or unauthorized exercise of clerical offices, and which provided that a violation of its provisions should be punishable by imprisoning the offender by loss of citizenship, and by banishment from the territory of the empire. This act, which was in the first place directed against those Prussian clergymen who still refused obedience to the existing laws, was finally passed on April 25 by a vote of 214 against 108. Yet the measure which met with the most general opposition from different factions of the diet, was the army bill. It fixed, in the first place, the numerical strength of the army in times of peace at 401,659 men. In the opposition to this provision, not only the factions whose policy was directed against the government of the empire as inconsistent with the ancient dignity and independence of the several German states, especially of the South German states, but all members with democratic proclivities of the *progressist* party and the left wing of the national liberals, headed by Lasker, were united. Among those who thus made a stand against the law were also the social democrats and the ultramontanes, who seemed, queerly enough, always ready to join hands in the effort to obstruct the policy of the imperial government. When the bill was at its first reading, Feb. 16, von Moltke insisted upon its passage, and defended its provisions as essential to the safety and peace of the empire. It was finally referred to a committee; it was two months before they were ready to refer it back. In spite of the great opposition the army bill had met with in this diet, public opinion seemed to agree with the views of von Moltke, that the safety and integrity of the empire required the adoption of some measure calculated to secure a ready and efficient military service in case of need, and in the end prevailed upon the committee to report in favor of the bill in a somewhat modified form. It passed to a second reading, April 13–17, despite the fight made on it by the social democrats, the ultramontanes and a certain faction of the *progressist* party, by a vote of 224 against 148, and it at last became a law, April 20, by a vote of 214 against 123. On April 26, 1874, the diet closed its first session of that year.—The spirit of opposition and hatred against the imperial government shown by the ultramontanes in and out of the legislative assemblies was certainly the occasion, if not the direct cause, which prompted, July 18, Kullmann, of Magdeburg, in the attempt to assassinate Prince Bismarck at Kissingen. The culprit was speedily seized, tried at Würzburg by a jury, and on Oct. 30 sentenced to imprisonment for a term of fourteen years, and to loss of citizenship for ten years, besides being put under police surveillance. A prosecution of more political importance than this, was that against Count von Arnim, who had been recalled from the embassy at Paris owing to some political differences between him and Prince Bismarck. The count was tried and convicted on the charge of having taken from the archives of the embassy certain political documents of great importance, which he refused to give up; he was, Dec. 19, sentenced to imprisonment for three months, from which sentence the accused took an appeal. The action of the chancellor in bringing the refractory diplomate to what he conceived to be speedy justice, and the reading in the course of the trial of certain documents which, among other things, bore witness to the skillful diplomacy displayed by the chancellor in his relations with the French government, could not fail to add to the distinction he had already won as Germany's foremost statesman. The last session of the diet of that year, which convened Oct. 29, 1874, was principally occupied in fixing the various items of the general budget for the year 1875, which, after being fully discussed and con-

sidered, was adopted in the shape submitted, Dec. 18. The postal treaties with Chili and Peru were approved Nov. 4, that with Berne, Nov. 30, and, on Dec. 9, a resolution was adopted, which declared in favor of popular representation in all the states composing the empire. A proposition for the establishment of a legislative assembly for Elsass-Lothringen, supported by the ultramontanes and opposed by Bismarck, was submitted by the deputies of that province, but no final action was taken. The diet again met in the following year, in a short session, which extended from Jan. 7, 1875, to Jan. 30. Parts of the principal business of this session were the extradition treaty with Belgium, which was approved on January 22; the act regulating the publishing and taking effect of the general laws of the empire, which was passed January 14; and the banking act, which made the imperial bank the leading institution in the banking system of the empire, which was passed January 30. The most important feature in the proceedings of this session, and which aroused the most general interest, was the final passage of the law making civil marriage obligatory throughout the territory of the empire; it also contained a provision whereby any member of the Catholic clergy or order might contract a lawful marriage. The law was passed, after meeting with the most stubborn opposition, from the ultramontanes, on January 25.—The event which most engaged public attention during the interval which marked the close of this session of the imperial diet and the opening of the next, was the publishing of the papal encyclica on Feb. 5, 1875, in which the laws passed by the Prussian diet against the Catholic clergy were declared invalid and of no binding force on the church. The excitement produced by this further evidence of papal defiance, again ran very high, and called out the full strength of the liberal element in support of the government in its contest against the uncompromising and defiant attitude of the church. The efforts of the ultramontanes were directed not only toward defeating the policy of the government in the legislative assemblies, but also toward enlisting the co-operation of the Catholic powers of Europe in the formation of a great and powerful alliance against Germany. But Bismarck was not weary, and the bold stand he took against the enemies of his government showed that he was ready to accept the issue of war, if war his opponents meant. This had the effect of quieting, for the time, the aggressive tendencies of the ultramontanes, and of causing England and Russia to raise a voice in the interest of European peace. —When the diet met again, on Oct. 27, 1875, the address of the crown invited the consideration of the assembly to the following measures: the new money standard of the empire, which was to be in force on and from Jan. 1, 1876; an increase of the tax on brewing material; an act providing for a stamp tax on negotiable instruments and other evidences of money transactions; an act for regulating the copyright of works of art; and, finally, the adoption of a new criminal code. The low condition of trade and commerce, noticeable throughout the country about this time, was pointed out, but not without being characterized as only temporary in its nature. The address finally called attention to the fact that the public peace was no longer threatened, but firmly established throughout the country. In the debates on the public budget the principal question was concerning the means of raising the eighteen millions required to meet the expenditures of the government. The government was in favor of meeting the deficit by an increase of the tax on malt, a stamp tax on negotiable instruments, etc.; while the majority of the diet were in favor of meeting the present want by curtailing the appropriations for the army and reducing them to a more economical basis. Though Bismarck advocated the imposition of an increased indirect tax on certain articles, such as beer, coffee, tobacco, brandy, sugar and petroleum, the bills taxing brewing material and imposing a stamp duty on negotiable instruments, etc., were rejected Dec. 16, and the budget was finally agreed upon, in a shape which met the views of the majority of the diet and in opposition to those held by the government, on Dec. 16, after which the diet adjourned without taking any action on the bill providing for the adoption of a criminal code. The principal features of this bill were the provisions of more than ordinary stringency directed against the unruly element of the population, whose actions were likely to be turned to political account; the provisions imposing certain penalties for the official misconduct of members of foreign legations, for encouraging offenses against foreign governments, for abusing the privileges of the pulpit by the clergy in their war against the secular authorities, for inciting the populace to actions in violation of the public laws, for public attacks on the institution of marriage, the family or property, and for resisting public officers in the discharge of their duties. The diet meeting again on Jan. 19, 1876, this bill, with the exception of the sections making criminal any act which tended to encourage the populace to commit a violation of the public laws, or which tended to encourage the different classes of society to commit acts of depredation or violence against one another, was finally passed in a somewhat modified form, whereupon the diet was closed Feb. 10, 1876.—Though unwilling to make public acknowledgment of the fact that there was a breach between him and the ruling majority of the diet, which threatened to become wider as the differences became more apparent between the policy of the imperial chancellor and that of the majority of the august assembly, who were, in theory at least, the representatives of the people at large, Bismarck was secretly chagrined at the defeat of his legislative measures, touching the raising of new taxes and the punishment of what he considered offenses endan-

gering the peace and safety of society and of the government. Added to this, were the difficulties he had to contend with in the Bundesrath. The majority of this body were opposed to the proposition submitted to them, whereby the railroad system of Germany was to be consolidated and placed under the control of the imperial government. Bismarck's native instinct saw in this opposition an indirect but firm protest against the policy of building up a strong central government, and of placing the consolidated interests of the country under the control of one power, wherein all the functions of government were firmly united. — The last session of the diet, which was the result of the elections of Jan. 16, 1874, was opened on Oct. 30, 1876. The address of the crown recommended the passage of a bill regulating the judiciary, a code of civil and criminal procedure, an act regulating proceedings in bankruptcy, and called the attention of the assembly to the struggles in the east, the differences between Russia and Turkey, and announced it as the intention of the government to maintain friendly relations with all foreign governments (especially those which were more closely united with it by historical traditions, such as Austria and Russia), and to use its effort in securing peace and good-will among those governments whose friendly relations with one another might be endangered or disturbed. Public opinion seemed to be somewhat divided as to the relative merits of the eastern question, the people, especially in South Germany, being mostly opposed to Russia, while the heads of the imperial government could not conceal their leaning toward the pretended champion of Christendom against the professors of Islam, and were willing to aid the former power, by a conference, to exact from the government of Turkey the adoption of some measures looking to the protection of the Christians within its territory. Beyond this, the government of Germany observed a strict neutrality. The principal business before the diet was the passing of the judiciary laws. The several bills concerning this matter had been referred to a committee chosen by the diet in 1875 for the purpose of revising and reporting them back. The committee concluded its labors on July 3, 1876, and submitted its report to the diet Nov. 3. Upon the reading of the report, the Bundesrath submitted no less than eighty-six objections, the principal of which were those against the trial by jury of all offenses in the nature of abuses of the privileges of the press, and the compulsory attendance of publishers and editors, of printers and compositors, as witnesses in such cases. In spite of these objections the bills passed the first and second readings, whereupon the Bundesrath withdrew all objections except eighteen, which that body firmly insisted on, giving notice to the members of the diet, that, if the bills in question were passed despite them, the Bundesrath would refuse its approval. Fearing that these important legislative measures might be defeated by an obstinate adherence to the position taken in regard to them by either side, a compromise was agreed upon, by which trial by jury in the cases referred to was not allowed except in those states in which, as in southern Germany, that form of procedure existed as a matter of right, and by which, furthermore, the compulsory attendance of such witnesses as we have mentioned could still be resorted to; the date when these laws were to take effect was fixed for Oct. 1, 1879. The bills were finally passed after their third reading, Dec. 21, whereupon the diet was closed on the following day. This compromise had the effect of producing great dissatisfaction in the ranks of the *progressist* party with the action of the majority of the diet, which in the main was composed of the members of the national liberal party, and was not without its influence on the forthcoming elections for the return of members to the next diet. The elections took place Jan. 10, 1877. The national liberal party lost twenty members, securing but 128, the *progressists* lost three, reducing their number to thirty-four, while the conservatives made considerable gains, and the centre managed to retain its previous strength. The social democrats gained five members, two of whom were from Berlin. Thus the national liberals failed to furnish the majority for the next diet; the only united majority vote lay with the factions, whose common policy, in support of the imperial government, had given them the name by which they became known as "friends of the empire"; they might command a vote of about 253, while their opponents could count upon 139 votes. Out of 2,500,000 votes cast, the vote of the socialist candidates reached 485,000, an alarming evidence of the strength of their party. Though the relative position and influence of the different parties appeared to be materially changed, when the new diet opened, Feb. 22, 1877, nothing occurred in its first session which was calculated to create serious disturbances in its business, or to pit the different parties against each other in a contest over the balance of power in the new assembly. On March 23 the diet passed the act giving to Elsass-Lothringen a legislative assembly of its own, with power to pass laws for the regulation of the internal affairs of the province, which, however, were to take effect only after obtaining the approval of the Bundesrath, and, in case of disagreement, of the imperial diet. On April 26 the various appropriations of the public budget were agreed on, which estimated the resources and expenditures at 540,536,415 mark respectively. The further legislative measures which passed, were the act fixing Leipzig as the seat of the imperial court of last resort, and an act regulating the granting and issuing of patents, and establishing a patent office. The comparative quiet of this session was somewhat broken by the startling announcement of the intended resignation of Bismarck, who at last, however, yielding to the solicitations of the emperor, refrained from pressing it any further, and simply took leave of

absence for an indefinite period. His resignation was tendered by the imperial chancellor on the alleged ground of failing health, but was in fact prompted by the opposition he met with in his attitude toward the eastern question, as well as to his home policy, which, especially as touching all questions of public economy, had become highly distasteful to his former allies in and out of the legislative assembly of the nation.—Passing the summer without any notable event, the fall of that year found Bismarck at Varzin, engaged in devising a system of revenue, calculated to make the empire really independent in all financial matters; he was also no stranger to the thought, in order to secure a working majority in the diet in aid of his plans, of making some advances toward his former allies, the national liberals, and, if possible, to win them over to some sort of concerted action with himself. The several conferences which took place at Varzin, in the winter of 1877, between the chancellor and Bennigsen, though they resulted in an understanding by which certain leaders of the national liberal party were to have a seat in the cabinet, came to a termination without any definite understanding or agreement, as the chancellor was unwilling to give the proper constitutional guarantees that the indirect taxes, which were to be levied by the imperial government, would be applied in such a manner as to reduce the heavy burden of the direct tax. The only reform in the revenue system, which the government proposed during the session of the diet, which commenced Feb. 6, 1878, was to confer upon the imperial government the power of levying a stamp tax in certain cases, and of raising the tax on tobacco. On this occasion, Bismarck made the statement in the assembly, that it was not so much a tax on tobacco as a monopoly of tobacco, which suited his policy—a statement which was not at all calculated to close the breach between him and the national liberals, who, in point of principle, were opposed to nothing so much as such a policy. The diet finally referred the chancellor's bill to a committee, with which it remained without any further action being taken on it during that session. After passing on the public budget, which estimated the resources and the expenditures at 536,476,800 mark, and passing an act authorizing the imperial chancellor to act by substitution, the diet was about to adjourn, when the uncertain state of public feeling touching the future relation of the government to that body, the imperial diet, which came nearest representing the wishes of the people, was still further increased by the attempt, fortunately unsuccessful, made by Max Hoedel upon the life of the emperor, on May 11. The government readily seized on this event as a reason for adopting stringent measures against the socialists, who were all along treated by the government as the most unruly element in the country; a bill was, on May 21, submitted to the diet, directed against the socialists, and providing for the passage of some special acts, the enforcement of which was to be entrusted to the Bundesrath and the diet. The majority of the diet, however, was of the opinion, that as long as the government had not exhausted all the powers already at its command for the repression of all public disturbances, it would not be advisable at that late day to hurry through a legislative measure of so great importance. The bill was therefore rejected, May 24, by a large majority.—The session of the diet from February to May, 1878, though of no special importance as far as the passage of legislative measures was concerned, indicated that the time was fast approaching, which called for a redistribution of the political power in that body. The national liberals, who had hitherto enjoyed the ascendency, and who had shown a ready disposition to act in concert with the imperial chancellor in carrying out his policy, were now, for the sake of the political principles they had expressed, compelled to change their attitude toward Bismarck, when Bismarck, with measures such as the tax on tobacco, (which, though they avowedly favored a monopoly, the chancellor warmly defended before the diet,) the proposed substitution of a system of indirect for direct taxation, and the law against the socialists, surprised the liberal majority of the diet by a line of policy, which, in more respects than one, was distasteful to that majority. The national liberals were in favor of a free trade policy, and in point of principle were arrayed against all monopolies; the traditions of their party history had made them the advocates not only of political freedom in its larger sense, but also of the personal liberties of the citizen, and they were now invited to further aid the one statesman, who hitherto had been in the full possession and control of all the political powers of the new empire, in the execution of a policy so much opposed to the very principles which helped to make them a political party. They hence declined to act on the measures submitted to them, and this session of the diet, though of more than ordinary length, came to an end without witnessing the adoption of a single measure affecting the great interests of the country.—Yet, following this came the second more successful attempt on the life of the aged emperor on June 2, by Carl Nobiling, a professed socialist. The emperor received serious though not fatal injuries, from which he slowly recovered. This new attempt to right real or supposed grievances of the masses by cutting off the head of the government, threw the government and the people alike into the wildest state of excitement, amidst which Bismarck succeeded in disbanding, on June 12, the imperial diet, and ordering a new election to take place on the 30th of the same month, by means of which the chancellor hoped to secure a conservative majority, in support of the government and its measures. Though the excitement preceding the election ran high and the contest carried on was most bitter, the result of the election was by no means of a very satisfactory nature,

and of no decided advantage to any one of the parties who had entered the contest. The conservatives had gained no decided majority, while the party who called themselves the "friends of the empire" had lost in strength The centre was the only faction which maintained its former quota, while the social democrats, who were in the thickest of the battle, lost but three representatives. As far as the working force of the new diet was concerned, it was represented by those parties of about equal strength, the national liberals, the conservatives and the centre. On Sept. 9 the diet met. The bill against the socialists was the only business before the assembly. It was referred to a committee on Sept. 17, and in its amended form reported back by the committee, passed on Oct. 19, by a vote of 221 against 149, the centre, the *progressists* and the socialists voting in the negative, while the national liberals voted in the affirmative, after an effective appeal to them by Bismarck, in which he not only denounced the dangers of socialism, but also assured his former allies that he harbored no thought of favoring or employing reactionary or any other measures which were against the true interests of the country. The act gave extensive powers to the public authorities in enforcing its provisions; it was, by its terms, directed against all societies, organizations, meetings and publications with socialistic tendencies, against any and all movements attempting to "upset" the present order of society, and endangering the public peace and safety of the country. Its enforcement was entrusted to a special committee of the Bundesrath, some of whose members, however, were taken from the judiciary; and the time during which it was to be in force was fixed at two years and a half, making it expire on March 31, 1881. The law having been passed, the war upon the socialists began. The further meetings and transactions of all the different socialistic organizations, 153 in number, were prohibited throughout the country, and the further publication of forty periodicals advocating the cause of socialism was forbidden; and on Nov. 28 the functions of the civil authorities for the preservation of the public peace were suspended in Berlin and the city declared in a "state of siege," while a large number of socialists were expelled. — Socialism in Germany, or, more strictly speaking, the party of the socialist democrats, had grown to its present proportions under the influence of the teachings of Karl Marx and Ferdinand Lasalle, and had developed into a political power throughout Germany even before the establishment of the empire under the active leadership of the latter. The movement inaugurated by Marx, resulting in the organization at London of the "International Workingmen's Association," September, 1864, was, in its theoretical tendencies, more comprehensive than the one which owed its origin to the efforts of Lasalle; Marx aimed at an organization in the interests of the working classes throughout the world, while the latter confined his efforts to Germany and thus became the leader of a distinctively national movement. It assumed a definite shape in the organization at Leipzig on May 23, 1863, of the "General Workingmen's Union." Lasalle, as the moving spirit, denounced the present means of production and the accumulation and distribution of wealth as being contrary to the sound principles of public economy and as aiding capitalists in robbing the workingmen of the avails of their labor, and in monopolizing the industries of the country for the benefit of the few. As against individual enterprise encouraged and regulated by competition and private capital, the advocates of this movement favored the consolidation of capital in the interests of labor, the formation of productive associations on the basis of a community of interests of those forming them, and, whenever required, the aid of the government in the shape of furnishing the appropriate guarantee for the raising of capital and funds for the encouragement and management of the numerous enterprises thus carried on, and insisted that the government was bound to protect the interests of the laboring classes by appropriate legislation. As a means of bringing the claims of the workingmen to the notice of the government and of enforcing them, Lasalle early advocated universal suffrage, and insisted upon it as the most effective means whereby the laboring classes might make themselves felt as a political power, and of promoting and defending their cause against the combined efforts of their opponents. Lasalle entered into the cause with all the ardor which youth and a brilliant imagination could give, and with a mind well equipped and disciplined for the work he undertook. He was then a man who, though young, had won distinction as a scholar and a brilliant advocate at the bar. Being elected president of the union, he began in all earnestness his work of securing to his followers the requisite political power by thorough organization and discipline. He was at the height of his influence, though greatly harassed by the personal attacks he met with on the part of the opponents of his cause, when his labors came to a sudden end on Aug 31, 1864; he fell in a duel he had provoked. It was not long after the death of their illustrious leader that dissensions broke out in the ranks of his followers. The more radical members of his party, favoring the wide-spread organization of the internationals and their more revolutionary tendencies, finally cut loose from their former organization, and in August, 1869, at Eisenach, formed a new association which they called "The Socialist Democratic Workingmen's Party." The platform adopted by them declared in favor of a democratic form of government, equality before the law and the abolition of privileges and class distinctions, the abolition of the wages system and the establishment of productive associations on the basis of a community of interests of all concerned, political liberty as forming the very basis of the economical liberation of the working

classes. The party further insisted on the direct exercise of universal suffrage, separation of church and state, compulsory education and the strictly secular management of the public schools, the abolition of all indirect taxes and the substitution of an income tax, and, finally, the aid of the government for the encouragement of productive associations and the pledge of the public credit in support of their various enterprises. Though the two factions by which the cause of socialism was represented in Germany, the followers of Lasalle and the internationals or social democrats, were as far as the details of their work were concerned and in many things opposed to each other, it soon became apparent that the cause of socialism could not gain in the end by a division of its forces, and this finally led to attempts at again uniting the two factions. It was in Gotha in May, 1875, that a reunion of the two factions was effected. The congress of Gotha, by which name the large gathering of representatives of socialism is known, resulted in the organization of what henceforth became known as "The Socialist Workingmen's Party of Germany." Its platform was in the main the same as the one adopted by the party at Eisenach, and its organization rapidly spread throughout Germany. This is the brief outline of the origin and growth of a party which, after the passage of a law aiding the government in its warfare upon its adherents, not only taxed all the energies of the public authorities in its suppression, but also gave rise to the sad spectacle of the government turning its entire machinery against a whole body of people, who, however mistaken in principle, formed the bone and sinew of the nation, and who were justified in their adherence to their cause by real grievances. — Turning from this by no means glorious incident, the government's war against the socialists, in the history of the German empire, we can make more honorable mention of the congress of Berlin, which met on June 13, 1878, to settle the eastern question, and over which Prince Bismarck presided. The fact that the chairmanship was accorded to the German chancellor showed the predominant position Germany had secured among the European powers, and that each was willing to submit to the discreet influence and the winning diplomacy which the imperial chancellor so well knew how to employ. The congress was in session until July 13, when the treaty was concluded, which, among other things, constituted Bulgaria an autonomic principality, though tributary to the porte, made Montenegro independent, engaged the porte to introduce legal reforms and to grant religious freedom, and which maintained the treaty of Paris (March 30, 1856) and of London (March 13, 1871) where not modified by the present treaty. The treaty of Berlin was ratified the following month, August 3, 1878 — On Dec. 5, 1878, the emperor returned to Berlin, and again assumed the duties of his office. On Dec. 15 Bismarck sent a communication to the Bundesrath, in which he defined the revenue policy, and advocated a general system of taxation and protection to native industry. Another important measure proposed was a bill which extended the disciplinary powers of the diet, whereby even speeches delivered in the diet could be made the subject of criminal prosecution. The new session of the diet was opened on Feb. 12, 1879, by the emperor in person. His address chiefly pointed out a thorough reform and change in the economical policy of the empire. The bill extending the disciplinary powers was rejected on March 7. The bill was to confer on the diet the power of punishing in a summary way those of its members whose speeches might be calculated to disturb the public peace and good order of society, or who were guilty of injuring the reputation, honesty and integrity of citizens, not members of the diet, etc., by excluding the members so offending from the diet, by revoking their commissions, or by turning them over to the ordinary tribunals for further prosecution. The government thus intending to carry the war against the socialists into the halls of the legislative assembly, and to stop all discussion of the merits of their cause carried on under the cover of its privileges, the majority of the diet, having passed the highly proscriptive act against the socialists throughout the country, was not willing to aid the government any further by adopting a measure which not only called in question the dignity of the supreme legislative and representative body of the people, but which was calculated seriously to affect the independence of its members, and the right of free discussion which they might justly claim on all questions agitating the public mind, or involving the interests and general welfare of the country. The most important question before the diet now, was that concerning the raising of a revenue to meet the public expenses, estimated by the budget submitted at 540 million mark. The government intended to meet the estimates of the budget by means of a tariff, which had the advantage of being supported by the plea that it helped to protect home industries, and thus impart a new energy to the various branches of trade and industry, which were then suffering from the reaction that had set in, in consequence of wild speculations, into which a great many had plunged soon after the close of the Franco-German war, and in which fortunes were wrecked as soon as they were built. After the diet had taken a short recess, in order to give its members an opportunity to examine in detail the bill to be submitted by the government and awaiting the action of the Bundesrath, the bill was finally presented to the diet on its meeting, April 28. The diet was composed of three parties: the conservatives (German conservatives or the imperial party), with 114 votes; the liberals (national liberals and *progressists*), with 125 votes; the centre (including the Poles and part of the representatives from Elsass Lothringen), with 125 votes. By uniting on any measure, two of the parties constituted a majority.

The *progressists* were as a unit opposed to the tariff bill as a means of protection, while the conservatives were without exception in favor of the bill, if for no other reason than that it was a measure fathered by the government, and distasteful to their political opponents, who were arrayed against them on all questions of public policy. The centre was also in favor of protection. A serious mistake was made by the national liberals in hesitating to make the tariff or the question of protection a party issue, and in not requiring from its members strict adherence to its traditional policy, and thus losing all concerted action in the struggle on hand. Strict discipline being neither required nor enforced in the ranks of this party, its difficulties were increased by the fact that it soon broke up into three factions: the positive and unqualified free traders, the protectionists, and those who were in favor of a tariff for revenue only. The national liberals therefore exercised no appreciable influence in deciding the question at issue, as the opposition coming from their ranks was neither feared, nor the divided support they could give much sought for. Bismarck, in thus effecting a coalition of all the conservative elements in the diet, and witnessing the utter helplessness and divided condition of those who had been his former allies, but who of late had become dissatisfied with his policy, and who were not united in either resisting or supporting the measures he proposed in order to alleviate the financial and economical condition of the empire, was not long in carrying his measure through the diet. The entire tariff bill, after all its features had been discussed, was finally passed on July 12, by a vote of 217 to 117, a large number of national liberals, the *progressists* and the social democrats voting in the negative. The act provided, aside from an outspoken protective tariff in favor of certain industries, for a duty on tobacco, iron, corn, lumber, petroleum, salt, coffee, tea and other grocers' commodities, a species of legislation which fell heavily on the large class of consumers who were to be indirectly benefited by the imposition of a protective tariff, which for the first time was put on trial in the new empire. The act further provided that the duties on commodities imported from such countries as by their tariff laws discriminated against commodities exported by Germany, and in favor of other states, might be increased double the fiscal rate; it also authorized an embargo in certain cases. Before the passage of this law, the attention of the diet was occupied by a bill providing for a local government of Elsass-Lothringen (Alsace-Lorraine) independent of the direct control and interference of the imperial government. The bill passed without much opposition on July 4. It provides for a governor (*stadthalter*), to be appointed by the emperor, and whose seat was to be at Strasburg; for a ministry, at the head of which was a secretary of state; for a council of state presided over by the governor; and a legislative assembly, composed of fifty-eight members. The bill as passed became a law and went into effect on and after Oct. 1, 1879. Its business being finished with the passage of the tariff act, the diet adjourned on July 12. — Bismarck, in effecting, for the purpose of securing a majority for his financial measures, a coalition between the conservatives, the party most loyal to the government, and the centre, the party which in the struggle between church and state had espoused the cause of the clergy in their war against the government, again showed his consummate skill in the management of opposing political factions. Yet aside from the fact that the liberals had now become thoroughly estranged from him, for the reason that by his adroit management he had pushed them to the wall and thus made their opposition harmless for the time, it was certainly no comfort to him to find among his supporters in and out of parliament those who were—the *Culturkampf* raging —his bitterest enemies; to see, on a moment's reflection, that his new allies could not and would not stand by him, unless he was willing to change or at least modify his position toward the papacy and the church. He had, for the time at least, lost the support of the liberal element; and subsequent events proved that he could not undo the fatal consequences flowing from this new alliance, and was bound to make concessions and sacrifice of principle, in order to retain his hold on the legislative majority represented by this coalition. — The excitement produced by the heated discussions over the new tariff law having subsided, the following year was one of comparative quiet in the public and political life of the nation. The close of the year 1879 was marked by the introduction of the new judiciary system, provided for by the imperial diet, throughout the several states, and the opening and first session of the imperial court of last resort at Leipzig, under the presidency of Edward Simson, whose name was already honorably connected with all the leading events of the empire. The foreign policy of the imperial government, of maintaining the independence and dignity of the empire, remained unchanged. The only efforts Bismarck made to aid in the settlement of the eastern difficulties, was to prevail upon the Turkish government to consent, in the interest of public peace, to the incorporation of Dulcigno with Montenegro. In all else the imperial chancellor observed a strict neutrality, his only care being to impress the European powers with the fact that while he was ready to meet any attempt to disturb the peace and safety of the empire, it was not the policy of the German government to interfere with the neighboring governments beyond the maintenance of public peace, or to add to the power and dignity of the empire by territorial annexations or foreign conquests. — On Feb. 12, 1880, the diet again convened. In the choice of its president, Count Arnim Boitzenburg, the coalition between the conservatives and the centre or ultramontanes made itself still felt. The relative strength

of the different factions remained unchanged: the conservatives had 58 members, the imperial party 48, the national liberals 85, the *progressists* 26, the centre 101, the socialists 10, and the rest made up a small faction, who occupied an independent position. A bill providing, among other things, for an increase in the numerical strength of the army in times of peace, which was submitted by the government ostensibly on the ground that the attitude of France toward Russia gave rise to a reasonable suspicion that an alliance was forming, was, after some discussion, passed on April 16, by a vote of 186 (of the conservatives and national liberals) against 128 (of the ultramontanes, *progressists*, Poles, liberals and Alsacians). An important feature in the proceedings of the diet was the bill providing for an extension of the time for and during which the law against the socialists must be in force, which formed the subject of debate on April 18 and 19, on which occasion the socialists, in concert with the *progressists*, denounced the evil features of the law, and opposed the present bill, while the national liberals submitted to it and the conservatives defended it, as a necessary measure for the preservation of the public peace. The bill was finally passed, extending the operation of the law to September, 1884. The alliance between the conservatives and ultramontanes, of which, beyond the election of the president of the diet, no further evidence was given during the present session, except in the passage of the law on usury and of the act regulating the different trades, seemed to be but temporary after all, and did not prevent the centre or ultramontanes from opposing two measures submitted by the government, one of which was for the protection and in the interest of the German trade and commerce with the South Sea islands, the other providing for the incorporation of Altona and St. Pauli, a suburb of the city of Hamburg, with the dominion subject to the operation of the German tariff law. The former measure was defeated, while the latter was, after some discussion, referred to the Bundesrath for further action which was to remove the objection to the measure, that Hamburg could not be deprived, for no other reason than to further the tariff system of the empire, of one of its most important districts without and against its express consent. Bismarck, considering these two measures as necessary and in the interest of the government, was greatly displeased with the opposition he met with from the centre; and in view of the fact that this faction still held the balance of power, he counseled the liberal elements to forget their differences, not only among themselves, but also with the government, in order to prevent any further alliance between the conservative and ultramontane elements, and in order to unite upon some policy in support of the unity and integrity of the empire as against its most bitter and persistent opponents. On May 11 the diet adjourned, these closing events giving some hope of future co-operation between the more moderate faction of the liberal party and the conservative elements of the government. — The events and incidents connected with the proceedings during the session of the diet which had just come to an end, had the effect of bringing about the final separation of the more uncompromising or left wing of the national liberal party from the more conservative element. The split between the two factions had been noticeable for some time, but the traditions of the party had, until now, been stronger than the individual differences of its leaders, and this had hitherto prevented an open breach. But the hopes, in which the leaders of the more radical faction indulged, of forming the nucleus of a new liberal party more powerful and more influential than the old, were not realized. The platform which they published on Aug. 28 declared their determined opposition to all reactionary measures, and also that the economical welfare of the people was closely connected with their political freedom, and depended upon the principle of free competition in the various departments of trade and industry. It was this last proposition which did not meet with favor from the conservative elements, and which finally gave rise to the disunion. — The *progressists*, on the other hand, were not willing to give up their independent position and simply fall into the ranks of the seceders; they rather claimed that those who cut loose from their former party organization should come over to them. The liberals not being willing to do this, there was no prospect of establishing some common ground on which the liberal elements in the different factions might meet, and, forgetting minor and past differences, carry out a policy which was in favor of both the economical and political liberation of the people — The third and last session of the present diet commenced on Feb. 15, 1881. The government announced as the main features of its financial policy the development of the resources of the empire in such a manner as to make it generally independent of the aid furnished by its constituent governments, and thus enable the latter to lighten the burden of their own taxation, which still fell heavily upon their respective peoples. — Among the bills submitted was the accident insurance bill, one providing for the re-establishment of the guilds, another against drunkenness, and finally the bill providing for an amendment of the constitution, whereby the public budget was to be fixed every two years, and on which, though introduced, no action was taken in the previous session. Since the relative strength and composition of the different parties, owing to the split in the liberal ranks, had materially changed, it was with some difficulty that the diet succeeded in choosing its presiding officers. The German imperialists and the national liberals resisted the re-election by acclamation of the former presiding officers, Count Arnim von Frankenstein and Ackermann, which the centre and *progressists*

had proposed. After Arnim had been elected by 147 votes, but declined, the choice finally fell upon von Gossler, one of the secretaries of the Prussian ministry, an ultra-conservative, though without political record; von Frankenstein and Ackermann were re-elected, and accepted. The diet being thus constituted, the public budget was the first thing taken up. It estimated the expenses at 588,077,972 mark, and was, after some slight modifications, passed on the third reading, March 24. The bill providing for biennial sessions and a quadrennial constitution of the imperial parliament came to its first reading on March 8. The government advocated its passage on the ground of relieving the overburdened legislature, while the liberals opposed it for the reason that it was aimed at the dignity, efficiency and privileges of the people's assembly The only support it received in the diet came from the conservative side; the centre was keeping back, awaiting the close of the *Culturkampf*, which was promised by certain advances that Bismarck, as the representative of the Prussian government, had made in favor of the clergy toward a final settlement of the struggle between church and state. The bill was referred to a committee, which, after a brief consultation, reported unanimously against its passage. It was finally rejected on its third reading, May 16, by an overwhelming majority. The same fate was shared by the bill submitted by the government in favor of an increase in the brewers' tax and in the stamp duties, and of a tax to be levied on such as were liable to military duty, but were not in actual service. Another defeat Bismarck suffered was the rejection of his measure, which proposed to promote the economical council, which aided and advised the Prussian government in its financial and economical measures, to the dignity of a council of the empire. The strong objection urged against it was, that, as heretofore constituted, this board was not entirely free from the influence of the government, and that it furnished no guarantee that its future constitution would be materially changed, and its usefulness much improved by simply being attached to the imperial government. An important measure before the diet was the accident insurance bill, which had passed the Bundesrath, and was submitted the latter part of March. It provided for the establishment of an imperial board of underwriters, who were bound to issue policies to all workmen, and who were to indemnify laborers who became disabled by accident, out of an insurance fund partly made up of premiums to be paid by those insured, and partly by government contributions. This was the first step taken by the government toward the fulfillment of the promise to alleviate the suffering working people, made at the time the bill against the socialists was submitted to the diet. The bill passed its first reading without much trouble. Its main feature, the insurance of workingmen against accidents, was approved by all, with the single exception of the *progressists*, while the clause providing for a government contribution was not allowed to pass without being criticized as a sort of monopoly It was referred to a committee which took about two weeks in considering the bill. In the committee the members representing the conservative party united with those representing the centre, thus securing a majority, against which the liberal members were powerless, and agreed on the following report: that all private insurance companies be prohibited from issuing the same kind of policies as provided for by the bill, and that, instead of one imperial board of underwriters, there was to be a board in each of the states composing the empire. The bill, as reported back, reached its second reading May 31. The *progressists* opposed the bill, while the socialists desired to have its provisions extended to the farm laborer. The national liberals were in favor of a board of underwriters for the whole empire, and of allowing private companies to issue similar policies. But the conservatives, in connection with the centre and the imperialists, defeated the proposition of the liberals. Bismarck insisted on the passage of the clause requiring the government to contribute toward the payment of the premiums. Though the bill seemed to have, in view of these different opinions, little chance of being adopted, it passed its final reading by a vote of 140 against 108, substantially in the shape it was reported by the committee. The bill coming back to the Bundesrath for its approval, it was, on June 25, rejected by this body on the ground that it was unjust to tax the disabled laborer without earnings by the compulsory payment of premiums, and that the establishment of insurance boards in the different states was, in its opinion, an impracticable measure. And thus the first attempt of the government failed toward enacting a law, which, in its opinion, was a most salutary measure of social reform. Having parted ways with the national liberals, and not being sure in all instances of the centre or ultramontanes, who were not willing to support the government without some assurance of the government's changing its position toward the Catholic clergy, Bismarck seemed to have lost his hold upon the factions which, united, might give him a legislative majority in the diet in support of his measures. Among the bills which were passed before the close of the present session, was the bill regulating the different trades after the pattern of the guilds, defining the relation of master and servant, and regulating the matter of apprenticeship, the law against drunkenness, that against the adulteration of wines, and the act recognizing the German as the official language in the legislative assemblies of Elsass-Lothringen. The present session suddenly closed on the evening of June 15, 1881, and with it the fourth legislative term of the imperial diet came to an end. No special reference was made in the diet to the foreign policy of the government, since all parties trusted to the chancellor's singular ability

and success in maintaining the public peace, and the undisturbed relations between the empire and the leading European powers. Yet the assassination of the Russian czar, Alexander II., on March 31, 1881, gave rise to expressions of sympathy on account of the sad fate of the aged monarch, and the diet passed, on April 4, a resolution, in which the German chancellor was requested to use his efforts in effecting an agreement with the leading governments of Europe, whereby the killing of any of the rulers entering into this compact, or the attempt to commit this offense, was to be made punishable, and the penalty inflicted, not only on such offenders as were citizens or subjects, but also on strangers who happened to be found within their respective dominions; and whereby, further, the offender, if found elsewhere, might, on proper request, be surrendered to the government against whose ruler the crime was committed. — Pending the discussion of the proposition submitted by the Prussian government to the Bundesrath, May 18, that the revenue office of Hamburg, with its different branches, should be abolished, and, as claimed by those opposing this measure, Hamburg thus be coerced into joining the tariff union, the whole agitation of this matter came to a sudden close by the publication, on May 27, of the treaty between the imperial government and that city, whereby Hamburg was to enter the union Jan. 1, 1889. — The principal event engrossing the attention of the nation, was the forthcoming election of representatives to the imperial diet entering upon its fifth legislative term. The imperial government exerted its influence to the utmost, in order to secure the election of representatives who might furnish the required majority for the passage of the various measures which Bismarck was anxious to put through the diet. The government press attacked the liberals most violently, and branded those who were not willing to vote in favor of Bismarck's candidates and to extend an unqualified support to the imperial government as enemies of the empire and the crown. Though the government employed all manner of means to carry the election, it failed to submit a distinct programme as to its future financial and economical policy; the tobacco monopoly was the only issue, which was used by the friends of the government in order to secure the vote of the people, on the plea that the revenue resulting from it would be sufficient to furnish the means of securing to the working classes a proper indemnity against accidents disabling them for work, and the means for the support of the aged paupers—the "patrimonium of the disinherited," as it was called. The installation of a bishop at Trier, who was exempted from taking the required government oath, the renewed negotiations with the see of Rome, concerning a peaceable settlement of the issues arising out of the *Culturkampf*, were the means employed to win over the ultramontane vote. The principal efforts of the government were directed toward securing the vote of the centre, though this party declared its unwillingness to support the measures and policy of the government while the obnoxious May laws, passed by the Prussian diet against the clergy, were still in force, and while the imperial chancellor threatened the diet with measures such as the tobacco monopoly and his socialist schemes, so distasteful to the party. The elections were to take place on Oct. 27. This gave the liberals time to recover from their apathy, and renewed courage to enter upon an active campaign. The socialist schemes of the chancellor, the news concerning a settlement of the clerical difficulties on the basis of concessions to the pope, which were at war with the interests of the state, the daring attitude of the orthodox Lutherans, and, finally, the agitation against and persecution of the Jews, gave rise to a reasonable apprehension among the middle classes, especially in Prussia, that a reactionary movement in politics not only, but also in matters concerning religion and the church, was fast setting in. All this had the effect of stirring up the body of the people, and setting the tide of the election against the friends of the government. Owing to the efforts made by all parties, the election on Oct. 27 left about a hundred contests undecided, and which as to all such cases made special elections necessary, which took place at different points during the month of November. The final result was as follows: the ultramontanes secured 98 members, the conservatives 57, the *progressists* 56, the national liberals 47, the radical wing of the liberals or the seceders 45, the imperialists 25, the independent liberals 6, the South German democrats or people's party 8, the social democrats 13, the Poles 16, the Alsacians 15, and the Danes 2. The greatest losses were suffered by the national liberals and the German imperialists, the latter losing all its leaders. The greatest gains were made by the *progressists* (twenty-eight members) and the radical wing of the liberals or the seceders (twenty-three members). At the first election the socialists had carried none of their candidates; those afterward elected owed their success to the fact that there was a large number among the ranks of the other parties, who, being in many ways disappointed at the result of the first election, either abstained from voting at the special elections, or, as was the case in Breslau with the conservatives, voted for the socialist candidates in order to counteract the strong run made by the *progressists*. The new diet, in consequence, was composed politically of three large divisions: the centre, together with the Guelfs, Poles and Alsacians, having 138 members; the conservatives and German imperialists with 82, and the liberals with 154 members. Among those who were most surprised and disappointed at the result of the elections was Prince Bismarck, who had reckoned on an increase in the list of conservative members, and now, in view of the present composition of the imperial diet, lost all faith in being able to secure a fair working majority in support of his

policy. — The diet convened on Nov. 17, 1881. In the absence of the emperor, who, on account of his health, was unable to attend in person, Bismarck read the imperial message. After referring to the growing resources of the realm, the favorable results coming from the economical policy of the government as far as sanctioned by the diet, the treaty with the city of Hamburg, and another bill extending the terms for fixing the public budget, and also extending the legislative terms of the national assembly, which the government was about to submit, the message dwelt at some length on the reforms proposed by the crown for the relief of the working classes, and the social evils from which they were suffering. The measures pointed out were the bill providing for accident insurance and the uniform establishment of sick relief funds. As the best means of lightening the burdens of taxation, and yet increasing the revenue of the government, the message advocated the tobacco monopoly. In conclusion, reference was made to the efforts of the government for the maintenance of the peace and dignity of the empire, and for perpetuating its blessings in the distant future. The election of the presiding officers on Nov. 19 furnished somewhat of a test of the relative strength and probable coalition of the different parties. The centre was willing to unite with the conservatives in the choice of a president to be named by the latter, if the first vice-presidency was conceded to them. All the conservative elements uniting, they elected, with the aid of the centre, their candidate, von Levetzow, president, by a vote of 193, against the candidate of the liberals, Stauffenberg, who received 146 votes. Thus the coalition between the conservative and ultramontane elements again promised to become a working power during the present session of the national assembly. On Nov. 24 the public budget was taken up on its first reading It estimated the expenses and the receipts at 607,234,771 mark, respectively. It was not until the second reading of the budget that the imperial chancellor, representing the government, had an opportunity of defining his position toward the leading parties in the diet, and the support he expected from them in aid of his policy. Richter, the spokesman of the *progressists*, had already, on the first reading of the budget, criticized the financial and economical policy of the crown, reminding those who represented the government that those who in a broad sense were termed the liberals, also had a definite and positive programme on all social and economical questions of the day, and that it was they who had fathered the legislative and other measures which proved to be of real benefit to the working classes, and that those representing the government were not alone in their sympathy for the laboring population, and their willingness to do something in order to alleviate their condition. Pending the debate on the treaty with the city of Hamburg, the incorporation of which into the tariff union taxed the imperial government with an outlay of forty million mark, the chancellor defended his policy which resulted in the treaty, and finally gave vent to his views on the status of the leading political parties. He deprecated the breaking up of the nation into numerous political factions, none of which, while threatening the integrity of the nation by their petty dissensions, could command the majority needful to carry out a policy in the interest of a united country and its government. He denied the charge of having been the first to bring about the breach between the liberal element and the government, claiming that it was the leaders of that party who had proposed that breach. On Nov. 29, the public budget being on its second reading, Bismarck charged the *progressists* with being a deadlock to all salutary legislation, and with harboring republican ideas and tendencies; he deplored the fact that the more moderate parties, the national liberals and the free conservatives, had lost in strength, and finally, on Nov 30, declared, that if the alternative were given him to choose between either uniting with the centre or the *progressists*, he would at all times prefer, on grounds of public policy and following the instincts of true statesmanship, an alliance with the centre. Yet, in spite of this high opinion expressed by the chancellor, the centre was not a party to be trusted. No sooner was this declaration made, than the centre united with the liberals in defeating, by a vote of 160 against 131, one of his pet measures, the appropriation of 85,000 mark required for the establishment of a German board of finance and public economy. Complaints, which were made on the liberal side of the house about the manner in which the last elections had been managed by the Prussian government, gave rise to a heated debate Dec. 15, during the course of which von Puttkammer, the Prussian minister, took occasion to remark, that the public officials who supported the government at the late elections were entitled not only to the thanks of the government, but also of their imperial lord and master. This put the liberals on their feet, and they strongly protested against abusing the powers of the government in order to influence the vote of the electors; and this protest could not fail to widen the breach between the liberals and those representing the imperial government. As if to prove this fact and give further cause of distrust, the emperor published his famous rescript, addressed to the Prussian ministry, in which he said: "On such of the public officers as are entrusted with the execution of the different acts of my government, and hence are liable to be discharged under the law regulating public discipline, devolves the duty under their official oath to represent the policy of my government even at the elections. I shall thankfully acknowledge the faithful discharge of this duty, and see to it that all public officers, in view of their oaths and their allegiance, will abstain at the elections as well from all opposition against my government."

The further proceedings of the diet were, after a short intermission during the holidays, again taken up on Jan. 9, 1882. The accident insurance bill again came up on Jan. 17 and 18, in the shape agreed upon by the liberal party; it was referred to a committee who were to report in the matter the next session. On Jan. 10, Windhorst, the leader of the centre or ultramontanes, moved the abolition of the act passed by the imperial diet May 4, 1874, which punished the refractory clergymen by interning or banishing them from the realm. After a debate which lasted two days, the motion was, on Jan. 4, carried by a large majority. Only about one-half of the conservatives and liberals voted against it; this was due to the fact that the conservatives thought that in view of their alliance with the centre they were in a certain sense obliged to yield to them in this instance, and that the liberals were tired of being charged with an undue zeal to prolong the ecclesiastical conflict, after the government had ceased to enforce the war against the clergy. The bill relating to the incorporation of Hamburg into the tariff union and providing for an appropriation of forty million mark was also passed on Jan. 21, by a vote of 171 against 102, the *progressists* and a part of the radical liberals or seceders voting against it. After the public budget had passed the third reading, the diet adjourned, Jan. 28, 1882. — In the special session called, and which convened on June 6, though the respective committees had been in session since June 1, the tobacco monopoly bill was, on June 14, one day before the adjournment of the session to Nov. 30, badly defeated by a vote of 276 to 43. The bills on accident insurance and on the establishment of sick relief funds, on which the committee was to report finally, were not acted upon, but laid over for the next session. In the course of the debate on the monopoly bill, Prince Bismarck declared, with much emphasis, that the imperial government would still adhere, even as against a growing majority in the national assembly opposing it, to a policy of protection, as the best means of both promoting native industry and developing the independent resources of the empire. — The German empire is now entering upon its second decade. Although a federation of sovereign states, although it recognizes the principle of popular representation in the law-making power of the government, it has proven, in the hands of a man like Bismarck, who has directed its affairs and shaped its policy, a monarchy in the strictest sense; not a monarchy bordering on absolutism, like the monarchies of the east of Europe, but a monarchy nevertheless in the sense that the government is practically centered in one person, who, under the forms of law, is constantly at work asserting his own will as the ruling power in the state, and whose influence is felt, not only in the imperial cabinet, but also in the halls of legislation, and in all the practical workings of the government. If we keep this fact in mind, we may understand to some extent why it is that we fail to see in the empire any traces of a real parliamentary government, such as we find in England; such as is deemed by some to be the only true government which, like the modern governments of Europe, is based upon both the traditions of history and the demand for greater popular freedom. If we keep this fact in mind, we may understand why it is that the legislative work of the nation, save those great measures which aimed at consolidating the people, had, especially after 1878, done so little to advance the interests of the people, to improve their economical condition, and to satisfy their rational desire for political and religious freedom by embodying its leading principles in some organic law, and thus putting it on a securer basis than mere tradition or royal self-restraint could give. Some think that this backwardness in the parliamentary life of the nation is principally due to the process of disintegration noticeable since 1879 in the leading political parties of the empire; that this disintegration hindered the building up of a real working majority in any one party which, while forgetting minor differences, would unite in carrying such public measures as were demanded, not only by the requirements of a consolidated government and the traditions of the crown, but also by the interests of the people, and of a great commonwealth. The old liberal-conservative majority, whose strength seems to have exhausted itself in supporting the national government against the opposition of all those factions which were opposed to the establishment of the empire under Prussian headship, was broken up in 1879, when the imperial government sought the aid of the clerical centre party for the support of those economic measures which were opposed to the principles of that majority. Yet the attempts at securing a majority formed by the ultramontane and conservative elements proved fruitless. In the meantime the breach in the ranks of the national liberal party widened. The *progressists*, before and since the establishment of the empire, until 1877, had repeatedly withdrawn their support and consequently weakened the liberal ranks, while the centre and the old conservatives could not but gain by this defection. Since 1879, owing to the peculiar policy that the imperial government had adopted, and dissatisfied with those of their political allies who were unwilling to protest by active means against this policy, a large number of such as until then had been faithful to their party, likewise withdrew from the liberal conservative ranks, and went over to the more independent and vigorous party of the *progressists*. This was done in the hope that the new coalition might permanently unite both wings of the old liberal party—the national liberals and the *progressists*—and thus form the basis of a new and powerful party in the interests of political liberalism and reform. But this great object, which, if carried out, would in all probability add greatly to the possibility of parliamentary government in

the empire, is a thing that has not been accomplished as yet, although many forces are at work to establish some common ground on which all the liberal elements of the nation might meet, and effect a strong political organization which would carry its influence directly into all the departments of government. Ever since 1879, when Bismarck began to turn against his old allies, and, forgetting that the men had not changed against whose interests he had waged a merciless war while fighting the Catholic clergy, attempted to secure the alliance of those very men—the German people have been, as a leading statesman, von Bennigsen, has well expressed it, in a state of political chaos; a state in which a man of such extraordinary power and influence as the imperial chancellor (who even to this day is, we may say, at the head of European politics, and still occupies a commanding position) has not succeeded in anything he has since undertaken, while politically he has suffered defeats such as only a statesman of his power and influence could hope to outlive. All these facts, and the fact that the German people have not, for centuries, been an active political nation, and thus are as yet devoid of that true political instinct which seizes upon every opportunity to transform the majority into a *political power* in the state, go far to explain why parliamentary government (which is the only government, in a monarchical state, that gives the people some share in the administration and conduct of the affairs which concern them as a nation; which makes them in fact citizens and not simply subjects of the crown,) has not as yet become established in the empire; and it explains, too, why the Germans, as has been said, are not, politically, a contented people. But a cause more potent than all the facts mentioned is certainly to be found in this, that the traditional theory, still prevalent in Europe, according to which it is the monarch who governs, and not the people, is maintained by a statesman to whom the Germans, as they themselves are willing to admit, owe much, and who, in the position he occupies, not only wields immense power, but has the personal influence and indomitable will necessary for the accomplishment of great ends. Added to his way of looking at the functions of the monarch is the doctrine announced by him, and which seems so much opposed to all constitutional government, that he, as chancellor of the empire and minister to the crown, is responsible to no one except to his lord paramount, the emperor. Doctrines and theories, such as these, are far from being mere abstractions in the mind of a man like Prince Bismarck; they are a real power in the state, and make themselves keenly felt in the settlement of all questions touching the relation of the people to the government. Principles such as these not unfrequently make the rulers forget, that whatever great achievements have been effected in the life of a nation, and whatever glories have been won by the governments of this world, such achievements were not effected and such glories were not won, except by the concerted action of a superior chief, and of a valiant people willing to follow him in the execution of great enterprises. Yet, that the empire is the best fabric that could be devised for the government of a people, like the Germans, whose individualism is so strong, and whose neighbors are their natural rivals, if not their natural enemies, will be denied only by those who forget what a powerful consolidating influence the idea of the old empire, up to the establishment of the new, exercised over the people; or by those who strongly dislike to hear that the Germans are once more, politically speaking, a united people.—BIBLIOGRAPHY. Neumann, *Das Deutsche Reich in geographischer, statistischer und topographischer Beziehung;* Brachelli, *Statistische Skizze des Deutschen Reichs; Statistik des Deutschen Reichs, herausgegeben vom Kaiserlichen Statistischen Amt; Statistische Monatschefte; Almanach de Gotha;* Martin, *Statesman's Yearbook;* Freeman, *Historical Geography of Europe;* von Rönne, *Das Staatsrecht des Deutschen Reichs ;* Held, *Die Verfassung des Deutschen Reichs, etc ;* Hirth, *Annalen des Deutschen Reichs;* E. Bezold, *Materialien zur Deutschen Reichsverfassung ;* von Rönne, *Die Deutsche Reichsverfassung* (text with commentary); von Mohl, *Das Deutsche Reichsstaatsrecht ;* von Holtzendorff, *Jahrbuch für Gesetzgebung, Verwaltung und Rechtspflege des Deutschen Reichs;* Klüpfel, *Geschichte der Deutschen Einheitsbestrebungen bis zu ihrer Erfullung;* Linel, *Das Deutsche Kaiserreich ;* von Treitschke, *Zehn Jahre deutscher Kämpfe ;* Weber, *Der Deutsche Zollverein, seine Enstehung und Geschichte;* von Giesebrecht, *Geschichte der Deutschen Kaiserzeit;* Bryce, *The Holy Roman Empire;* Baring-Gould, *Germany, Past and Present;* Cohen, *Etudes sur l' Empire d'Allemagne ;* Legoyt, *Forces matérielles de l'Empire d'Allemagne;* Nicolson, *A Sketch of the German Constitution;* Mendelssohn, *Das german. Europa ;* Winderlich, *Deutschland;* Kutzen, *Das deutsche Land;* Daniel, *Deutschland nach seinen physischen und politischen Verhältnissen.*

MAX. EBERHARDT, Chicago, Ill.

GERRY, Elbridge, vice-president of the United States 1813–14, was born at Marblehead, Mass., July 17, 1744, and died in office at Washington City, Nov. 23, 1814. He was graduated at Harvard in 1762, was a member of the continental congress 1776–80 and 1783–5, was a delegate to the convention of 1787 (see list of members under CONSTITUTION), was in congress as a supporter of the constitution 1789–93, and was one of the X. Y. Z. mission to France in 1797–8. In 1812 he was elected vice-president. (See DEMOCRATIC-REPUBLICAN PARTY, I.–III; X. Y. Z. MISSION; MASSACHUSETTS; GERRYMANDER; CONGRESSIONAL CAUCUS)—See Austin's *Life of Gerry.*

A. J.

GERRYMANDER (IN U. S. HISTORY). In 1814 the democratic legislature of Massachusetts

proceeded to lay out the senatorial districts of the state with the single purpose of securing as many democratic senators as possible from the democratic vote. One result was, the extraordinary distortion of some of the districts, instead of the compact shape taken by a district fairly formed from contiguous territory. In one instance the district assumed a shape so distorted as of itself to suggest unfairness. The Boston *Centinel* published a colored map of the district, and the hand of Gilbert Stuart, the artist, completed the resemblance to some fabulous monster, to which was given the name of "the gerrymander," combining the names of the salamander and of Gerry, the democratic governor of the state. (See GERRY, ELBRIDGE.) The name, like the evil which gave rise to it, has survived to our own day. It is used either as a verb or as a noun; but it is more common to say that a party has "gerrymandered" a state than to say that it has been guilty of a "gerrymander" in a state.—The following hypothetical description of the process of gerrymandering, though written in 1815, is still perfectly accurate: "I suppose a case. Six counties, each containing 1,000 voters, are to be formed into three senatorial districts, each to elect four senators. These districts may be so contrived that the party predominant in the legislature at the time of arranging them, whether federal or democratic, with 2,320 voters, shall have eight senators, and the other, with 3,680 voters, shall have but four, and nevertheless every elector of the whole 6,000 shall exercise the right of suffrage I state the number of voters of each of the six counties to which I give names:

COUNTIES	Federalists	Democrats.
Jackson	120	880
Erie	280	720
Champlain	340	660
McDonough	680	320
Perry	150	850
Porter	750	250
Total	2,320	3,680

I might have styled the parties *big-endians* and *little-endians;* the name is of no importance. Now for a display of political legerdemain—in order to enable the minority to rule the majority:

	Federalists	Democrats.
I. Erie	280	720
Porter	750	250
Total	1030	970
II. Champlain	340	660
McDonough	680	320
Total	1020	980
III. Jackson	120	880
Perry	150	850
Total	270	1,730

Thus a minority of 2,320 have twice as many senators as the majority of 3,680—their candidates having been successful in the first two districts. This political arithmetic, like every other science, has its arcana. The grand and unerring rule is to make your own majorities as small and those of your adversaries as large as possible: in other words, to throw away as few votes on your own side, and as many on the other, as is in your power "—The process has since been varied in its application to legislative and congressional districts, but without forsaking the general rule above given. All parties, and in all states, have been guilty of the practice; and where a party has succeeded in carrying an election by demonstrating an outrageous gerrymander by its opponents, it has usually proceeded to offset it by an equally outrageous gerrymander of its own. The political history of the states of New Jersey, New York, Ohio and Indiana would give abundant but unnecessary illustration. A leading politician of the last named state is said to have remarked with satisfaction that he had so fixed his state that his opponents could not carry the legislature without at least 15,000 popular majority. The most flagrant instance of gerrymandering in congressional districts is probably the sixth district of Mississippi. This remarkable district consists of all the counties of the state which touch the Mississippi river. Its length is about 300 miles and its average breadth about 20; and its peculiar shape has given it its popular name of "the shoe-string district."—See APPORTIONMENT; 6 Hildreth's *United States*, 487; Parton's *Caricature and other Comic Art*. 316; Carey's *Olive Branch*, 409. ALEXANDER JOHNSTON.

GIBRALTAR. A piece of incredible negligence on the part of the Spanish government gave this post to England during the war of the succession. At Madrid, the war office was so convinced that the place was impregnable, owing to the fortifications of Daniel Speckel, that it was left almost without a garrison. In 1704 Sir George Rooke, the commander of the Mediterranean fleet, being informed that the garrison was composed of one hundred and fifty men at most, made a sudden attack on it with 1,800 men. It was soon obliged to surrender. The place has remained in England's hands since that time, in spite of the repeated efforts of Spain to take it. The last siege, which continued three years, seven months and twelve days, immortalized the name of Elliot.—The great sacrifices which England has submitted to to retain this fortress, have caused it to be said and written that the importance of the position is exaggerated, and that it is not worth the money which it costs. England has paid and pays no attention to this. In the course of an inquiry into the state of colonial fortifications in 1861, English statesmen, administrators, military men, Gladstone, Lord Herbert de Lea (Sidney Herbert), and Sir John Burgoyne, were all agreed on one point, that Malta and Gibraltar

were not colonies, but purely military posts, in which full garrisons should be kept up in times of peace as well as in war. The late Lord Herbert, then minister of war, did not hesitate to say that in case of war the colonies should expect to see their garrisons removed. "We shall retain possession of our colonies, if we remain masters of the sea. If we do, why leave garrisons in the colonies? and if we cease to be masters of the sea, what is the use of keeping isolated battalions there? Would not this be to expose them to be taken as in a trap?" In conformity with this policy England has always kept a strong garrison in Gibraltar. The number, which was 3,618 men in 1851, has been increased continually. In 1861 it was 6,001, of whom 4,396 were infantry. The state of the fortifications is found to be almost satisfactory. In the course of the inquiry to which we have just referred, Sir John Burgoyne presented an exhibit of the expenses to be made in putting the colonies in a state of reasonable defense; Gibraltar appeared in this for £25,000 only. In 1860 the expenses of this military post were increased for the single item of war to £420,685. — According to the census of 1868, the population of Gibraltar, excluding the garrison, was 15,782. The tables published on the movement of population show that the births exceed the deaths, in a considerable proportion. In 1859 the births were 636 and the deaths 441; in the same year there were 212 marriages. The number of children attending school was also very considerable for the population. In 1856 it was 2,413; of these, 1,527 belonged to Catholic schools; the remainder were divided among schools of the church of England, Wesleyans and Israelites. In the same year the revenue of the local government amounted to £32,500, which was increased to £36,397 in 1870, arising, in great part, from the duties on wines, spirits and other articles of consumption. The expenses reached £28,369, which were increased exceptionally to £41,921 in 1870. In 1869 the expenses were £29,724, and £36,788 in 1868. Gibraltar advances also in commercial importance. The imports and exports, which in 1857 were 1,756,384 tons, were more than 2,000,000 tons in 1862, and 3,084,000 in 1868. Three-fifths of this was on English ships; France only coming after Spain for imports and exports; and after the United States for exports. Foreign commerce shows also satisfactory results. Exports, which in 1857 amounted to £48,139, increased in 1860 to £150,658. During the same period the import of foreign products rose from £720,415 to £1,244,233. The greater part consisted, of course, in British products. Besides the political reasons for retaining this post, it is thought, rightly or not, that the immense profits which English merchants make in illicit trading have their share. — In the various political convulsions which have so often caused bloodshed in Spain, Gibraltar has often served as an asylum for the defeated of every party. — England is represented at Gibraltar by a governor, who bears the title of commander-in-chief and vice-admiral, though he belongs almost always to the army; a colonial secretary; a court of admiralty; and a police court, the first magistrate of which is an officer. The court of admiralty takes cognizance of commercial cases. For the remaining part of the civil and municipal government the ancient Spanish laws and customs are in force.

L. GOTTARD.

GOLD, a dense, ductile, malleable metal, of a brilliant yellow color, used in ornamentation and for money. Its especial adaptation for these purposes arises from its power to resist oxidation or corrosion upon exposure to air or moisture, and its insolubility in ordinary acids. In the form of coin it is readily distinguished from base metals by its characteristic lustre, its great specific gravity and its metallic ring. Alloyed with other metals its color changes: the yellow tint is successively lowered by increased additions of small quantities of silver, and, on the contrary, heightened by copper. In the ordinary state its hardness is about that of tin but not quite as soft as lead, varying, however, with the composition. — Pure gold is the most malleable of all metals, and has been beaten into leaves of $\frac{1}{282000}$ of an inch in thickness, and is then capable of transmitting light, the yellow hue being changed to green. — Gold is exceedingly ductile, and can be finely divided without heating. The specific gravity of gold varies with its previous treatment, being, when cast in bars, from $\frac{18}{100}$ and $\frac{29}{100}$ to $\frac{19}{100}$, and $\frac{37}{100}$, and raised by pressure or heating to $\frac{19}{100}$ and $\frac{40}{100}$. Its atomic weight has been given by modern chemists at from 196. to 196.67. — Pure gold can not be volatilized at any ordinary temperature when melted and kept in a state of fusion, but when alloyed with volatile metals and heated in contact with air, will rise in fumes. It is also dispersed by the electric battery, the concentrated heat of the sun's rays, or by the oxyhydrogen blow-pipe. — Gold is dissolved by bromine, chlorine and selenic acid, and, when heated, in a solution of strong sulphuric with a little nitric acid. — Gold is found diffused in many of the solid rocks, sometimes in a metallic state as native gold, and often in combination with silver, lead, tellurium and sulphides. Valuable and working deposits of gold are found in stratified rocks and in veins containing quartz traversing rocks of other geological periods; also in metallic sulphides and bitter spar, in which it is disseminated in grains, crystalline threads or masses, and in invisible particles. — Besides these places of original deposit, gold is excavated in so-called dry diggings at the bottoms of now buried rivers, or nearer the surface in alluvial deposits adjacent to dry water crevices, and in wet diggings in the beds of streams by whose currents it has been brought down from higher altitudes, separated from the lighter earthy matter and deposited in auriferous gravels and sands, in masses called lumps and nuggets, or in smaller particles in the form of grains, dust or thin scales. — Native gold

is never found absolutely pure, but always contains a small quantity of silver and frequently copper or iron, the proportion of gold in the alloy being 60.49 in Transylvania to 99.25 in Australia. Gold is also found alloyed with bismuth, palladium, rhodium, and associated with minerals and ores containing arsenic, antimony, tellurium and metallic sulphides of lead, iron, copper, zinc, etc. — The methods of obtaining and extracting gold vary with the character of the deposit in which it is found, but may be classified either as placer or vein mining. In the first, the gold is separated from an alluvial deposit by a purely mechanical process. After removing the overlying gravel or earthy material, the ground in contact with the bed rock is subjected to the action of water, where that is accessible, which, while removing the waste material, permits the gold to sink and be collected at the bottom. The separation of the gold in placer mining is effected in various ways: in some cases with a pan—a circular dish of sheet iron with sloping sides, a foot or more in diameter, held in a stream or hole filled with water. By skillful shaking and twisting the lighter materials are washed out, the heavier gold settling to the bottom For treating larger quantities sometimes an appliance called a cradle, from its resemblance to that household article, is used. It is a box from three to six feet in length resting upon rockers and having an opening at one end and pieces of wood about an inch square, called riffle bars, nailed across its bottom. The dirt, upon which water from time to time is poured, is shaken by the rocking motion through a perforated riddle-box, into which it is shoveled by an assistant, and drops upon an apron sloping toward the upper end of the cradle, from which it falls to the bottom, running out at the lower end. The gold, mixed with the heavier sand and gravel, is detained by the riffle bars. A modified form of the cradle, called a tom, with an extended inclined sluice, is sometimes constructed. Currents of water are also made to run through long sluices or shallow troughs, upon the bottom of which riffles made of strips of wood are placed. Whatever the mechanical contrivance employed, from the simple washing on the prospector's shovel to the largest hydraulic operations, the principle involved is the same, namely, the greater specific gravity of the gold carries it to the bottom of the pan, rocker or sluice, while the lighter and worthless portions are washed away. Where the gold is very finely divided, being in small grains or thin scales, it is liable to float away with the dirt, and is secured by using blankets of wool or copper plates covered with quicksilver to form an amalgam, which is removed by working and scraping the plates.—In California a large amount of gold is obtained by hydraulic mining, water being brought in many cases from great distances in ditches, flumes and iron pipes, from higher altitudes. Jets of water issuing under the pressure of a column, sometimes hundreds of feet in height, through nozzles skillfully arranged and directed, strike with tremendous force against the banks and beds of earth containing gold. Hills are undermined and washed away, their material being moved by the current into sluices where the gold is separated and collected. The earthy matter is carried to the lower levels and valleys or held in solution until it settles in the bays and more sluggish currents of the large rivers near the coast. The operations in mining gold-bearing quartz or other vein material are conducted in the manner usually employed in mining other metals or minerals. At a convenient point, either a tunnel, where practicable, is run horizontally from the surface to the vein, or a shaft is sunk perpendicularly to a sufficient depth, and from it a drift or level run until the vein is reached. Gold in quartz or free milling ores is usually disseminated in small particles, to obtain which, before undergoing the usual treatment, the gold-bearing rock must be finely pulverized. Various methods and devices are employed, among the simplest of which is the arrastra, which has a circular bed of stone of from eight to twenty feet in diameter with a post in the middle, through which extends a horizontal bar reaching to the circumference on either side. From each arm revolving around the post hangs a heavy stone weighing from three to five hundred pounds, the former end slightly raised above and the hinder resting upon the bed of rock to be crushed. Somewhat similar to this is the Chilian mill, with the same central upright and revolving arms, but having the grinding stones with a beveled face and roll, instead of being dragged upon the floor.—These earlier and ruder methods have been succeeded in large mining operations by rock crushers and stamp mills. By the former the rock is broken and crushed between powerful iron jaws, and by the latter pulverized by successive blows of heavy iron stamps or hammers upon the rock or ore resting upon a hardened iron bed. The pulverized rock is washed away, and the gold, set free, is collected by mercury, as in placer mining, but with greater care, as the particles of gold being smaller are more liable to be carried away by the current.—To separate the gold from the mercury, the amalgam, after first pressing out all the fluid mercury, is placed in an iron retort and heated to a low red heat, when the mercury volatilizes, passes over into a condenser connected with the retort, and is thus recovered for use in future operations. The gold is obtained nearly free from mercury (it being difficult to drive off the last portion of that metal) in a porous, sponge-like form, which can readily be melted and cast into bars.—Ores in which the matrix is an oxide of the metals are generally free milling. Those other than free milling are chiefly the sulphides of iron and copper, and to some extent lead, antimony and zinc, though in the latter silver is usually the more valuable constituent. — Ores in which gold is combined with the sulphides of the base metals are refractory in proportion to the extent of the base

metal, and the treatment is as varied as are the proportions in which the combinations exist. With some ores a simple roasting to eliminate the sulphur is found to be sufficient, and the most economical treatment which the value of the ore will permit, preparatory to crushing and amalgamating. Other ores of iron are better treated by the chlorinating process, while those in which copper or lead are valuable constituents are best treated by a smelting process which results in forming base bars of lead containing the precious metals or copper matte. The gold is removed from lead in a reverberating furnace, and copper matte is usually sold to 'copper works.—Gold as received at the mints, unless it is from a refinery, invariably contains silver. The methods of separating these two metals are known as the nitric acid process and the sulphuric acid process, in both of which the same principle is involved, that of dissolving the silver, decanting it from the gold, and subsequently recovering it by precipitation.—In the nitric acid process, to accomplish the solution of the silver, the gold is melted with twice its weight of silver, and while in a fused condition poured in a thin stream from a height of two or three feet into a tank of cold water for the purpose of subdividing it into granulations and giving a large surface for the action of the acid. The granulations are transferred to porcelain pots and treated with nitric acid; the pots are placed in a water bath to accelerate chemical action, the nitrous fumes of which are abundantly emitted, being carried away by a high flue. After the silver has been dissolved, the solution is drawn off into wooden vats containing a solution of sodium chloride, which precipitates the silver from a nitrate into a chloride. The gold is placed on a filter, washed, dried, pressed into cakes and melted. The precipitated chloride is removed to lead-lined vats, and zinc in a granulated condition is introduced, when a reaction attended by evolution of heat sets in, a soluble chloride of zinc is formed, and the silver liberated in a metallic state. It is subsequently washed, dried, pressed and melted into bars as in the case of the gold. — In the sulphuric acid process the same preliminary steps are observed in granulating the bullion. The granulations are treated in iron pots, with concentrated sulphuric acid, which in part breaks up, giving oxygen to the silver, while the undecomposed acid combines with the oxide of silver thus formed and forms sulphate of silver. The fumes from the operation are carried into a lead-lined chamber and reconverted into sulphuric acid by the aid of air and hyponitric acid. The gold is taken from the pots after the silver has been dissolved and drawn off, and treated as the residual gold from the nitric acid process. The sulphate of silver is decomposed in lead-lined vats by metallic copper, which in the process is converted into sulphate of copper, and the silver is precipitated in a metallic form. The solution of sulphate of copper, after being decanted, is concentrated by heat to the crystallizing point and recovered as commercial blue vitriol, and the silver is washed, dried, etc., and cast into bars. — The fineness of bullion and coin is estimated in thousandths, pure metal being considered 1000 fine. The process of ascertaining the fineness of gold, or assaying, may be briefly described as follows: One thousand parts of the alloy is accurately weighed; the weight used, for convenience' sake, is the French gramme divided into 1000 parts or millegrammes. Pure silver, to the amount of twice the weight of pure gold estimated to be contained in the alloy, is added, and the whole, enveloped in a piece of lead foil, is placed in a cupel in a muffle furnace heated to a high temperature. The cupel is made of compressed bone ash, and possesses the property of absorbing the oxides of base metals. The lead foil is oxidized, and as it is absorbed by the cupel carries with it the oxides of the base metals which may be contained in the alloy. This part of the process eliminates the base metal from the 1000 parts of alloy being operated upon. The button of gold and silver taken from the cupel is laminated by hammer and rolls into a thin slip and digested in nitric acid, which dissolves the silver and leaves the pure gold, which, after washing, drying and annealing, is returned to the balance and weighed. Its weight in millegrammes expresses in thousandths the fineness of the alloy. — Gold is one of the metals earliest mentioned in history, and has been found in all parts of the world. Almost every country contains workable mines or deposits of gold, but nearly all the fields in which supplies prior to the Christian era were obtained are at present abandoned. The most productive appear to have been situated east of Persia, probably in Tartary or southern Siberia, from which large stores were derived; also in India, Egypt, Nubia, Ethiopia and other regions on the east coast of Africa; and in Asia Minor, Thrace, Greece, and some of the neighboring islands, Italy, Spain and Gaul. — From the historical accounts of the large quantities of gold used in the ornamentation of ancient temples and public buildings, held in the treasuries and owned by monarchs and private citizens, in the form of plate, or money, and of the sums collected at various times for tribute, it is supposed that ancient mining was prosecuted with its greatest success during the first few centuries preceding the Christian era, but, either because mining for gold became less profitable or the mines were gradually exhausted, the production of gold after the reign of Augustus Cæsar rapidly diminished, and in the fifth century of our era had almost ceased. Many of the countries conquered by the Romans contained mines of gold which continued to furnish supplies during the continuance of the empire. But the Roman method of leasing and operating the mines soon ruined the mining industry. The operations were carried on by the labor of unwilling slaves, and being leased to favorites, whose only care was to secure the greatest profit during the term for

which they were to have possession, the richest deposits were worked out and no care taken to keep open the drifts and tunnels for the use of future occupants. — The principal deposits of gold worked during the present century are in the United States, in Australia, and in portions of Africa. Gold is mined to a limited extent in some of the mountainous regions of central and southwestern Europe in which the large rivers take their rise—notably the Rhine, the Danube and the Rhone. Small quantities have been annually produced in Italy. Hungary, Germany, Spain, and, in former years, in Turkey, Japan, China, in many other regions of Asia and Africa, and even in Great Britain. The largest gold production of the eastern hemisphere is found in Siberia on the eastern slope of the Ural mountains, and still further east on the headwaters of the Yenessei and Amoor rivers. These mines have been worked for many years with an increasing annual yield, amounting in 1880 to $28,000,000. A still larger quantity has been annually furnished to the world, since 1852, from Australia, embracing Victoria, New South Wales, Queensland and New Zealand, which together, in 1880, added $30,000,000 to the world's stock of the precious metals. A less productive but still important gold field is found in South America, principally in Colombia, Venezuela, Bolivia and Brazil, which promises to increase its present yield of $6,000,000 per annum. Gold is also found in North America on the Atlantic slope, in Nova Scotia, also near Quebec and on the eastern watershed of the Alleghany mountains, in the Carolinas and Georgia, and in the western mountain regions, in various localities, from Alaska to Central America. But the richest and most extensive deposits thus far discovered have been found in the states on the Pacific slope or in the basins or parallel ranges west of the Rocky mountains. — The gold mines of the United States, according to the mint reports, produced, in the fiscal year 1881, $36,500,000, and for thirty-four years, from 1848 to 1881 inclusive, $1,557,000,000. The yield of the several states and territories for 1880–81 was reported by the director of the mint as follows:

STATES AND TERRITORIES.	1880.	1881.
Alaska	$ 6,000	$ 7,000
Arizona	400,000	770,000
California	17,500,000	19,000,000
Colorado	3,200,000	3,400,000
Dakota	3,600,000	4,500,000
Georgia	120,000	150,000
Idaho	1,980,000	1,930,000
Montana	2,400,000	2,500,000
Nevada	4,800,000	2,700,000
New Mexico	130,000	120,000
North Carolina	95,000	75,000
Oregon	1,090 000	1,000,000
South Carolina	15,000	18,000
Tennessee		2,000
Utah	210,000	200,000
Virginia	10,000	11,000
Washington	410,000	100,000
Wyoming	20,000	7,000
Other	14,000	10,000
Total	$36,000,000	$36,500,000

— The production of the precious metals in the early centuries prior to and immediately succeeding the commencement of the Christian era, is somewhat conjectural. No reports are extant of the amount yearly obtained from the mines. As far as any authentic information has been received, the deposits of gold known to the ancients were little worked after the fall of the Roman empire, and from that date to the close of the fifteenth century, although in some regions gold was still obtained, the total amount was not large. If Mr. Jacob's conclusions are reliable, the total production of gold in Europe and western Asia from A. D. 800 to A. D. 1500 could not have exceeded $35,000,000, for he states that during that period the production of the precious metals was one-seventh or one-eighth of what it was from 1700 to 1800 in Europe and east of the Ural mountains, which for the last twenty years, the most productive period, he reports to have been $1,000,000 gold and $3,000,000 silver. According to his estimates, the mines of America sent to the old world, between A. D. 1492 and 1600, gold and silver of the value of $690 000,000, and from A. D. 1600 to 1700, $1,687 000,000; the mines of Europe and America furnished from A. D. 1700 to 1810, $4,000,000,000, and from A. D. 1810 to 1830, $500,000,000. The official statements published by him show that from the Russian mines, which commenced to produce in 1704, up to 1810, gold had been extracted to the value of 1,726 puds ($1,500,000) of which $500,000 was obtained within the last twenty years of the period. The average annual production of Asia and Africa he made $6,000,000. — Dr. Adolph Soetbeer's summary of the production in all the gold-producing countries of the world, from the discovery of America, to 1880, gives the following amounts and values:

	Years	Kilograms	Value.
1493 to 1850	358	4,697,000	$3,121,000,000
1851 to 1880	30	5,606,400	3,726,000,000
Total	388	10,303,400	$6,847,000,000

The countries from which supplies of gold were obtained and the yield of each in 1880 has been estimated by the director of the mint as follows.

COUNTRIES.	Amount and Value	
	Kilograms.	
United States	54,165	$ 36,000,000
Russia	42,960	28,551,028
Australia	45,251	80,073,815
Mexico	1,488	989,161
Germany	350	232,610
Austria	1,598	1,062,031
Sweden	3	1,994
Italy	109	72,375
Argentine Republic	118	78,546
Colombia	6,019	4,000,000
Bolivia, Chili, Brazil and Peru	569	378,157
Japan	702	466,548
Africa	3,000	1,993,800
Venezuela	3,423	2,274,692
Canada	1,226	815,089
Total	160,984	$106,989,846

— That the gold obtained from the mines for many centuries before the discovery of America was insignificant compared with their present production, is to some extent evidenced by contrasting the yearly coinages of the periods. The mint records of Great Britain show that gold coinage from the eighteenth year of Edward III. to the death of Henry VII., was only £464,908, from the accession of James I. to George I., £18,244,868; from that date to 1829, £132,056,241; and from 1830 to 1880, £201,897,275. The average annual gold coinage was —

1345 to 1509,	165 years	$ 13,640
1603 to 1710,	108 years	844,870
1711 to 1829,	119 years	5,548,581
1830 to 1880,	51 years	19,793,000

— The gold coinage of the United States has in like manner increased. From A. D. 1793 up to and including the year 1848, when gold began to arrive at the mint from California, a period of fifty-six years, $76,341,440 of gold was coined — an annual average of $1,363,400. But in the succeeding thirty-three years, 1849–81, the gold coinage increased to $1,135,495,746, and averaged yearly $34,408,962, and for the last eight years nearly $50,000,000. The same fact is seen in looking at the total gold coinage, etc., of a number of countries for the preceding five years, as stated in the reports of the director of the mint as follows:

1875	20 countries	$ 195,987,428
1876	16 countries	213,119,278
1877	18 countries	201,616,466
1878	17 countries	188,386,611
1879	13 countries	90,714,493

The total yearly coinage at the mints of the various countries of the world, however, always far exceeds the production, as those institutions are employed in manufacturing into coins of their own country, the coins imported from foreign countries as well as the bullion received from the mines. — Upon a careful review of the metallic circulation in all the commercial countries of the world, both Dr. Soetbeer and the director of the United States mint find that the total amount of the gold coin in those countries is less than half the amount of gold received from the mines since the discovery of America, and not even half of their yield during the twenty-nine years from 1851 to 1879. It is evident, therefore, that the greater portion of the annual production is appropriated for other purposes than coinage into money. — Efforts have been made by several statisticians, notably by Jacob and by Soetbeer, to ascertain the amount of gold and silver lost by abrasion and used in ornamentation and the arts. In the years 1879, 1880 and 1881 the director of the mint caused circular inquiries to be issued, the replies to which reported as used in manufactures and the arts in the United States in 1881, of coin and bullion other than old jewelry, plate, etc., over ten millions of gold and over three millions of silver, and the director estimated in 1881, that over eleven millions of gold was thus used in the United States and at least seventy five millions in the world. The character of the gold was reported to him as follows:

United States coins	$ 3,315,882
Fine bars used	6,171,317
Foreign coin, jewelry, plate, etc.	599,524
Total	$10,086,723

— Mr. William Jacob, in 1831, made a very exhaustive inquiry as to the amount of money in the world at various periods up to that date. He placed the accumulated stock of gold and silver, in the year A. D. 14, at 1,790 millions of dollars, which he estimated, however, to have been reduced by the year 482 to 435 millions of dollars, and in A. D. 806 to 168 millions, and that it remained at about 170 millions up to the discovery of America in 1492. By the year 1600, accessions from the mines of America had increased the amount of gold and silver to 1,650 millions of dollars, by 1700 to 1,130 millions, by 1809 to 1,900 millions, and twenty years later, 1829, to 1,566 millions. — Some authorities have questioned the allowance made by Jacob for abrasion and appropriation in the arts, and place the stock in the world upon the discovery of America at a higher rate. Seyd's estimate makes it 900 millions of dollars. He estimates the amount of money in the world in 1848 to be, of gold, 2,000 millions; in 1872, 3,650 millions; and in 1878, 4,150 millions. — Soetbeer, assuming that the amount of gold available for coinage in civilized countries in 1830 was 800,000 kilograms ($531,216,000), estimated that, after deducting for consumption in the arts and export to the Orient, there remained 4,690,000 kilograms ($3,116,974,000). This nearly coincides with the estimate of the director of the mint for 1880, who makes the gold circulation of the world $3,221,223,971. — During the three centuries preceding our own, general prices seem to have advanced in Europe, as the same nominal sum of money would buy much less in the eighteenth than in the fifteenth century. This is accounted for in some measure by the debasement of the coins then frequently practiced in every country, but it is more generally attributed to the effect of the large amount of gold and silver received during that period from the western world. It might therefore have been expected, and has been asserted, that the increased production of gold in the world after 1848, and the large addition to the stock of money in commercial countries, would depress its purchasing power, or, what is the same thing, inflate prices. A comparison, however, of the market prices of staple articles in several commercial countries, does not show any large advance in the average prices of the years 1878 to 1881, over the prices of 1850. In some instances they appear to be lower. According to statistical tables in the "London Economist," the prices, in 1878, of a large number of selected articles, being the principal commodities entering into consumption in England, were 101 per cent. of the mean of their prices for

the years 1845–50, and their mean prices for the years 1878–81 were 114 per cent., and in 1881 were about 116 per cent. A comparative table of the prices of French imports and exports at different periods shows that in 1878 the prices of French imports were 96 per cent. and of French exports 74 per cent — a mean of 85 per cent. of their prices in 1850. A like comparison of the prices of leading commodities in the New York market for the same years shows in 1878 no advance, although prices were somewhat higher in 1880. It may therefore be said that the enormous addition to the metallic circulation witnessed in the last thirty years appears to have been required by the increased wealth, greater commercial enterprise and enlarged production of the present period, and to have been received and absorbed without thus far materially affecting general prices. HORATIO C. BURCHARD.

GOVERNMENT. This word is used to designate the aggregate of the powers to which the exercise of effective sovereignty belongs in each state. The union under one central authority of all the component elements of nations is what alone constitutes and makes them political bodies, that is to say, bodies capable of life, of volition and collective action; and there is not a single nation which would not fall into dissolution if the government called to direct it should disappear or cease to obtain the submission which it requires in order to be obeyed. — Though all governments have in reality the same tasks to perform, they are far from existing under the same form. There are as many political institutions, as many communities in which the sovereign authority lives and acts under conditions markedly diverse, as there are states. Hence governments are divided into different species or kinds; but, as a modern writer (Dufau, *la République et la Monarchie;* introduction, p. 18) justly remarks, "we have still to find a correct classification of the forms of government and discuss the name proper to each." — We are indebted to the Greeks for the most ancient classification of governments. According to their publicists there were three forms of the state and of government: monarchy, or the reign of a single man; aristocracy, or the reign of the great and wealthy; democracy, or the reign of the aggregate of free men: forms, the corruption of which produced, respectively, tyranny, oligarchy, and demagogy or ochlocracy (mob rule). Since each of these forms, whenever it prevails alone, is not slow in bringing on abuses and evils of an increasing gravity, some writers have advised a combination of them, but without being able to indicate definitely the means of effecting this combination nor the means of preserving it from all destructive change. — The ancients were led to adopt the classification which they did, by the idea which they formed of sovereignty. Slavery, which weighed upon a part of the population by preventing them from rising to an understanding of the rights which flow from the nature of man, concealed from them the origin and the essence of this sovereignty. In their eyes sovereignty had its origin in force alone. It belonged altogether to the state, that is to say, to those who being masters in the state alone had the government of it. Outside their ranks were none but subordinates, subjects, held to obey laws framed without their co-operation. Under the empire of such ideas it was natural that distinctions between forms of government should all rest upon a single fact, the numerical proportion existing between governments and the governed. — In modern times, owing to more exact ideas of law and sovereignty, the truth has been more nearly approached, and the definition given by Montesquieu of the nature of the three kinds of government, if it does not embrace the whole truth, embraces a great part of it. "There are," says Montesquieu, "three kinds of government: the republican, the monarchic and the despotic. The republican is that in which the people in a body, or only a part of the people, exercise sovereign power; the monarchic is that in which a single man governs, but according to fixed and established laws; while in the despotic one man, without law or rule, controls everything by his will and caprice." Since the time of Montesquieu many other classifications have been made and new names used, but the work has advanced but little, and doubt and confusion exist in men's minds, which can not but react harmfully upon the correctness of political ideas. — The forms of government are so numerous and variable that it is very difficult indeed to consider all the differences which exist between them; in this matter, we must content ourselves with discovering the real source of the forms of government and ascertaining what is fundamental in them. The observation of facts gives the following result In principle, sovereignty resides and can reside only in the aggregate of the individuals united into one same political body; but as it is impossible for the population to exercise this sovereignty by themselves and continually, they are forced to establish governments to which all that part of sovereignty is given which they can not reserve to themselves. On the other hand, under whatever title and to whatever extent governments are invested with sovereign power they never possess it completely. Among every people, in the absence of recognized political rights, feelings and will are met with, whose supremacy is maintained, and which impose on the action of the government impassable limits. Thus, there exists between peoples and governments at all places and times a division of the exercise of sovereignty, which, however unequal it may be, and whatever the provisions of the law concerning it, can not result in leaving either peoples or governments without some part of this exercise. — There are many states in which the division of the exercise of sovereignty between the people and the government is a constitutional and legal reality. Such states are those in which there exist only the

public powers which are subject to election, or powers whose decisions in order to become executory must have the formal consent of the governed or some portion of the governed. In other states the division of sovereignty is less perceptible, but such division, however, exists, and there never was a government which had not to take into consideration the will of the people, and never a government which could not assert its own. — Take the most completely autocratic states: there are some in which the monarch has apparently all power over men and things. Religious beliefs, written laws, traditions of the past, nothing which subjects the intelligence, has been omitted in order to consecrate his person, sanctify his authority and free it from all restraint. What is the result? In such states the omnipotence of the master is in reality but a deceptive fiction. Before and around him are living forces which impose more or less narrow limits to his will. Neither the powerful nobles, nor the ministers of religion, nor the soldiery, nor the people, are disposed to endure everything from him. There are beliefs, interests, rules, customs, which they do not allow him to offend, and when he forgets this, insurrections, which frequently dethrone or put him to death, teach such rulers that their sovereignty has limits, and that above it there is another sovereignty which occasionally awakes, refusing to be annihilated. And so there is the case of republics, in which the magistrates, simple executors of the will of those who chose them, seem devoid of all personal initiative. The government here preserves by the force of things the real exercise of a certain part of effective sovereignty. There are matters on which citizens as a body could not deliberate without compromising secrecy; there are others which come unexpectedly and require immediate decision, and it is necessary that the government should act, even if its action should involve the future. The time, of course, will come when account must be given of the motives which impelled it, but the fact will nevertheless remain that a sovereign act was performed which in a good number of cases will infallibly react on the destiny of the state. Such is the case in all political communities. There are no states in which the exercise of sovereign power is not divided in different proportions between the people and their government, and from the inequality of these proportions arise the differences which separate the forms of government most profoundly.—The first and most considerable distinction arising from the difference of the proportions of sovereign actions which the government holds, is that which makes the governments republican or monarchic. Wherever nations retain sovereign action in the largest measure, they remain representative, they choose the depositories of public authority themselves, and there is not a single person who does not hold the mission which he performs from the will itself of the whole or a part of the people. On the contrary, where nations do not retain so much sovereign action they are not representative, and their government exists of itself. In such a government there is a personal power elevated above all, and not emanating from the suffrages of those whom it governs. Birth invests successive titularies with this power according to an order established by the laws and declared immutable — Such are the two great constitutive forms under the one or other of which are ranged all possible governments. In fact, there is no government which is not a republic or a monarchy, that is to say, which does not emanate altogether from an election or which does not admit of hereditary royalty.—After the fundamental distinction which divides governments into two clearly distinct categories, come all the distinctions which arise from the difference of the sums of effective power the exercise of which they possess. These distinctions are numerous and not less marked in republics than in monarchies. In fact, the different kinds of republican governments have nothing in common except the principle upon which they are based. But in everything relating to the change of persons composing the government, and the degree of independence which these persons enjoy in the administration of the state, no two have ever been exactly alike. There have been some formed of simple councils, changed several times in a year and obliged to consult their constituents before rendering the least new decision. On the other hand, we have seen cases where a chief elected for life disposed freely of employments and was able to impress on public affairs a character depending in a great degree on his personal will. And between these two extreme forms there is a large number of intermediate ones. — In like manner, notwithstanding the hereditary character of the king, the monarchic form lends itself to numberless modifications. While there are states in which the prince possesses absolute power, there are others in which, subject to the law, he decides nothing of himself, and in which he performs no act of authority without the direct concurrence and control of the nation, represented by legislative assemblies whose members it has chosen. — One point to be remarked is the absence of terms for classifying the different republican governments. On the contrary, numerous terms make it possible to classify different monarchic governments, and, though they have not all the desirable precision, these terms have the merit of being in harmony with the reality of facts. Thus, when it is said of these governments that they are autocratic, absolute, despotic, limited, constitutional, representative, parliamentary, words are used to which a real sense is attached, words which denote differences of form between these governments, due to the unequal apportionment of the parts of sovereignty, the exercise of which belongs to hereditary chiefs of the state. — Certain writers, following in this the example of antiquity, divide governments into aristocratic and democratic. The greatness or smallness of the number of per-

sons in possession of the right to share in managing the affairs of the state is never an insignificant fact. Nothing has a more active influence than this on the decisions of the ruling powers, and especially on the distribution of offices and on the advantages attached to public life. But if it is well to note the fact, it should not be forgotten that governments, so far as they are aristocratic or democratic, merely reflect the nations to which they belong; and this in reality does not affect their form in their really characteristic part, the degree of independence and the discretion reserved to the powers of which they are the assemblage. — Besides governments which direct the different states, there are others whose authority extends over a number of states, distinct, but connected by pacts of alliance or federal union. These have no other prerogatives than those which the governments of the several states have yielded in their favor, and there may be very considerable differences between the amounts of directing authority which they wield — Whence comes the diversity of forms of government? To answer this question has been and is the object of the labors of science. The study of facts justifies the following statement: The differentiating cause of the forms of government is the difference in the situations of the states themselves. Extent, configuration, geographical position of states, the number, origin, traditions, industrial and commercial interests of the populations which they include, all vary—there is nothing similar among them, and if there are some that contain but few germs of decomposition, there are others, on the contrary, which conceal many of energetic and persistent vitality. This does not permit the governments to accomplish their tasks under the same conditions of existence and action. The less homogeneous the elements collected in the same social body, the more the powers called to maintain union demand independence and stability, and the greater the share of these they obtain. — It would be impossible for a state to exist unless the populations which it includes retained less influence on its destiny in proportion as they themselves are incapable of agreement. In every state there is a measure of participation, either in creating the public powers or administering collective affairs which for these populations limit the power of the elements of discord to whose influence they are subject; and when this measure is exceeded, conflicts more and more productive of violence and irritation break out and lead to intestine strife. Such has been the course of affairs at all times and in all places. The degree of political sociability of populations ranged under the same central authority has decided the amount of sovereignty of which the populations have retained the regular and continuous exercise. Great where the populations owing to natural affinities form a very compact whole, this amount has always been small or nothing where the populations did not accommodate themselves to the same laws or the same administration; and to governments have fallen all that portion which they could not manage without damage to the maintenance of internal peace. This is a necessity imposed on every state under pain of anarchy and destruction. — As to the circumstances which react on the form of governments by rendering populations more or less social, they are all those which have the sad privilege of sowing dissension and hatred in the bosom of states. Differences of origin, of language, and nationality, quarrels between established religions, rivalries between social classes, jealousies and struggles between local interests: these circumstances and many others less important, mingle and combine, strengthen or weaken each other; and their total action, by determining to what point the wishes of the governed are or are not reconcilable, determines in the last resort the mode of existence and the amount of sovereignty which each government requires to preserve the state it governs from dissolution and ruin. — Among the circumstances which contribute to vary governmental constitutions there is one which has always attracted more attention than others: territorial extension. This circumstance Montesquieu declares to be altogether of decisive importance. "The natural peculiarity of small states is to be governed as republics, that of medium size to be subjected to a monarch, that of great empires to be governed by a despot." What is true in this regard is, that the power of the causes of discord and ruin which they contain is almost always in proportion to the size of the states. Ordinarily the greatest enclose not only states which are foreign to each other, but nations between which exist enmities, the deeper because there are among them some which arms alone have been able to force into an association which deprived them of their former independence. Generally also it is in the largest states that the antagonism of different religious beliefs, and the differences of climate and geographical situations maintain in the bosom of populations hatreds and rivalries of the most intense character; and such is frequently the unsociability of the elements entering into their composition that they would separate if the power intrusted with maintaining political unity were not fixed in the hands of an absolute sovereign. There are nations which do not possess so much sovereign action as they might exercise without peril to public peace; there are none which could retain it beyond the measure fixed by the energy of the motives of dissension, to whose influence they are subject, because in such a case the anarchy which originates on account of inefficient central authority extends its ravages gradually, and ends by bringing the state to ruin. — Anarchy is death to all political associations. By destroying in the bosom of a state the power destined to unite all its forces under a single management, it dissolves and deprives it of the means of resisting the attacks of its neighbors. Hence the necessity of escaping the destructive effects of anarchy has at

all epochs decided in every state in the world the organization of the government. Wherever a change in the personnel of the government by election lets loose storms of passion destructive in their violence, the political community has been able to preserve itself only on condition that it seek repose under the monarchic form; on the contrary, where the same change in the personnel of the government merely caused agitation without disorganization, the community retaining a more complete exercise of sovereignty, continued to live under a republican form. — The need of union and internal security has influenced not only the division of states into monarchies and republics, but also the modifications which more or less affect political constitutions of the same sort and bearing the same name. In republics as well as in monarchies, the number and real force of the elements of trouble and division, whose force must be restrained, have influenced the partition of sovereign action between the governing and the governed; and in fact there have never been two states in which this partition was regulated in precisely similar proportions. It follows from this that political liberty can not flourish everywhere in the same degree, and that, as Montesquieu thought, there are states condemned to exist only on condition of accepting the evils produced by an entire absence of liberty. This is certainly a real misfortune for these states; but, it is proper to remark that this misfortune is, for those who suffer it, but one fruit of the iniquities in which one party among them has shared. Brute force created and maintains the empires weighed down by the despotism of the prince. One of these empires extended its conquests over territories belonging to neighboring nations; it has subdued and retains under its rule people who regret their former autonomy, and instead of fellow-citizens it finds in the vanquished enemies, almost always disposed to rend the ties of an association which they detest. This is what chiefly makes states—whose greatness rests only on a union, under the same government, of races distinct by origin, language and historical antecedents—the seat of absolutism. War exists within them, and nothing less than a continual state of siege is requisite to prevent it from breaking out. Their unity is too artificial not to succumb, if the authority which forms its only bond is not free from all control and restraint. This authority has struggles and combats to endure, and, like military command, it can admit neither limit nor division. In this way nations are punished which abuse their power; they oppress and are oppressed; the servitude which they impose on others turns against them, and they can not escape it without a decrease of the territorial greatness which they acquired unjustly. — We have seen on what foundations governments rest, in what the differences consist which appear in their structure, and from what sources these differences really come. It remains now to show what the natural attributes of governments are, and within what limits the task devolved on them should be restricted. — The true rule is, that governments should do only what members of the community, either singly or collectively, are unable to do of themselves, or unable to do sufficiently well, without the co-operation of public authority. But where shall we find the line of demarcation between things pertaining directly and specifically to governments and things which pertain to them only partially or not at all? After a close examination the question will not be found so simple as it might appear, and in practice it has received a variety of solutions. It is easy, nevertheless, to designate the functions which in all states belong of strict necessity to governments. They are those functions whose fulfillment is essential at all times to the maintenance of independence and national unity. Execution of the laws, negotiations or treaties with foreign countries, the levy and employment of military forces, collection and application of the product of taxes intended to provide for expenses of public utility, all these acts belong to the special domain of the governmental power; and when members of the community unite in regulating them, it is in proportion as they participate in the exercise of effective sovereignty, and form an integral and working part of the government. — There are other parts of sovereign action, which, without being concentrated in the hands of government, demand its continual co-operation. Such is the administration of justice. There are states in which the people themselves designate the judges who administer justice for them, and, by means of juries selected from their own ranks, take part directly in the exercise of the judicial power. In this respect, combinations may be very different, and the best are always those which free the judges most from external dependence; but whatever be their spirit or character, there still remains a task which the central authority alone is fitted to accomplish with the requisite success, that of assuring the execution of the laws in accordance with the will of the legislator. If the accomplishment of this task is imperfect, laws abandoned to various interpretations would at length cease to be understood alike at all points of the national territory, and society would suffer from the uncertainty of the rules on the strict observance of which the security of person and property depend. — Of social wants there are some the satisfaction of which demand, imperatively, the co-operation and action of the state. These are provided for by services and labors of public utility, and consequently at the common expense of all portions of the territory. There are many ways of executing these labors, and many ways also of meeting the expenses which they necessitate, and of obtaining repayment; but the care of declaring the utility of these works and of seeing that they accomplish their purpose, is incumbent on the state. Thus, in the organization of postal communication, the digging of canals, making of

long roads, its intervention is necessary, and the government intervenes because it is the organ of what is most general in the interests to be conciliated and satisfied. There is no state of any extent without communities endowed with life peculiar to themselves and having special wants and interests. Communes, parishes, districts, departments, counties, provinces, under whatever denomination they may be known, these fractions of the political association have to bear the local expenses, and manage the property which belongs to them, perform all the acts required by an existence distinct from the general existence, and all have mandatories and administrations, which deliberate and act in their name; everything differs, nevertheless, according to the country in the measure of the liberty which they enjoy, in all things concerning the conduct of their affairs. While certain governments make it a point to keep them in leading strings, and allow them to move only with the permission and under the control of government functionaries whom they themselves have chosen, others do not interfere at all in their decisions, and let them act in all questions at their own risk and peril. — If we examine the question on one side only, it seems that in their relations either with communes, or territorial fractions, having an existence of their own, governments should confine themselves to enforcing obedience to the laws of the state, and to preserving from all injurious attacks the interests placed under their care, but, on a closer inspection, we discover that affairs are not everywhere and always arranged in the same fashion. Populations are not equally advanced in all countries, or equally fitted to administer the affairs within their jurisdiction. The reason is, that the past has not been the same for all. Even in Europe there are still some nations whose escape from serfdom is too recent, and who, bent under the weight of ignorance, unless government acted, would make none of the sacrifices which the improvement of their intellectual and economic position most imperatively demands. Still, even with these populations, compulsion should be reduced to minimum proportions. The power of producing the qualities required in civil life is found only in the practice of that life. In order to know what are the collective interests, and what intimate ties exist between them and private interests, it is necessary to be occupied with them. Men who take no part in the decisions made with reference to the public good, never discover to what point this good is connected with their own, and remain indifferent to everything which passes outside of the sphere in which their domestic activity is concentrated. If you take away local liberty, political liberty will have but ill-secured foundations, and, not finding among the masses feelings and ideas to render it dear to them, will be exposed to the hazards of revolutionary crises — After having indicated what governments have to do, either alone and unaided, or in concert with one or another subdivision of the political community, it remains to show within what limits their action should be confined, and what the domain is which they can not enter without becoming more injurious than useful. — There are liberties in every society which it is important to leave in all their natural extent. It is an indefeasible right of individuals to use their faculties and powers as they see fit, to improve their condition, to amass wealth and rise to the possession of all the advantages attached to the social state. This right has for each one no other limit than the respect due to the same right of other men, and in everything which concerns this right, the task of public power consists solely in preserving its exercise from any offensive or restrictive attack. — Unfortunately governments have not judged in this way. Instead of contenting themselves with securing to each person the highest possible degree of safety in the employment of his means of well-being and in the enjoyment of the goods which have come to his share, they have considered it as their office to direct the activity of individuals according to their own pleasure, and to interfere in the distribution of wealth. Ranks and conditions, ownership and distribution of lands, application of capital and labor, production and exchange of products, labor, manufactures and commercial transactions — there is not one of these which has not been subjected to distinct repressive rules, and their acts have only succeeded in creating obstacles to the beneficent energy of arts and civilization. — It is impossible to invade the common right without spreading in the midst of societies injustice and serfdom, the weight of which will inevitably arrest or retard their progress. Such has been and such always will be the effect of laws intended to create a civil and economic order different from that which should be produced by the free development of individual forces and faculties. These laws operate only on condition of taking from some to give to others, and their results are continually in opposition to the general welfare. If they tie up the land in whole or in part for the benefit of one portion of the community, they reduce among the remainder the possibility of obtaining the advantages of ownership in real property, narrow the field of their action, and weaken the mainspring of their efforts. Nothing acts so efficaciously on the energy of men as the desire to acquire land; above all, nothing inclines them so much to be careful, industrious, to accumulate savings, the use of which is required on land; but where this desire, for want of meeting all the facilities for satisfying itself, to which it has the right, remains feeble and languishing, populations lack the qualities most essential to their prosperity. Among the causes which prevent the nations of Europe from advancing with firmer and quicker step toward civilization, one of the first places must be assigned to the institutions which give to privileged classes the exclusive possession of vast portions of the soil;

and if the Slavonic nations have remained behind others, it is principally because among them landed property was reserved entirely to those families of which the nobility was composed. — In industrial affairs the interference of authority is no less injurious. At every epoch the kinds of production which are stimulated by the circumstances of the moment obtain the most ample remuneration, and on this account attract more labor and capital than others. This is the natural course of things which governments oppose, whenever, by distinguishing between the different branches of commerce and industry, they provoke the special development of some. In this case, by calling productive forces into less fruitful fields than those which they leave or would choose, they diminish their general fruitfulness, and nations do not gain from their labor all the results which they desire. To this drawback are added others of no less gravity. First, it is only by imposing on the community more or less onerous burdens, that industries are sustained which are wanting in some of the conditions of success, which they would need in order to dispense with assistance, and such combinations are changed into obstacles to the increase of wealth. In the second place, the action of power enfeebles among producers the qualities most necessary to the proper employment of their resources. Instead of counting only on profits due to the energy and dexterity of their own efforts, they leave to the state the care of securing for their work sufficient recompense, and generally they care little for profiting by innovations which demand advances of money and sacrifice. — Let an examination be made of the results produced in practice by legislative arrangements, intended either to modify the distribution of property and wealth or to assign artificial and forced directions to the application of labor, and we shall find not one which is not an attack on liberty, whose productive activity needs to be developed in all its power, and which does not deprive members of the social body of some of the means and elements of prosperity, the use of which they have the right to retain. At present, owing to the advance of enlightenment, governments, better informed than in former periods, have commenced to see that there is a large number of facts of the economic and civil order which must be left to themselves. In the most advanced states of Europe laws which formerly reserved to particular classes the possession of the soil, or treated unequally the different methods of labor and production, have already given way to less restrictive enactments; and it is very clear that the time is approaching when the laws of justice will at last receive the respect due them. — It is to be desired, nevertheless, that governments should no longer extend their action beyond the circle in which the interests of society require them to be confined. In everything relating to the distribution of wealth, to the application of industrial forces, and the conquests of individual activity, their task consists solely in superintending the execution of engagements, to secure for persons as well as property of every kind of which they are in legitimate possession the highest measure of safety possible. This task accomplished, they have only to follow the course taken by events. To regulate this course there are natural laws which require no assistance from man; laws, whose work is always the better and completer the more it is accomplished in freedom. To endeavor to substitute a different order for the order which is the object of these laws, is nothing less than to try to substitute for the results of supreme wisdom the results of human wisdom, which are necessarily imperfect; and such fool-hardiness meets inevitable punishment in the sufferings which it inflicts, or in those whose abolition it prevents.

HIPPOLYTE PASSY.

GOVERNMENT, Provisional. Every political society needs a head; this need must be deeply engraved in human nature, for, since the creation, political societies have never been able to dispense with a head. Thus, the first act of a revolution is to replace the head swept away by the political tempest. And it is this great and indispensable need of having a government that renders people indulgent as to the methods employed at the time of choosing leaders, to whom they give power, or whom they allow to take it; this causes them to close their eyes to the usurpations which these representatives permit themselves to make, while proclaiming aloud the sovereignty of the people which they trample upon, while making laws by their own authority which their limited and provisional mandate would not permit them to make, sometimes while performing definitely acts beyond their mission and competence. But the people abhor anarchy beyond all things. — Still, "it is an eternal experience," says Montesquieu, "that every man who has power is inclined to abuse it." Now the majority of revolutions have had, as cause and excuse or pretext, the necessity of restraining the abuses of power. Nevertheless powers constituted with a precarious title and following revolutions fall into the same errors. Thus, the provisional government in France of 1814 hastened to create a king, and Talleyrand, while showing his salon of the rue St. Florentin, said, "There is where the restoration was made." The provisional government of 1830 in France acted in the same manner, and the government of July was established in the Hotel de Laffitte. The provisional government of 1848 in France repeated these mistakes, and after deliberating a few hours gave birth to a republic. The dictator of 1851 used and abused his usurped power; and as to the government of "national defense," of Sept. 4, 1870, it kept long enough within just limits with the exception of the delegation of Tours. "But," we repeat, "every man in possession of power is inclined to abuse it." We see, besides, by these examples, that it is the tendency of chiefs of states to usurp rights;

this tendency is not peculiar to monarchies; all powers, whether oligarchies, monarchies or republics, tend by their nature to absorb the people as contradistinguished from the governing party, no matter by what name he is called, in the same way as they would if he reigned.—Where, then, is the remedy for this aggression? It is not found in the continuation of the quotation of Montesquieu: "To prevent the abuse of power it is necessary to dispose things so that one power should check another, otherwise every power advances till it finds limits." Montesquieu's remark applies in fact only to normal conditions, and the existence of a provisional government characterizes a political situation which is pre-eminently abnormal; power in this instance is held by men who are self-elected, that is to say, by men without election, but for this very reason provisional governments should abstain from disposing of the future. Their powers do not reach beyond the term of their office; they are legitimate only for the maintenance of order, and not to issue laws, which the regular authorities will have time to do. They should absolutely take but urgent measures and no other, and they should always hasten to ask a bill of indemnity from the first parliament for each particular measure, and not for all taken together. — There is a detail upon which we must dwell in closing. In France, as in most other states, a distinction is made between an act which is passed by the legislative power, *a law*, and that which emanates from the executive power, *an order, ordinance, a decree*. Now the provisional government being dictatorial in its character it combines the two powers. On this account it is frequently difficult to distinguish the act which is a law from the act which is a decree, and certain persons are disposed to consider all the acts as laws, an interpretation which may have serious inconveniences. It is important, then, to bear well in mind that the nature of the act is not changed by the effect of the signature of a revolutionary dictator, that is to say, a decree remains a decree — It is needless to add, that if the government which was overthrown, or rather, whose overthrow was sought, remains in power, it will respect absolutely nothing of what was done by the *insurgent* government (the word provisional applies only to successful insurrections). The French government recognized nothing done under the commune, not even the record of births, deaths and marriages, and the government at Washington did not recognize for a moment the acts of the secession government, although it lasted three years.

MAURICE BLOCK.

GOVERNMENT INTERVENTION, Political Economy of. Upon this question political economists, and others who take an interest in social subjects, are divided into two great parties. On the one side, there are those who wish that the state should do very much more for the people; on the other side, there are those who think that the influence now exerted by the government should be greatly curtailed. There are, consequently, two distinct phases of thought, each most ably and powerfully represented. The first party may generally be said to be composed of some of the most enterprising, intelligent and politically active of the working classes. It also embraces most of those who have strong philanthropic tendencies, but who have not directed systematic thought to the consideration of the true causes that produce the suffering which excites in them such generous sympathy. Among those who desire to see government intervention greatly curtailed, there are to be found a comparatively small number of exceptionably thoughtful working men. The most consistent and thoroughgoing upholders of these doctrines, however, belong to a certain philosophic school, the distinguished leader of which is Mr. Herbert Spencer. His writings contain probably by far the most powerful and exhaustive statement of the arguments against over-legislation, and against the growing tendency to rely upon state assistance. These opinions generally receive the designation of *laissez faire*. In a very circuitous way it has, as it were, accidentally happened that *laissez faire* is popularly supposed to derive authority and sanction from the principles of political economy. The advocates of free trade in England had to attack one kind of government interference; and, in abolishing protection, they undoubtedly released commerce from numberless fetters which had been imposed by the state in that country. The sympathy which the free traders were thus naturally led to feel for *laissez faire* soon became increased by another circumstance. The English factory acts, when first proposed, were vehemently resisted by the manufacturers as an unwarrantable interference with industrial freedom. The majority of these manufacturers were leading free traders, and were also prominent members of what is known as the Manchester school. As, however, the abolition of protection and opposition to the factory acts were both defended on the ground of hostility to state interference, there soon arose a connection between the Manchester school and *laissez faire*. During the anti-corn-law agitation, the advocates of free trade so repeatedly appealed to the principles of political economy that there was assumed to be a peculiar connection between this science and the Manchester school. As, however, this school had identified itself with the doctrine of *laissez faire*, it was soon popularly supposed that *laissez faire* and political economy were intimately associated with each other. It has been thought advisable to explain the origin of this association of ideas, because when its accidental character is clearly perceived it is more easy to understand that political economy gives no sanction whatever to the doctrine of *laissez faire*. In fact, there is nothing whatever in the principles of economic science to lead to the establishment of any general conclusion with regard to the advan-

tages or disadvantages of state interference. — Error and confusion are sure to result if we seek to lay down some rule as applicable to every proposed case of government intervention. Although the main object I have in view is to point out the evils resulting from an undue reliance upon the state, yet it seems to me that those who exhibit this tendency scarcely adopt a more erroneous course than those who are such extreme advocates of *laissez faire*, that under all circumstances they condemn government interference without inquiring into the nature of the particular instance to which it is to be applied. As an example of this it may be mentioned that those who are most thoroughly indoctrinated with *laissez faire* apparently consider that they are bound to oppose compulsory education because it involves state interference. Such opposition affords an instructive warning against the danger of offering too implicit obedience to any general principle A moment's consideration will suffice to show that interference on behalf of children and interference on behalf of grown-up persons rest on entirely different grounds. The latter kind of interference may be objected to because it impedes the freedom or men's actions, is antagonistic to individual liberty, and, in the words of Wilhelm von Humboldt, "prevents the harmonious development of the human character." The child, however, independently of all government interference, must be under the control of a parent or a guardian. It is therefore idle to talk of his individual liberty and of his freedom of action; these must be more or less completely surrendered to his parent or guardian. It is therefore evident that the question of state intervention must be regarded from an entirely different point of view when it is applied on behalf of children. It most generally happens that they require the aid of the state when those who are constituted their natural protectors neglect their duty or abuse their power. The extent to which there is such an abuse of power or such a neglect of duty must be the chief element in determining the limits to which it is desirable that the state should extend its protection to children. A child having no power to provide itself with food and clothing, it will be generally admitted that the state ought to take some action if a parent either can not or will not supply his children with the necessaries of life. Although this is a case in which the necessity of some interference will at once be acknowledged, yet the conditions under which such interference should take place suggest considerations of the utmost importance. The history of the English poor law abundantly shows that if the state renders aid to neglected children with too great liberality, and if at the same time parents, who are responsible for these neglected children, are treated with undue leniency, a most disastrous encouragement is given to improvidence and immorality. Then again, it would probably be admitted by the most enthusiastic friends of compulsory education that, in order to justify it, it ought, in the first instance, to be proved that every one who is born in a civilized country is entitled to claim from his parents a certain amount of mental training, and that, if this claim is ignored by the parents, it is the duty of the state to enforce it. No one would be prepared to say that interference between the parent and the child, in reference to education, is good in itself; it would not be needed if the social condition of the country were more satisfactory; and those who are among the foremost to recognize the importance of compulsory education confidently hope that it will gradually be rendered unnecessary as nations advance in social improvement. Here then is a case in which the right or wrong of government interference can not be determined by *a priori* considerations; a trustworthy decision can only be arrived at on the point by ascertaining to what extent parents neglect the duty which they owe to their children of providing them with a certain amount of mental instruction. — Another illustration of the importance of deciding each proposed case of government interference upon its merits, is afforded by considering the circumstances under which it is desirable that the state should attempt to regulate the hours of labor. Such interference is ordinarily condemned on some such ground as the following: It is said to be contrary to individual freedom; it is urged that if it is legitimate that the state should say how many hours a man should work with his hands, it would be equally legitimate to decree the amount of mental labor that should be permitted. A government official would consequently have to visit every study; a man would have to be watched in his daily avocations; the time when he retired to rest and when he rose from slumber might have to be noted. Life with all this worry and watching would scarcely be worth having. Then again, it is said that a legal limitation of the hours of labor might so cripple productive industry as to render successful competition with foreign countries impossible. The trade of a country might thus be lost, and the people be deprived of the chief source of their maintenance. Fully admitting the force of these and other considerations, I view with as much disfavor as any one can, the cry which is raised in favor of a law fixing a legal limit of so many hours for the day's work. But those who are strongly opposed to such legislation should be careful to avoid the not unfrequent error of hastily concluding that the state can never be justified under any circumstances in regulating the hours of labor. It certainly appears to me that it is quite as desirable to pass a law limiting the number of hours which a child is permitted to work, as it would be undesirable to impose similar restrictions upon men and women. If grown-up persons over-work themselves they do it of their own free will. They can not be compelled to labor more hours than they please unless they are either held in subjection as slaves, or unless they are in some other way deprived of

personal liberty. A child, however, is not permitted to exercise freedom of judgment; he does not himself decide at what age he shall begin work, and the number of hours he shall each day labor. All this is determined for him by others. If, therefore, it can be shown, as it has undoubtedly been shown in England, that, through the cupidity and mistaken economy of employers, and through the selfishness, avarice and poverty of parents, large numbers of children are worked too young and are also greatly over-worked, then it seems to me that one of the clearest cases that can be imagined is made out in favor of state intervention Under the circumstances just described it is only by state intervention that the child can be protected against what may prove to be an incalculable and irreparable injury. The only argument of weight which has been suggested against such interference has been urged by those who say that to deprive a parent of a portion of his children's earnings, is certainly unjust upon those parents who are extremely poor. We here simply say that, after making due allowance for the difficulties associated with the poverty of parents, we believe it can be proved that the balance of argument strongly preponderates in favor of the state interfering on behalf of over-worked children. — It is not necessary to quote other instances to show that state interference on behalf of children is usually to be defended on grounds entirely different from those which would be brought forward to justify similar interference on behalf of grown-up persons. I will, therefore, proceed to state some of the considerations which have to be taken into account when government intervention is applied to adults. It will be useful, in the first instance, to mention certain principles, to the truth of which scarcely any will refuse assent. It will, for instance, be generally admitted that government intervention is not a good thing in itself; the more it can be avoided the better. Probably the best measure which can be obtained of the welfare of a community is to ascertain to what extent each member of it can, with advantage to all the rest, be permitted to have freedom of action. It is obvious that this freedom will be curtailed in proportion to the extent to which the authority of the state has to be introduced into private life. The following considerations will probably suffice to show that the well-being of a community may be estimated in the manner just suggested. Nothing, for example, brings such manifold evils upon a nation as wide-spread ignorance among its people. No one would think of advocating compulsory education if children generally received an adequate amount of instruction. Consequently the extent to which the necessity exists of the state interfering with education may be regarded as a measure of popular ignorance; and the amount of this ignorance indicates the difference between the present condition of a country and the welfare it might enjoy. If another example is required to corroborate what has been stated, we may revert to the instance of the state interfering in reference to the employment of children. As previously stated, children are sent to work too soon, or are worked too many hours a day, chiefly in consequence of the cupidity and mistaken economy of employers, or in consequence of the selfishness, avarice or poverty of parents. With the decline in the force of these agencies there would be a corresponding diminution in the necessity for this particular kind of government interference. But could there be more conclusive evidence of a marked improvement in the general condition of a country than would be supplied by the fact that the agencies to which allusion has just been made were exerting less influence? A moral and intellectual advance would be indicated by the circumstance that cupidity and mistaken economy were much more rare among employers. Again, still more striking evidence would be afforded of general advancement, if parents were so little avaricious or selfish, and if so little poverty existed among them, that they were rarely or never tempted to permit their children to be over-worked. — It is, however, not necessary to say more with a view of showing that government interference is not good in itself, but that it must be regarded rather as a disagreeable remedy which has to be applied in order to cure or counteract various defects in the social condition of a country. The remedy is not only a disagreeable one, but it may be compared to some of those strong medicines which not unfrequently leave behind after consequences of a serious kind; these medicines can not be given to a patient without some risk; they should always be used with the utmost caution and discrimination. Statesmen, therefore, when they are pressed to extend the area of government intervention, should consider that they occupy a position not unlike that of a physician who has to decide whether he will give to a patient some extremely dangerous drug. The physician, if he is at all worthy of his profession, will endeavor to ascertain the exact state of his patient, and will carefully note all his symptoms. If he does not do this, but if, on the contrary, he adopts whatever course he believes will give most immediate satisfaction to the patient and his friends, mischief is almost sure to ensue, and he forfeits all claim to confidence and respect. In a similar way, statesmen, when they are asked to use state intervention, should not forget that it is a perilous experiment, and should do all in their power to ascertain the exact circumstances under which it is applied, in order to estimate, with as much correctness as possible, what will be its future consequences. If statesmen do not do this, but if, on the contrary, they adopt that course which they believe will most promote the interests of party, and give them the most immediate popularity, then the gravest misfortunes may be brought upon their country. — It is impossible to dwell with too great earnestness upon the demoralization and mischief which would ensue if some of the demands which are

now so constantly urged for state assistance should be conceded. Of all these demands none are so insidious, none so dangerous, as those which would call in the aid of a central authority to enable one section of the community to levy contributions for its own advantage from the rest of the nation. This has already been done to a most alarming extent, and a powerful influence would be exerted in the same direction by many of the social movements which now receive popular favor. As a proof of what has just been stated, it will be sufficient to remark, without discussing the subject with further detail here, that about £9,000,000 are annually levied in England and Wales for the relief of the poor. This great sum represents a heavy tax imposed on industry, and no small portion of the amount is taken from the industrious and provident to be distributed among those who have brought poverty upon themselves by indolence and improvidence. As if the harm already done by thus encouraging recklessness and discouraging thrift had not been sufficiently great, an appeal has often been influentially put forward to administer the poor law with greater liberality. This simply means that the industrious should be still more heavily fined, in order that a more liberal reward might be given to improvidence. Some of the best-intentioned people are thus unconsciously advocating schemes which would bring a similar baneful influence into operation. Proposed chimerical measures of relief have numerous and powerful advocates. Like the English poor law, however, they may all be regarded as developments of the principle that it is not simply by the sweat of the brow or by the labor of the brain that men must support themselves, but that they have a right not only to look to others to provide them with maintenance, but, as far as possible, to protect them against the consequences of their own voluntary acts. But although the principle, just referred to, can not, in my opinion, be too strongly condemned, yet it must not be supposed that we should be justified in at once rushing hastily to the conclusion that there should be no poor laws whatever, that under no circumstances should free education be given, that the state should never assist emigration, and that neglected children should not be cared for. The important question which has to be considered is this: If any of these things ought to be done, under what circumstances, and in what particular manner should they be done? In attempting to come to a decision on this point, it is above all things essential to keep in view that the utmost discouragement should be given to improvidence. For instance, it has been proved that out door relief is often simply regarded as a gift, the acceptance of which entails no disagreeable consequences. Residence in a workhouse in England is, on the contrary, generally looked upon as a somewhat serious punishment. It is, therefore, obvious that in-door relief discourages voluntary pauperism, whereas it is greatly stimulated by out-door relief. Consequently England, without abolishing her poor law, may in the future avoid much of the harm which it has done in the past if the granting of out-door relief were to be either altogether forbidden, or only permitted in very exceptional cases. Again, with regard to emigration, although reasons will afterward be stated which lead to the conclusion that it would be most unwise for England to undertake to pay the passage-money of all who might wish to settle in foreign countries, yet in the case of some great emergency it might be advisable for her, as an exceptional measure, to resort to state emigration. In a similar way, although I believe that a general system of free education ought to be resisted because it would weaken the sense of parental obligation, yet, in my opinion, no child ought to be permitted to grow up in ignorance because his school fees are not forthcoming. It would be scarcely less unjust for a parent to make others pay for the education of his children than it would be to make others pay for their food and clothing. The state very properly orders local authorities to undertake the maintenance of children if they are unprovided with the necessaries of life; but if a parent willfully refuses to feed and clothe his children, then he is criminally punished. If, however, it is not a voluntary act, then he is treated as a pauper. In a similar way, I think, a parent ought to be punished if he makes other people pay for the education of his children, in order that he may have something more to spend in his own enjoyment. If, however, he is too poor to pay the school fees, then there is just as much reason why he should be treated as a pauper as if he were unable to feed and clothe his children.—Enough has now probably been said to show with what extreme caution any scheme should be viewed which proposes to benefit a class by the expenditure of money obtained by taxation. As previously remarked, the objections to be urged against such proposals assume greatly increased force when, as is not unfrequently the case, the class among whom the money is chiefly to be distributed are not to contribute toward the extra taxation which the additional expenditure will necessitate. Thus, the carrying out of the social and economic changes advocated by the international society would involve a heavy outlay of public money. At the same time it is to be observed that it is one of the cardinal principles of this association to raise all taxation by a graduated property tax.—There are, however, other instances of government intervention which do not directly involve expenditure of public money. If an attempt is made to ascertain the effects of such interference, it will be found that considerations of a very complicated character are often involved. At the outset of such an investigation, certain principles can be laid down which will greatly assist us in arriving at a right decision in any particular case, although they will not furnish any general conclusions of universal applicability. Sanitary legislation af-

fords an instance in which the interference of the state will most generally be admitted to be both just and desirable. A man who neglects drainage and other matters upon which the preservation of health depends, not only injures himself and those who are dependent upon him, but may become the centre and source of wide-spread disease. Because it is thus comparatively easy to decide in favor of a compulsory system of drainage of houses and compulsory purification of rivers from sewage, it is not unfrequently supposed that, for similar reasons, the state ought to interpose in such a matter as restricting, if not prohibiting, the sale of intoxicating liquors. Thus, it is said that intemperance is not less injurious to health than defective sanitary arrangements, and it is argued that if it is within the appropriate functions of the state to secure good drainage, it must be quite as much within its legitimate functions to impede or forbid the sale of intoxicating liquors. But in order to justify such a conclusion it would be necessary to prove that as imperfect drainage is bad in itself, so all consumption of alcohol must be deleterious; the extent to which it is deleterious merely varying with the amount of consumption. The analogy, however, at once breaks down if it is admitted, as it generally will be, that beer, wine and other alcoholic beverages, if taken in due moderation, need not be pernicious, but, on the contrary, may be beneficial. It is, however, argued by the advocates of a prohibitory liquor law, that the mischief resulting from drunkenness is not confined to the drunkard himself; he often so much injures his family as to reduce them and himself to pauperism; sometimes he is led into crime; in this way, consequently, intemperance greatly increases pauperism and crime. It thus inflicts a serious loss upon the community, and adds much to the taxation of the country. Such considerations as these induce many people to think that as the whole community is injured by drunkenness, the state should give the majority the right to restrict or prohibit the sale of intoxicating liquors. The demand for the exercise of such a power obviously suggests considerations different from those which are associated with enforcing a certain sanitary scheme, such, for instance, as the carrying out of a uniform system of drainage. No one can be benefited by having a place imperfectly drained, whereas all who, for example, drink beer and wine in judicious moderation may be subjected to great inconvenience, and may even be injured if the sale of these articles is forbidden or greatly impeded. Thus, if it were enacted, as has been so often proposed in England, that there should be only one public house for each 1,000 or 2,000 people, many men, if they wanted to purchase a glass of beer, would have perhaps to walk a couple of miles. They would have to submit to this trouble and inconvenience not through any fault of their own, but solely because certain people do not practice self-restraint. Then again, if the number of public houses were artificially limited in the manner proposed, a great industry would manifestly have to be carried on as a monopoly. It is difficult to imagine any trade conducted as a strict monopoly without causing abuse and unfairness. It would be almost impossible to find any authority who might with safety be entrusted to select the persons who should enjoy the privilege of exercising this monopoly. Competition in the trade would also be to a great extent destroyed, and competition is the best security for fair prices and a good article. It has, however, been suggested that the monopoly should be put up to auction; but if this were done, the large brewers would be able to outbid less wealthy competitors, and the trade would be thrown more completely than it is now into the hands of a limited class Again, it is obvious that those who pay a large price for the privilege of exercising monopoly would recoup themselves with handsome interest for their outlay; they would do this by charging an additional price for all the articles sold. It thus appears that one of the results of carrying out such a policy of restriction would be to subject temperate people to great inconvenience. They might have to walk a considerable distance for every glass of beer they wished to purchase, and they would be obliged to pay an additional price for it. There certainly seems to be good reason for condemning government intervention when it subjects all who can exercise self-restraint to loss and inconvenience, in order that the force of temptation may be somewhat reduced to the self-indulgent. — It will, perhaps, however, be urged that if these suggested legislative restrictions should cause annoyance to temperate people, they would be abundantly compensated both for their additional trouble and for the additional price they might have to pay for beer, by the stimulus which would be given to the prosperity of the country, and by the reduction which might be effected in its taxation if drunkenness were diminished. But before the individual liberty of a whole community is interfered with, because some abuse freedom of action, justice and policy alike demand that everything should be done to see whether such abuse could not be checked by punishing those who do not exercise self-restraint. Thus, before any legislation is sanctioned which would impose upon temperate people many vexatious restrictions, a far more decided effort should be made than has ever yet been attempted to punish intemperance, and make the drunkard more directly bear the consequence of his acts. At the present time an exactly opposite course is adopted. It seems to be a recognized principle of the law of England that crimes committed by persons while they are drunk should be treated with exceptional leniency. It is hardly possible to take up a paper without seeing cases in which magistrates either altogether excuse the perpetrator of some dastardly assault, or greatly mitigate the usual punishment, on the ground that the accused was drunk at the time the offense was

committed. — The subject of the liquor traffic has been alluded to here, chiefly for the purpose of showing that the problem of government interference involves so many complicated and difficult considerations that each demand for it should be separately investigated, in order that the special circumstances involved in each particular case should be carefully weighed. It would have been foreign to the immediate purpose of this article to attempt anything like a complete discussion of the questions involved in greatly restricting or prohibiting the sale of intoxicating liquors. If it had been my intention to enter upon such a discussion, it would have been necessary, among other things, to have referred to the experience which is afforded by America of the working of a prohibitory liquor law in that country. The evidence of those must have been examined who assert that the demoralization which ensues from the gross and systematic evasion of this law, far more than counterbalances any good which may result from the slight effect produced in somewhat diminishing intemperance. — I have, however, already entered into what may probably appear to be a too detailed consideration of the general subject of state intervention. I have been chiefly induced to do so because one of the most characteristic features of modern socialism is the growing tendency which it displays to demand state assistance, especially in the form of grants of public money to carry out social and economic reforms. These general remarks on government intervention will moreover render a not unimportant assistance in discussing various social questions. HENRY FAWCETT.

GRACE OF GOD. The majority of the kings of modern Europe, in public acts and on their medals or coins, have given themselves the title of kings *by the grace of God*, *Dei gratia rex*. This is the exact and complete formula of legitimacy and divine right. Formerly coins bore this device, *Sit nomen Domini benedictum*. In these four words the *Dei gratia rex* already existed in germ. Indeed, what other motive could Charlemagne or Philip Augustus have for blessing the Lord except for having made them kings? The Roman emperors, before Christianity, although their power was absolute, did not pretend to hold it by the grace of God. The principle on which it rested was not divine right, it was delegation by the people to which they appealed. In the twelfth century the legists of Bologna did not yet profess a theory different from that of the Institutes: "By the law *Regia* according to which the empire was constituted, the people yielded all their power to the prince." From this the jurist Theophilus concluded that "the prince is not only master of our property but even of our lives," which proves that even the most senseless despotism has always found defenders. — With Christianity appeared new ideas on the origin of power and the source of sovereignty. When Pepin was consecrated king by St. Boniface in 752, the character of royalty was changed. The king became the anointed of the Lord; an indelible sanction which came from heaven was given to his power. The person of the king was thenceforth as inviolable and sacred as that of the priest, and the prince had soon to accustom himself to place the origin of his right in the will of God. Beginning with Theodosius the Younger, the emperors of the east were anointed, their example was followed by the Visigoth and Frankish kings. But the theory of divine right which was to flow from this was formulated much later. — Under the reign of Charles II. in England Filmer became its interpreter. The following are the principal features of the system he invented, and which was reproduced afterward with more or less modifications by writers of the theocratic party. Hereditary monarchy in the order of primogeniture is alone conformable to the will of God; it is of divine institution; no opposing right can be invoked against the prince who possesses it *by the grace of God;* no human power can be arrayed against it. From this it follows that the monarch who holds his rights from Heaven alone, is absolute, and can not be bound to his subjects by any engagement, and that the promise which he gives simply expresses his present intention without binding him by any obligation. These absolutist doctrines were placed under the authority of the Holy Scriptures, which, however, appear to be rather opposed to them. Thus, in the Scripture God punishes the chosen people for having desired a king; and in the history of the Hebrews the order of primogeniture is far from being rigorously observed; we find that the youngest brothers are by preference the object of divine protection. Isaac was not the eldest son of Abraham, nor Jacob of Isaac, nor Judah of Jacob, nor David of Jesse, nor Solomon of David. In polygamous countries little account is generally taken of the rights of primogeniture. As to the New Testament, Filmer could have found there no example favorable to his thesis. Neither Tiberius to whom Christ enjoined men to pay tribute, nor Nero whom St. Paul commanded men to obey, were monarchs by divine right. (See Macaulay's "History of England.") — Filmer's theory was not an isolated fact. Bossuet in France lent it the support of his eloquence and genius. This theory is found entire in these eloquent words. "To God alone belong glory, majesty, independence; he alone establishes thrones and destroys them; he gives his power to princes or withdraws it" The king, according to Bossuet, reigning by the grace of God, could not recognize an authority superior to his own, except the divine power itself, whose representative he is upon earth. — These words, *by the grace of God*, taken in themselves, would seem to express merely an idea of submission and respect, a pious invocation of the divine power. In truth, everything takes place by the will of God, but it is not in this sense and with this humility that the device appears in history; it has a more ambitious and haughty

meaning. It is the negation of the sovereignty of the people, it is the formula of a power "from which the people should endure everything, which can not itself be forfeited, no matter how senseless and incapable it may be, of a right which pretends to be superior to all rights, indefeasible, and which would be inviolable if all other rights were violated." (Guizot.) ÉMILE CHÉDIEU.

GRAHAM, William Alexander, was born in Lincoln county, N. C., Sept. 5, 1804, and died at Saratoga Springs, N. Y., Aug. 11, 1875. He was graduated at the university of North Carolina, in 1824, studied law, was a whig United States senator 1840–3, governor 1845–9, secretary of the navy under Fillmore 1850–53, and was the whig candidate for vice-president in 1852. (See WHIG PARTY.) He was in the confederate states senate 1864–5. A. J.

GRANGER, Francis, was born at Suffield, Conn., Dec. 1, 1792, and died at Canandaigua, N. Y., Aug. 28, 1868. He was graduated at Yale in 1811, removed to New York, and entered state politics there as one of the anti-masonic leaders. He was the anti-masonic candidate for governor in 1830 and 1832, and was the whig candidate for vice-president in 1836. (See ANTI-MASONRY, I.; WHIG PARTY.) He was a whig representative from New York 1835–7 and 1839–43, and postmaster general under Harrison. A. J.

GRANGERS (IN U. S. HISTORY), the popular name for "The Patrons of Husbandry," a secret association devoted to the promotion of the interests of agriculture. Its formation dates from Dec. 4, 1867, but for several years its organization spread very slowly from Washington, its birthplace. Its general development fairly began in 1872, and before the end of the year 1875 it numbered about 1,500,000 members in every section of the Union. — The secret machinery of the order corresponds very closely to that of the freemasons. The lodges are called "granges," *i. e.*, farms, whence the popular name of the order; but both men and women are admitted to membership. There is a state grange for each state, and a national grange for the whole Union. There are four degrees in subordinate granges, one in the state grange, and two in the national grange, the last three being named, respectively, Pomona, Flora and Ceres. — "No grange, if true to its obligation, can discuss political or religious questions, or call political conventions, or nominate candidates, or even discuss their merits in its meetings." Though the order is thus fundamentally non-political, it has been extremely difficult to keep it free from political influences. Its extent is a standing temptation to designing politicians, and its aim to cheapen transportation has a constant tendency to carry it into a *quasi* political warfare against railroad corporations. Its leaders have, indeed, been very successful in keeping its organization out of politics, but its success in other respects has taught the farmers of many of the northwestern states the virtues of organization and has caused the temporary formation of "farmers' parties," particularly during the stagnant period of national politics, 1872–5. — See Appleton's *Annual Cyclopædia*, 1873, 622; Kelley's *Origin and Progress of the Patrons of Husbandry* (1875); Martin's *History of the Grange Movement* (1875); Smedley's *Manual of Jurisprudence of the Patrons of Husbandry* (1875); Carr's *Patrons of Husbandry on the Pacific Coast* (1875).

ALEXANDER JOHNSTON.

GRANT, Ulysses S., president of the United States 1869–77, was born in Point Pleasant, Clermont county, Ohio, April 27, 1822, was graduated at West Point in 1843, served with credit in the Mexican war, and in the war of the rebellion rose to the chief command of the armies of the United States. Aug. 12, 1867, he was appointed secretary of war *ad interim* by President Johnson, and Jan. 14 following he gave the position up to Stanton, when the senate disapproved the latter's removal. (See IMPEACHMENTS, VI.) In the following June he was nominated for the presidency, was elected in November, and was re-elected in 1872. (See REBELLION; REPUBLICAN PARTY; ELECTORAL VOTES; RECONSTRUCTION; INSURRECTION, II.) He was a candidate for renomination in the republican convention of 1880, but was not nominated. (See GARFIELD, J. A.) — When Grant was first nominated and elected he had no known political opinions and no experience in civil administration. Neither of the lacking qualifications, however, was demanded in 1868; the country only desired a president who could hold taut the length of rope that had been gained, keep the peace between the lately warring sections until politics should settle back to their ordinary level, and take care that in this process the results of the war, the abolition of slavery in every form, negro suffrage, and the equality of races before the law, should not be lost. For these purposes Grant represented very exactly both the needs and the desires of a majority of the qualified voters of the country. On the one hand, his kindly and considerate treatment of Lee and his surrendered soldiers, and his report to the president in 1865 on the condition of the insurrectionary states, showed that he had no vindictive feelings toward the conquered; and on the other hand, his calm and unswerving obstinacy, as it had often been tested in the field, marked him as a man who would not be likely to vacillate before any show of opposition to the laws. On the whole, the result justified the wisdom of the popular selection; indeed, a wiser president would probably not have succeeded so well. — Since 1874–5 the case has been very different. The very characteristics which in 1868–70 made Grant a very useful president, have since then made him an anachronism in politics. Nevertheless, a strong faction of the republican party has always been desirous to raise him again to the presidency, in

spite of the blunders and scandals of his second term of office. For these latter and notorious evils, however, his civil inexperience, not his personal character, is to be blamed, and his last annual message, Dec. 5, 1876, very fairly states the case, thus: "Mistakes have been made, as all can see and I admit, but it seems to me oftener in the selections made of the assistants appointed to aid in carrying out the various duties of administering the government — in nearly every case selected without a personal acquaintance with the appointee, but upon recommendations of the representatives chosen directly by the people."— See Badeau's *Military History of Grant;* Coppee's *Life of Grant;* Dana and Wilson's *Life of Grant;* Chesney's *Essays in Military Biography;* Young's *Around the World with Grant;* and authorities under articles referred to.

ALEXANDER JOHNSTON.

GREAT BRITAIN. The official designation is "The United Kingdom of Great Britain and Ireland." The greater island was known in Cæsar's time as Britain, a name of prehistoric (probably Iberian) origin and uncertain meaning. The inhabitants were called Britons by their Roman conquerors, but called themselves Kymrý; their English conquerors afterward called them Welsh, or "strangers." Another ancient name of Britain is Albion, a word of Celtic origin, meaning "hilly," and kindred with the names of the Alps, Albania on the eastern shore of the Adriatic, and Albany, an ancient epithet of Scotland. The island is supposed to have taken its name Albion from the cliffs of Dover visible from the opposite Gaulish coast. The northern part of the island was known to the Romans as Caledonia, a Celtic name of disputed meaning; but it acquired its name of Scotland from the Scots, an Irish tribe which early in the Christian era obtained possession of the western highlands. Ireland itself, Ierne, or Hibernia, is simply "the western land." From the fourth century to the tenth, Britain was overrun and occupied by successive swarms of invaders from the northern coast of Germany, from Denmark, and from Norway. The German tribes were known chiefly as Angles, Saxons, Jutes, and Frisians. The Angles, coming from a little district called Angeln, on the Baltic coast of Sleswick, were much the most numerous, and at last gave their name to the new home, Angleland, or England, although it was first under a Saxon king that the various parts of the country were united into a great kingdom. Of these tribes the Jutes and Frisians settled mainly in Kent and the Isle of Wight; the Saxons settled in the south and centre of the English territory, and the Angles in the east and north, as far as the site of Edinburgh. The Danes and Norwegians, coming later, effected settlements on the east coasts of England and of Ireland, and on the northern coasts of Scotland. In the course of these centuries of invasion, the ancient British population of Britain was largely forced into the western districts—into Cumberland and Lancashire, Wales and Cornwall, and into Brittany, the northwestern peninsula of Gaul. The various tribes of North German invaders, under leaders bearing now the title of kings, now simply that of *ealdormen* or earls, founded many petty kingdoms in Britain, some of which corresponded nearly in outline to modern shires or counties. But the title "king" in those days did not mean the ruler of a specified territory; it meant the principal chief of a particular tribe of men. At various times there were kingdoms of the Northumbrians, or "people north of the Humber"; of the Mercians, or people on the *March* or western border against the Welshmen; of the East Angles, of the East, Middle, South and West Saxons, and of the Kentish men or Jutes Modern authors used to speak of a *heptarchy*, or system of seven Teutonic kingdoms in Britain; but the expression is inaccurate, as there were never at any one time seven regularly organized states, and at some times the number of fluctuating divisions amounted to ten or eleven. The relations of these states were those of chronic warfare. Sometimes one king gained a temporary supremacy over all his rivals, and then called himself Bretwalda, or "wielder of Britain," but this did not mean that he was king over the whole country, in the modern sense; it only meant that the other kings owed him, for the time being, an indefinite homage. In the first half of the seventh century Northumbria took the lead among these little kingdoms; in the following half century the lead passed to Mercia; at the beginning of the ninth century the first place was decisively taken by Egbert, king of the West Saxons, but England can hardly be regarded as constituting a single kingdom until the reign of Edgar, 959–75. Since the time of Edgar, England has always been under a single government—an instance of political stability to which the history of the rest of the world has hitherto afforded no parallel—but its boundaries have in one instance been enlarged, namely, by the conquest of Wales under the great king Edward I., in 1283. Scotland was also conquered by Edward I. in 1296–8, but regained its independence in the following reign, the work being completed by Robert Bruce at Bannockburn in 1314. At the death of Elizabeth in 1603, the crown of England passed to the king of Scotland as next of kin, and for another century the two kingdoms remained distinct and independent, with one king, but with two parliaments, one at Westminister and one at Edinburgh. In 1706–7 Scotland was united to England, and began to be represented in the parliament at Westminster in such manner as will be shown below. At this time, therefore, the "United Kingdom of Great Britain" began its formal existence. The conquest of Ireland was attempted as early as 1170, in the reign of Henry II., by Richard, earl of Pembroke, surnamed "Strongbow"; and Ireland indeed continued thereafter nominally subject to the king of England. Yet the conquest of Ireland

can hardly be said to have been accomplished earlier than the reign of Elizabeth, and it was first really carried to completion by Oliver Cromwell. Though subject to the English crown, Ireland retained its independent legislature until 1801, when it was formally united with Great Britain, and began to be represented in the parliament at Westminster. So the formal existence of the "United Kingdom of Great Britain and Ireland," strictly speaking, begins with the beginning of the nineteenth century. — The total geographical area of the United Kingdom is about 122,161 square miles, divided as follows: England, with Wales, 58,311; Scotland, 31,326; Ireland, 32,524; total, 122,161. In other words, the area of England with Wales is almost exactly equal to that of the New England States, omitting Vermont; or to that of the state of New York with Vermont added; or to that of the state of Georgia. The area of either Scotland or Ireland alone is a little less than that of the state of Indiana. The area of Great Britain without Ireland is equal to that of the six New England states with half of New York added. The area of the United Kingdom is equal to that of the four states of Vermont, New York, Pennsylvania and New Jersey. The greatest length of Great Britain, from its southwest corner at Land's End to Duncansby Head, where John o' Groat in the reign of James IV. built his celebrated ferry-house on the beach of the Pentland Firth, is about 600 miles. Its greatest width, along the south coast, is 320 miles; its least width —say from Kincardine on the Forth to Dumbarton on the Clyde—is less than 30 miles. The greatest length of Ireland is 300 miles, and crosswise from Carnsore Point to Erris Head it measures about 200 miles. The higher mountains of Great Britain rise in the west of the island, so that most of the rivers belong to the North sea drainage. The largest of these, the Thames, draining an area about equal to that of the state of Connecticut, and possessing a tidal upflow for 60 miles from its mouth, makes London practically a seaport. The climate of Great Britain displays to a remarkable extent the effects of maritime situation. While the parallel of London runs through Labrador, the summers are not only much cooler, but the winters are much less severe, than in any part of the northern United States. In January the thermometer in London seldom goes below 32° Fahrenheit, while in July it seldom goes above 80°. — The population of the United Kingdom during the following decennial periods is shown in the table below:

YEARS.	England and Wales	Scotland.	Ireland.	Total
1820	12,172,664	2,091,521	6,801,827	21 066,012
1830	14,051,986	2 364,386	7,767,401	24,183,773
1840	16,035,198	2,620,184	8,175,124	26,830,506
1850	18,054,170	2,888,742	6,552,385	27,495,297
1860	20,223,746	3,061,251	5,764,543	29,049,540
1870	22,704,108	3,360,018	5,402,759	31,466,885
1880*	25,480,000	3.661,000	5,361,000	34,505.000
1881*	25,789.922	3.695,456	5,294,436	34,779,814

* Approximate.

It will be seen that the population of England has nearly trebled since the beginning of the present century, and that the population of Scotland has more than doubled; while, on the other hand, the population of Ireland remains the same as at the beginning of the century, the natural increase having been drawn off by emigration. The rate of increase in Great Britain, though very small compared to that of the United States, has been greater than that of any other European country. England is more densely populated than any other country in the world excepting Belgium. The population of England is 437 to the square mile, whereas that of Massachusetts, the most densely peopled state in the American Union, is 225 to the square mile, and that of China proper is about 300 to the square mile. At the beginning of the reign of Edward III., in 1327, the population of England is estimated to have reached 4,000,000; but in 1348 and the following years the terrible plague known as the Black Death, destroyed half the population, reducing it to about 2,000,000. Toward the end of Elizabeth's reign the population had reached about 5,000,000. In 1700 it was 6,045,008; in 1750 it was 6,517,035. — England is divided into 40 counties or shires, and Wales into 12; Scotland into 32 counties and 1 stewartry (Kirkcudbright, formerly administered by a royal steward with powers more extensive than those of a sheriff); Ireland into 32 counties, forming 4 provinces. Some of the English counties—as Kent, Surrey, Essex, etc.—correspond to old kingdoms; others being regarded as parts of old kingdoms, were known as *shires* or divisions; some, such as Durham, were ancient bishoprics. As these counties have all grown up historically, and not as the result of any arbitrary subdivision of the kingdom, they are extremely irregular in extent and in population. Yorkshire, the largest of the English counties, is forty times the size of Rutland, the smallest. In Ireland the four provinces—Ulster, Leinster, Munster, and Connaught—retain the names of ancient Celtic kingdoms, but the division into counties was made for administrative purposes after the English conquest. Three of the English counties—Durham, Lancaster and Chester—are called counties palatine, and in mediæval times their earls possessed peculiar prerogatives. — I. CONSTITUTION. In order to speak intelligently of the government of Great Britain, it is necessary to distinguish carefully between its two aspects, formal and practical. In form, the English government is a monarchy, in practice, it is a republic. That is to say, while the supreme governing power nominally resides in the hereditary sovereign, subject to specific constitutional limitations, in reality it does nothing of the sort; in reality the supreme governing power resides in the house of commons. It has been customary to speak of "king, lords and commons" as three estates of the realm, among which the powers or functions of government are subdivided; but this is a mistake. The powers

and functions of government in England are not subdivided between three estates of the realm, but they are concentrated in the house of commons. The house of lords may protest against a given decision of the commons, but has no power to reverse it; and the sovereign has in reality no veto power whatever, not even such power of protest as is possessed by the lords. As Mr. Bagehot forcibly observes, the queen "must sign her own death-warrant if the two houses unanimously send it up to her." Yet in the view of the law, and in common parlance, the sovereign is the source of all government in England. Though not possessed of legislative power, the sovereign is often spoken of as the executive; yet it is only by a palpable legal fiction that the sovereign of Great Britain can be regarded as the executive. The executive power really resides in a body unknown to English law, in a committee of parliament generally called the cabinet; and principally in the chairman of that committee, generally known as the prime minister or premier, though his official designation is usually "First Lord of the Treasury." — Viewed in this way, stripped of the legal fictions which result from its peculiar historic development, nothing can be simpler than the actual working of the English government. A house of commons is chosen by the people. The recognized leader of the party which wins the election is appointed (nominally by the crown, but this is a mere form) to conduct the government and to form a cabinet. So long as this government is supported by the votes of a majority of the house, it continues in office. When it ceases to be supported by the votes of a majority of the house, two courses are open to it. On the one hand, the prime minister and his cabinet may resign, and thus make room for a cabinet of the opposite party; or, on the other hand, the prime minister may dissolve the house of commons and order a new election, in which case, if his party returns a majority of members he continues in office, but if it fails to do so, he resigns at once. In this way, anything like a deadlock between the legislative and executive powers is rendered impossible. In this way the final authority in every disputed question rests with the house of commons. For though the prime minister may refuse to recognize as final the decision of a particular parliament, he can only do so through dissolving that parliament and ordering the election of a new one, and to the verdict of this election he must submit. But, although there must be a new election of parliament at least once in seven years, so long as the party of a given prime minister continues to return a majority of members so long may he continue in office, be it for half a century. In its practical working, therefore, the English constitution has this peculiar excellence, that the supreme executive power is entrusted to a minister who may be kept in office as long as he is satisfactory to the people, but can instantly be removed, without disturbance of any sort, the moment any feature of his policy is seriously disapproved by the people. And if there be room for any doubt as to whether the conduct and policy of the chief executive magistrate are satisfactory or not, the question can be settled at any time by a direct appeal to the people. — It is common in the United States to speak of the secretary of state as our "prime minister" or "premier," but nothing could well be more absurd. The American secretary of state answers to the British secretary of state for foreign affairs; there is nothing in his position or in his functions which is in any way analogous to the position or the functions of the British premier. But in many respects the American president answers to the prime minister. He is unlike the prime minister in that he acts in his own name, in that he is not a member of the legislative body, and in that his term of office is arbitrarily limited by the constitution. But he is like the prime minister as being the chief executive magistrate for the time being. — It was said above that the house of lords has no power to reverse a decision of the house of commons. There is no possibility of a real deadlock between the two houses. In point of fact, a bill which has passed the commons may be defeated in the lords, but whether the commons accepts such a veto or not depends entirely upon the strength of its determination and of its interest in the bill. When the commons has finally made up its mind, the lords must sooner or later submit. In case the lords were to persist in opposing the will of the commons, the lord chancellor would be authorized to commission a sufficient number of new peers to "swamp" the upper house. This prerogative is something to be used only with reluctance and as a last resort, and it has not actually been used since the reign of Anne, but the knowledge that it can be used constitutes a sufficient check upon the house of lords. In 1832 the government was prepared, if necessary, to secure the adoption of the reform bill by the creation of eighty liberal peers; and the knowledge of this fact at last caused the lords to withdraw their opposition to the bill. In the reign of George I. an attempt was made to take away this prerogative of creating new peers (technically supposed to be a prerogative of the sovereign), but it was evidently fortunate for the peers as a legislative body that the attempt was unsuccessful. The continuance of the independent existence of the house of lords is favored by its manifest inability to obstruct seriously the course of legislation, while as a revising and criticising body it has often been found of great service. In like manner the continuance of the English monarchy is favored by the fact that the sovereign has come to be merely an ornamental part of the governing organization, without the power of doing serious mischief. In many instances, indeed, the sovereign is useful as the theoretical source of "prerogatives" that derive their practical value only from being exercised by a responsible ministry with the approval of the majority of the house of commons. — This unquestioned supremacy of the

commons in the English government is of modern growth. We can hardly refer it to a period back of the revolution of 1688, at which time, as we shall see, cabinet government, in the strict sense of the term, had its beginnings. Yet back of that time, and far back in the middle ages, it is not so much true that the ultimate governing power did not reside in the commons as that it was more or less uncertain where it resided. In Plantagenet times it was to some extent true—as it is not at all true to-day—that the sovereignty was shared between "king, lords and commons." To determine precisely where the ultimate authority resided, and in what ways it might constitutionally exert itself, required several generations of discussion and more or less of hard fighting. England has never at any time, save for five years under Cromwell, been governed despotically; at no time has the sovereign been able to override the laws, save now and then through the subserviency of the judiciary, which was one great curse of the Tudor and still more of the Stuart times. The gradual dissolution of the feudal system, which resulted in the temporary establishment of despotic government all over the continent of Europe, resulted in the firm establishment of a free popular government in England. Many circumstances conspired to bring about such a result, but one of the most important was the conquest of the kingdom by the Normans. The accession of William the Conqueror was marked by a tendency toward centralization such as at that time characterized no other kingdom in Europe, but this centralization was achieved at the expense of the nobles, not at the expense of the common people. The old English nobility, through manifold acts of confiscation, was pushed down into a subordinate position in the social and political scale; while the new Norman nobility, through the very circumstances of its creation, was unable to assert such an independence of the crown as was asserted until nearly the end of the middle ages by the nobility of France and other continental countries. The king's authority, through his sheriffs and lord lieutenants, penetrated, with more or less efficiency, into every county. Instead of tyrannizing over the common people, and making war on the king, each in his own interest, the nobles were obliged to court the aid of the yeomanry and burghers, and, when they opposed the crown, to do so in an organized body and for the acquirement of certain permanent legal rights which under the circumstances they must needs share with the yeomanry and burghers who were their allies. Such was, in rough outline, the general character of the relations between "king, lords and commons" during the great formative period of English constitutional history between the Norman conquest and the accession of Edward I. Its most important feature was the alliance between the nobles and the common people, which resulted from the weakness of the nobles relatively to the crown, and which was consummated during the thirteenth century in the rebellion organized against Henry III. by the barons under Simon de Montfort. It was in the course of this struggle that the house of commons, as an independent legislative body, originated. The oldest English sovereigns—the kinglets over such little realms as Kent or Essex—used to hold consultations with their "elders" or nobles, after the fashion of Homeric kings, while the crowd of "churls" or common people stood about and listened, and signified approval or disapproval by cheers or groans, or by clashing their weapons. But after there had come to be one king over all England, the common people could not all come to hear his consultations with the nobles, and rattle their spears or quarter-staves; and so the *parliaments* or meetings for "talking" public business came gradually to consist only of the king and such great nobles as he thought it worth while or felt obliged to invite to come and discuss public affairs with him. In the days of the united monarchy before the Norman conquest, such meetings of king and nobles were called "*witenagemote*" or "meetings of wise men." But though the common people—the yeomen and burghers—had given up the practice of attending such royal meetings, they never quite gave up the practice of attending county meetings. When it had become manifestly impracticable for all the freemen in a county to attend in a body, they hit upon the device of sending representatives. Each township sent to the county assembly its "reeve" or principal magistrate, accompanied by "four discreet men." This had become a time-honored custom long before the thirteenth century, and so when Simon de Montfort wished to increase the strength of the popular party espoused by the barons, he had a precedent for a representative assembly all ready to hand. In 1265 Earl Simon called together a parliament in which the peers sat in person as heretofore, while each town sent two elected citizens and each county sent two elected "knights of the shire." And these elected citizens or burghers, and knights of the shire, sitting and voting separately from the body of peers, formed the first real house of commons. —The tendency to an alliance of interest between the nobles and the commons, which early brought forth such sound practical results, was further increased by a circumstance of which the importance in English history can hardly be overrated. In the countries on the continent of Europe the children of nobles were always regarded as themselves noble; nobility came to them as a birthright, and in the absence of any common legislative dealings between the nobles and the common people, this circumstance went far toward bringing about an entire separation of feelings and interests between the two classes. It tended toward the creation of a *caste* of nobility, destitute of sympathy with the common people. Such a caste, in France for example, could go so far as to compel the non-noble caste to pay all its taxes for it. But in England there has never been a noble *class*, as such. After the Norman conquest only those persons

came to be regarded as peers whom the king summoned to attend his great council or witenagemot. Other people might possess great wealth or importance, but until summoned to the witenagemot they were not politically distinguishable from the mass of commoners, they were not regarded as peers. By degrees the right to be summoned to the great council came to be regarded as hereditary in certain families through long usage; but as the thing which was inherited was simply the right to occupy a legislative office, it could not belong to more than one member of a family at a time, at least as a matter of mere inheritance. Hence the children of a peer have always been commoners, and only one child at a time has been able to reach the peerage merely through inheritance. This state of things has from the outset thrown an active and influential set of people into the house of commons, giving to that body a weight and importance which in mediæval times at least it could not possibly have acquired in any other way. And through the legislative co-operation thus ensured between plain country gentlemen and city merchants on the one hand, and the heirs of noble families on the other hand, it has prevented anything like a determined hostility between the two houses of parliament, and greatly increased their ability to limit and define the prerogatives of the crown. One of the most conspicuous facts in English history is the harmonious way in which the two houses have worked together; and it is a fact to which elsewhere in European history we find no parallel. At first, as might have been expected, it was the commons that generally followed the lead of the lords; but it was inevitable that in course of time this relationship should be reversed. As the so-called lower house represented not only the inhabitants of the chartered towns, but also the great majority of landed gentry and yeomanry—the whole nation, in short, with the exception of the personal holders of hereditary or official seats in the upper house—it was inevitable that such an assembly should gradually draw into itself all the real governing power of the state. — In the thirteenth and fourteenth centuries the power of parliament was perhaps almost as great as at the present day when fairly brought to a final test, but it was far more liable to encounter resistance on the part of the crown As Mr. Freeman observes, "the ancient parliaments demanded the dismissal of the king's ministers; they regulated his personal household; they put his authority into commission; if need be, they put forth their last and greatest power and deposed him from his kingly office. In those days a change of government, a change of policy, the getting rid of a bad minister and the putting a better in his place, were things which could never be done without an open struggle between king and parliament, often they could not be done without the bondage, the imprisonment, or the death, perhaps only of the minister, perhaps even of the king himself. The same ends can now be gained by a vote of censure in the house of commons; in many cases they can be gained even without a vote of censure, by the simple throwing out of a measure by which a ministry has given out that it will stand or fall." — The political events of the fifteenth century tended to increase the power of the crown at the expense of parliament; but in such a way that the influence of the lords suffered much more diminution relatively than that of the commons. From the earliest times it has been one of the most fundamental principles of the English constitution that the king can levy no tax save with the consent and by the authority of parliament. And this principle has at all times prevented the crown from becoming independent of parliament. At all times, indeed, the crown has possessed certain sources of revenue, established by immemorial custom, and not liable to be interfered with by parliament. In Blackstone's Commentaries, book i., chap. viii., these sources of revenue are fully described under the head of the king's "ordinary revenue" Among these sources were divers fines and aids connected with the bestowal of ecclesiastical preferments, escheats and confiscations of property, and such minor matters as deodand, treasure trove, flotsam and jetsam, etc. But in ordinary times all these sources of revenue were insufficient to maintain the crown in independence, or to enable it to carry on the work of administration without calling upon parliament for aids and subsidies. And the granting such aids and subsidies, which had to be raised by taxation, naturally fell into the hands of the commons as representatives of the nation at large. During the great wars of Edward III. and Henry V. the crown would have been powerless for want of pecuniary resources but for the aid of the commons. If a public policy proposed by the crown were disapproved by the nation at large, it could be frustrated by a refusal on the part of the commons to grant supplies; and it is no doubt ultimately through this control of the public purse that the house of commons has come to be the supreme power in the government. — But during the fifteenth century the power of parliament in both its houses received a shock through that terrible series of struggles known as the wars of the roses. These wars during a period of thirty years (1455–85) were carried on with an obstinacy and barbarity unequaled elsewhere in English history. The battles were distinguished for their enormous slaughter, that of Towton, March 29, 1461, having been probably the bloodiest battle ever fought on English soil. After each victory of either party followed a series of wholesale executions; such of the nobles as escaped death on the field were usually beheaded without mercy. So great was this slaughter that the first parliament of Henry VII. contained only twenty-nine lay peers. The old nobility, in short, was almost annihilated, both in person and in property; for along with the slaughter there went wholesale confiscations, and these confiscations added greatly to the disposable wealth of the crown. These events contributed

in various ways to enhance the royal power at the expense of parliament. In the first place, the peers newly created by the Tudor kings were for a time inclined to be subservient to the crown; and this tendency was aided under Henry VIII. by the dissolution of the monasteries, which at once withdrew thirty-six abbots and priors from the house of lords, and thus eliminated another source of opposition to the royal authority. In the second place, the available wealth of the crown was so far increased by escheats and confiscations that it became for a time to some extent independent of the house of commons; it became unnecessary to summon parliaments quite so frequently as before. In the third place, the effect of thirty years of anarchy was to arouse in the people a feeling of intense loyalty to the Tudor sovereigns as the guarantors of order and peace. And this feeling was strengthened by the curious uncertainty as to the succession which prevailed through the Tudor period. Throughout the sixteenth century the terrible memories of the civil war of the fifteenth made people unusually sensitive to the evils of a disputed succession. It was this feeling which caused some of the most atrocious acts of Henry VIII. and his daughter Mary to be condoned. This feeling went far toward making the Tudor parliaments more subservient to the crown than any others which have ever assembled in England. "Very different indeed," says Mr. Freeman, "from the parliaments which overthrew Richard II. and Charles I. were the the parliaments which, almost without a question, passed bills of attainder against any man against whom Henry's caprice had turned, the parliaments which, in the great age of religious controversy, were ever ready to enforce by every penalty that particular shade of doctrine which for the moment commended itself to the defender of the faith, to his son or to his daughters."—Nevertheless, even during the reign of Henry VIII., when the English government made perhaps its nearest approach to despotism, the importance of the house of commons was acknowledged by the persistence of the efforts made to corrupt it. The Tudor tyranny was scrupulously legal in form, and it has been truly said that "every deed of wrong done by Henry with the assent of parliament was in truth a witness to the abiding importance of parliament." One feature of the Tudor period was the continual and energetic interference of the government in parliamentary elections, and this alone shows that the assent of the commons was even in these times held indispensable. Still stronger illustration of this is shown by the creation of rotten boroughs, more especially in Cornwall, which we must be careful not to confound with such other rotten boroughs as Old Sarum. Many of the boroughs disfranchised by the great reform bill of 1832 had become "rotten" in a natural way, simply by being outstripped in rate of growth by adjacent towns. But besides these, many rotten boroughs were called into existence in the Tudor period by the government sending writs of election to petty places likely to return members who would be found subservient to the court. That the crown could not get along without the house of commons is shown by nothing more forcibly than by the very pains which it thus took to pack that legislative body. Nevertheless all such proceedings tended to impair the quality of the legislature and to weaken its authority; and it was clear that if English freedom was to be maintained, a constitutional struggle must arise, in which the independence of parliament must be asserted and the arbitrary tendencies of the crown checked. Such a struggle would no doubt have come before the end of the sixteenth century but for reasons which it is easy to point out During the first half of Elizabeth's reign the dread of a disputed succession, which had been so effective ever since the accession of her grandfather, was greatly enhanced by the fact that in case of her death without issue her probable successor would be the Catholic queen of Scotland, whose cause was supported by Philip II. of Spain, the most formidable enemy to popular liberty in all Europe. Until the overthrow of the Invincible Armada in 1588 the king of Spain was an enemy whose power of mischief it would not do to underrate. This state of things so thoroughly identified the interests of the people with the interests of the great queen, both before and after her magnificent triumph over Spain, that anything like a serious constitutional struggle between herself and her parliament was quite out of the question. Besides all this, Elizabeth was a woman of too much good sense and tact to get herself drawn into a quarrel about questions of authority and prerogative. After her death all was changed. It was clear that no future sovereign could afford to take such liberties with the constitution as the Tudors had done, unless endowed either with unusual shrewdness or with unbounded personal popularity, or both. But Elizabeth's successors had little shrewdness and little personal popularity. In foreign relations, while the cause of Elizabeth had been identical with that of England, on the other hand the Stuarts always contrived to favor just that line of foreign policy most calculated to alarm and disgust the English people. While the memory of the Armada was still fresh in the land, James I. ostentatiously cherished a perverse friendship for Spain; and in the latter part of the century, when Spain had ceased to be dangerous, and France under Louis XIV. had become the chief enemy to freedom in Europe, then James' grandsons showed even greater perversity in their criminal subservience to the French court. Thus, as the causes which kept the nation loyal to the Tudors no longer existed, it was natural that the great struggle which was to teach the sovereign hereafter to "know his place" should begin with the accession of the House of Stuart. By this time, too, the spirit of the old nobility had

grown up again in the new, and the united strength of lords and commons was as great, in relation to that of the crown, as it had been in the days of Richard II. The occasion for conflict, moreover, was precipitated by the impecuniosity of the Stuart kings. James I. and Charles I., without anything like the pecuniary resources of Henry VII., were much more anxious than Henry VII. to get along independently of parliament, and the larger part of the history of their reigns is the history of their attempts to raise money in unconstitutional ways. "Tonnage and poundage," "ship money," and other similar illegal exactions, combined with the persecution of the Puritans to bring about the rebellion which for a few years resulted in overturning the throne. The so-called commonwealth, which ensued, far from vindicating for the popular legislature its title to the supreme authority in the government, proceeded to overturn the legislature as well as the throne. The brief period of the commonwealth was in reality a season of anarchy, save during the briefer included period of Cromwell's supreme authority. The attempts of Cromwell to rule in connection with a house of commons were totally unsuccessful, because the constitution supplied no precedents adequate for determining the character of the relations between the two. In case of a conflict of policy the ultimate authority must rest with the party strongest for the time being, which in this instance was the lord protector as head of an invincible army. The brief rule of Cromwell, though deservedly glorious in English history, was a pure despotism with nothing constitutional about it. It was a despotism which did not deserve to last, which endured some five years only by reason of the transcendent ability and weighty character of Cromwell himself, but to which even Cromwell's greatness could hardly have sufficed to insure a much longer duration. The restoration of the monarchy, with all the constitutional precedents grouped about it, was really the only condition upon which the good work begun by the long parliament could be successfully carried on. The essential triumph of the Puritan rebellion was illustrated in the reformatory measures of the first parliament of Charles II., and it would have been even more complete but for the temporary reaction of feeling which the anarchical character of the commonwealth had brought about. For a moment the crown was once more associated in men's minds with peace and quietness, a feeling of which Charles and his brother proceeded to take advantage to defy public opinion. — The second revolution, in 1688, finally settled the question as to where the ultimate authority in the English government resided. It settled it in much the same way that it had been settled in 1399 by the deposition of Richard II., but this time the questions at issue had been much more definitely propounded, and the solution was much more unmistakable. The turning out of Richard had been a plain assertion of the right of parliament to make and unmake kings; but the turning out of James, coming as it did within forty years from the overthrow and execution of his father, showed that henceforth the king of England could keep his place on the throne only on condition of "governing by act of parliament." — This final and unmistakable assertion of the supremacy of parliament has been further illustrated by the growth of modern cabinet government, which took its rise in the revolution of 1688. Before William III., the kings of England had had ministers, but up to his time each minister had been regarded as the personal servant of the crown so far as concerned the discharge of the duties of his own office. Each minister was separately responsible before the law, but that kind of collective responsibility whereby the whole group of ministers assume or resign office together had not yet been established. It was not even necessary that the various ministers should belong to the same political party, or should hold similar views on great questions of public policy. Under William III. began the practice of insuring practical co-operation between the crown and parliament by means of total changes in the ministry; and from this beginning it has gradually come to pass that the change of ministry is determined entirely in accordance with the will of parliament, and not at all with reference to the will of the sovereign; and thus it has further come to pass that the real executive power in England no longer resides in the crown but in the cabinet. A conflict between crown and parliament, such as occurred in the seventeenth century, could not occur at the present time, since all the active power of the crown has passed into its representative, the cabinet — a representative agent which changes in personality as often as the parliamentary majority changes. The crown, as such, is in England a mere "survival"; and such reasonable prospect of permanence as it has is mainly due to the very fact that it has become a mere survival. Yet from a practical point of view it can hardly be doubted that the abolition of the monarchy to-day need not modify in any essential respect the already well-established operation of cabinet government in England. — This complete absorption of the executive power by the cabinet, with the concomitant complete dependence of each cabinet upon its parliamentary majority, has been brought about only by degrees. The change has been, so to speak, stealthy in its progress. It would be hard to say precisely when it was consummated. George III. — the last English sovereign whose will has really counted for anything in politics — had considerable influence in deciding who should be his ministers. His antipathy to the elder Pitt was effective in keeping Pitt out of the cabinet. George III. also took part in cabinet affairs himself. He was opposed to his own prime minister, Lord North, as to the desirableness of prolonging the war against the American colonies; and his obstinacy

was to some extent successful in prolonging the war. Nothing of the sort would be possible today. The opinions and wishes of the queen can not make the slightest difference as to the selection of Mr. Gladstone for prime minister or as to the passage of the Irish land bill. — But although we can not say precisely when this change was consummated, we may say that the most important date in English constitutional history since 1688 is unquestionably 1832, the year of the great reform bill. In that year was inaugurated a change whereby the house of commons has come to represent, much more truly than before, the whole English people. While the old "rotten boroughs" and "pocket boroughs" existed, although the vote of the commons determined what was to be the supreme law of the land, it was nevertheless possible and customary for the crown and the peerage, through corrupt influence upon the elections, to determine to some extent the composition of the house of commons. The year 1832 may be assigned as the epoch at which the supremacy of the commons became finally complete throughout all departments of the government. — For the composition of the so called lower house, and the changes wrought in it by the reform bills of 1832 and 1867, see HOUSE OF COMMONS. — II. FINANCES. For a certain number of public purposes, taxes are raised exclusively by local authorities without any action on the part of the general government. Among the more important of these objects of local taxation may be mentioned the maintenance of paupers, the repair of roads and bridges, the erection and care of prisons, insane asylums, and other public buildings, including parish churches, and the support of the police. All such expenses as these are provided in Great Britain, precisely as in the United States, by the various local governments. The amount of these expenses will be stated below under the head of local administration. — The finances of India and of the colonies are kept entirely separate from those of the United Kingdom. Not a penny from the revenues of these countries finds its way into the coffers of the imperial exchequer, nor is the British treasury in any way responsible for any of their expenses, except in certain special cases, as for example, where the imperial government guarantees a loan contracted by one of the colonial governments with the approval of parliament. The British treasury pays the salaries of the governors and other important officers in a few of the colonies; but in all the principal colonies these expenses are provided for by colonial taxation. From the beginning it has been a fundamental principle of British colonization that it should be self-supporting; and to this circumstance, no doubt, a considerable part of the extraordinary success of British colonization is due. At the same time, where military defense is concerned, the imperial government charges itself to a certain extent with the protection of the colonies, as well as with the maintenance of its dominion in India. — The first principle of taxation in Great Britain is that the government can neither raise any tax, nor expend a penny of the public revenues, except through a vote of parliament. This principle, which has always lain at the bottom of the English constitution as the ultimate practical guaranty of English liberties, was distinctly and formally acknowledged by the crown in the reign of Edward I.; and although English sovereigns—notably the first two Stuarts—have since then sought to evade it, their attempts have been unsuccessful. On the other hand, the initiative in levying taxes or in disposing of public moneys is never taken by parliament, but always by the cabinet, or nominally and in former times really by the crown. So strictly is this rule adhered to that the house of commons refuses to receive petitions soliciting any particular disposition of the public funds for any purpose whatever. If lobbying of this sort is to go on at all, it must go on with the ministry, not with the legislature. — The treasury department of the British government was in former times administered by the lord high treasurer an officer who ranked immediately after the two archbishops and the lord chancellor, as the fourth personage in the kingdom outside of the royal family. But this office became obsolete in the reign of Anne, and the treasury is now administered by a bureau or committee of five. The chairman of this committee, known as the "first lord of the treasury," is usually the prime minister, who has the general business of the government to superintend; so that, in point of fact, the especial charge of the business of the treasury is lodged with the second officer of the committee, who is known as the "chancellor of the exchequer." The other three members of the committee are of no especial account. Now and then it has happened that the same person has occupied the offices of first lord of the treasury and chancellor of the exchequer at the same time. This was the case with Sir Robert Peel in 1834 and with Mr. Gladstone in 1874; and both offices are held by Mr. Gladstone at the present time (1881); but in the nature of things such a union of two such onerous offices must be exceptional. All the five members of the treasury committee, as well as their two secretaries, must be members of parliament, and all go into or out of office together when there is a change of administration. It is the business of the chancellor of the exchequer to present each year to the house of commons his financial statement for the year just expired, and also his "budget" or estimate of receipts and expenses for the current year. The financial year in Great Britain ends on the last day of March, and the budget is usually presented to the house a few weeks later. In presenting the budget, the chancellor indicates what modifications, if any, the government proposes to make in the system of taxation for the ensuing year; and he usually makes out his estimate in such a way as to allow a margin of from two to three million dollars for incidental or unforeseen addi-

tions to the reckoned expenses. — 1. *Revenue.* The total revenue of the United Kingdom for the year ending March 31, 1880, amounted to £70,747,079, equal to $339,585,979. The chief sources of this revenue were. 1st, Custom house duties, £19,326,000; 2d, Excise tax, £25,300,000; 3d, Income and property tax, £9,230,000; 4th, Stamp duty, £10,316,103; 5th, Land and assessed tax, £2,670,000; 6th, Postoffice receipts, £3,330,000; 7th, Crown lands, £390,000; 8th, Miscellaneous, £184,976. These sources of revenue may be considered in detail. — 1st. Custom House Duties. Since 1845 customs duties have been levied only on imported goods, and the number of articles subject to duty has been greatly reduced. In 1841 the tariff list contained something like 1,200 articles; in 1881 it contained only eight, of which only five are of any importance, to wit: tea, yielding £4,016,319; coffee, yielding £216,925; wines, yielding £1,378,508; spirits, yielding £4,941,871; tobacco, yielding £8,596,757. The only other dutiable articles are chicory, cocoa and dried fruits. Customs duties are levied indiscriminately upon goods produced in British colonies and goods produced in foreign countries, and no distinctions are made with reference to the nationality of the ships from which goods are landed. The articles made dutiable are in the main articles which can not be produced in the United Kingdom. Where a dutiable article is produced in Great Britain, as in the case of spirituous liquors, it is subjected to an excise tax as nearly as possible equivalent to the duty. It will be seen, therefore, that the British tariff is devised simply for the purpose of raising revenue, and not at all for the purpose of what is called "encouraging native industry" by taxing consumers for the benefit of producers. The most important changes made in the tariff during the present century have been made by Sir Robert Peel in 1842 and 1845, and by Mr. Gladstone in 1853 and 1860. The results of these changes, as affecting the revenue derived from the tariff, may be seen in the following brief statement: In 1842 the total revenue from 1,200 articles was £22,523,000; in 1880 the total revenue from eight articles was £19,326,000. The custom house department is administered by a board of six commissioners holding office for life or during good behavior; this board is under the general direction of the treasury, and, more specifically, of the chancellor of the exchequer. Customs duties have in all ages been part of the revenues of the British government. In former times they were known by the epithet "tonnage and poundage," the tonnage duties being applicable to wines or spirits, and the poundage duties being analogous to what are now commonly known as *ad valorem* duties. — 2d. Excise. The principal articles subject to excise at the present day are spirituous liquors, beer, hops, chicory, and the sugar used in breweries. Besides this, the excise department receives a very considerable revenue from licenses, hackney carriages and cabs, and race horses. License taxes are levied on innkeepers, brewers, wine merchants and venders of beer and spirits, tobacconists, and grocers selling tea, coffee or pepper. A revenue is also derived from licenses for killing or selling game. During the past forty years a great many excise duties have been abolished, such as the excise upon salt, leather, candles, beer, vinegar, glass, soap and paper; yet the revenue derived from the excise has been increased, instead of being diminished, by these exemptions. — 3d. Income Tax. The income tax is levied upon incomes of £100 per annum and upward. The net yield of this tax is estimated as averaging £1,100,000 per penny; so that a tax of nine pence on the pound will yield a revenue of £9,900,000. The income tax is levied upon incomes derived from rent of land or houses or other real estate, from commerce or professional services, or from salaries. The income tax was first established by the younger Pitt in 1798. At the end of the Napoleonic wars, in 1815, when its annual yield was about £14,000,000, it was abolished; and was not again imposed until 1842, when a deficit of £10,000,000 having rolled up in the course of five years, Sir Robert Peel laid a tax of seven pence in the pound on incomes of £150 and upward, for three years. Incomes in Ireland were exempted from this tax. In 1845, in order to assist Sir Robert Peel in his projects of commercial reform, the tax was continued; and since then it has from time to time been continued by special legislation, for various specific purposes. In 1853 Mr. Gladstone extended the tax to incomes of £100 and upward, besides extending its operation to Ireland. This arrangement was intended to last only until 1860; but the Crimean war intervening in 1854, it was found necessary not only to prolong the period of the tax, but to increase its rate even to sixteen pence in the pound. Since 1860, although the rate has been reduced to four pence, and although a tax of this kind is always and deservedly unpopular, the proper occasion for abolishing it altogether does not seem to have arrived. — 4th. Stamp Duty. Stamps are required upon all wills, bills of exchange, receipts, title deeds and policies of marine insurance. — 5th. Land Tax. This is a tax of four shillings in the pound, or 20 per cent. on the annual income of all landed property. These figures seem enormous, but are really moderate enough, since the valuation upon which the tax is assessed is the valuation of the year 1692, which is a merely nominal figure when compared with the present value of estates. Besides this, in the same group of taxes, come the taxes upon dwelling houses, upon domestic servants, private carriages and horses, and various articles of luxury. None of these taxes are levied in Ireland. — 6th. Postoffice Receipts. The postal service, in connection with the public revenue, was established by Cromwell in 1657, but its revenue-yielding function has always been regarded as entirely secondary to its function as a public convenience. In

1868 the telegraph lines throughout Great Britain were purchased by the government, and have since that time been operated by the postoffice department, greatly to the benefit of the public. Throughout Great Britain and Ireland every postoffice has a telegraph office connected with it, and messages are sent to any distance at a uniform rate of one shilling for twenty words. The revenue derived from this source amounts to about one-tenth of that derived from the carriage of letters; but this ratio constantly tends to increase, from which it may perhaps be inferred that the tariff will ultimately be diminished. — 7th. Crown Lands. These are landed estates forming, so to speak, the residuum of the ancient hereditary domain of the crown. They are now ceded to the state by every sovereign, at the moment of his accession, in consideration of an annual allowance granted him for life by parliament, and known as the "civil list.' The crown lands are administered by a special department, the commissioners of woods and forests. But these lands do not include the duchy of Cornwall, which is separately administered, and the revenue from which is assigned to the Prince of Wales, nor the duchy of Lancaster, whose revenues are paid to the queen. — 8th. The revenues from the sale of antiquated or worthless accoutrements of the army and navy, unclaimed arrearages of the national debt, contributions from the viceroyalty of India in partial reimbursement of expenses incurred by the imperial government on account of the military armament of India, dues or arrears paid in by foreign governments, *conscience money* (*i. e.*, anonymous remittances of uncollected taxes), and various other occasional, unimportant or unclassifiable receipts. — 2. *Expenses.* The national expenses of the United Kingdom may be considered under three heads: 1st, the consolidated funds; 2d, the public expenses of administration; and 3d, the national debt. The annual expenses of administration are provided for from year to year by special votes of the house of commons. Expenses relating to the consolidated fund, or to the liquidation of the national debt, are regulated by acts of parliament extending over an indefinite period, and remaining in force so long as they are not formally abrogated. — 1st. The Consolidated Funds. The yearly revenue, after having been paid in to the exchequer, is placed to the credit of the consolidated funds. Against this credit there are charged certain debits as follows. first, the regular interest of the national debt; then, the civil list, or annual endowment assigned to the sovereign; then, the expenses of the courts of justice, along with the salaries of certain permanent officers, such as the comptroller of the exchequer, and other matters which are not regarded as worth while to be rearranged at every parliament. All these charges are summed up as the regular annual charges against the consolidated fund. The surplus is applied to the public expenses of administration. — 2d. Public Expenses of Administration. Some time before the annual meeting of parliament, the heads of the different departments, after consultation with the lords of the treasury, prepare estimates of the probable expenses of the administration of their departments for the ensuing year. Four especial budgets are handed in: one for the navy, one for the army, one for the revenue department, and one for the civil service. The civil service is subdivided into departments, such as that of public works, law and justice, education, colonial and consular service, and charitable institutions; and besides all this, there is a section devoted to various temporary purposes. Down to the year 1863, moreover, a small sum was put at the disposal of the ministers for unforeseen expenses. But since 1863 this item has been provided for by a regular and permanent assignment of £120,000. The estimates are subdivided into articles, each article having reference to a special branch of expense. The amount assigned by parliament for the civil service of the preceding year is set down in a column by itself; and by the side of it are set down the corresponding estimates for the ensuing year; and these estimates are accompanied by very elaborate explanations concerning every detail of expense, however minute. Printed copies of these estimates are distributed to each member of the house of commons. After a while they are submitted to the committee of supply for examination, and the articles are then discussed and put to vote, one after another. After a certain number of articles have been adopted, an act is passed authorizing the lords of the treasury to apply a certain proportion of the public revenue to the purposes assigned by vote of the house of commons. This act is called the "ways and means act." The gross amount specified in this act can never exceed the amount of the sums already appropriated by the committee of supply. Several acts of ways and means are ordinarily passed in the course of each session, in accordance with an old constitutional tradition whereby enough money is to be granted during the sitting of parliament to prevent any delay in public business, without putting into the hands of the crown enough funds to enable it to dispense with parliament. Thus are the financial proceedings of the house of commons still affected by reminiscences of that family of Stuart kings whom it was not safe to trust with money! At the close of the session a general act of ways and means is passed, recapitulating all these minor acts, and authorizing the lords of the treasury to appropriate the revenue in general as therein assigned. This general act is called the act of appropriation. In times of war, when it is impossible to foresee exactly the characters and amounts of all the expenses that may be found necessary, it is customary to pass a "vote of confidence," allowing the government several millions sterling in order to provide for extraordinary war expenses. Funds granted in this way can not be appropriated for any purpose that is not immediately connected with the war going on at the time. If the government

turn out to have need of any further funds, parliament must be summoned and demand made for a further credit. — A few words concerning the practical operations of the exchequer will here be in place. All the revenues collected are paid into the exchequer, from which no funds can be withdrawn except by order of the comptroller of the exchequer, an officer of high rank and independent position, who can be removed from his post only after an address presented to the crown (that is, to the prime minister) by both houses of parliament. Whenever an order for money is presented to the exchequer, it is the business of the comptroller to see that the object for which the money is drawn is one of the objects which have been authorized by parliament, and that the amount demanded falls within the limits of the credit allowed by the house of commons for this specific purpose. The comptroller can not himself draw any money whatever from the exchequer; he can only order the bank to charge moneys to the credit of a third party whom he designates. Most of the demands on the public funds of the interior are made by the paymaster general, who advises the treasury daily of the sums which he is intending to draw on the following day, and of the several accounts to which they are to be charged. The treasury then authorizes the comptroller of the exchequer to give the paymaster the necessary credit, and the paymaster can then transfer this credit to his drawing account and proceed to make payment. His payments are made in various ways; small sums are paid in ready money at the paymaster's window, and larger sums by checks on the bank. Payments abroad are usually effected by means of orders on the treasury drawn by government officers resident abroad, and accepted on presentation by the paymaster general. Officers entitled to draw such orders are usually officers of the commissary department, and the orders are drawn on account of what is known as the treasury chest fund. This fund consists of about £13,000,000 coming from the accumulation of disposable balances of various sorts, and it furnishes a very convenient means for making disbursements in different parts of the world. The final check relating to the expenditure of the public revenues is furnished by the audit office. The bureau of audit consists of four commissioners who are removable only in the same way as the comptroller of the exchequer. Most of the public accounts are sent in to the audit office for examination, but the detailed accounts of the army and navy are revised by especial military comptrollers. The audit office does not approve an account unless it can be shown that the credits have been appropriated in strict accordance with the acts of ways and means. There are two different kinds of audit, one called the "detailed audit," the other known as the "appropriation check." So far as the first is concerned, the duties of the audit office consist in ascertaining whether each responsible person has expended legitimately the funds entrusted to him. Before each responsible person is set a statement of all the advances which have been made to him, and he is required to render an account of the manner in which he has expended these sums. This account is carefully examined item by item, and the commissioners require a full explanation of every obscure or doubtful point. If the explanations are unsatisfactory, the commissioners "disallow" the items to which they relate, and at last, after concluding their examination, they make their report to the treasury; and the treasury decides for itself in the case of disallowances whether it will accept or cancel them. The "detailed audit," however, only certifies that the accounts to which it refers are duly balanced, that there are vouchers for each payment, and that every payment has been duly authorized. The "appropriation check" goes farther than this, and by means of it the commissioners of audit indicate to parliament the exact sums that have been expended in every particular for which appropriations have been made, showing, moreover, whether the sums appropriated have been entirely expended. This second kind of audit is applied only to a few very important departments, such as the army and navy, and the public works. — The following tables show the total amounts of revenue and expenditure for the sixteen financial years 1866–81:

YEARS ending March 31.	Revenue			Proportion of Receipts Per Head of Population.
	Estimated in the Budgets.	Actual Receipts at the Exchequer	More (+) or Less (−) than Budget.	
	£	£	£	£ s d.
1866	66,392,000	67,812,292	+ 1,420,292	2 5 1
1867	67,013,000	69,434,568	+ 2,421,568	2 5 8
1868	69,970,000	69,600,218	− 369,782	2 5 6
1869	73,150,000	72,591,991	− 558,009	2 6 8
1870	73,515,000	75,434,252	+ 1,919,252	2 8 4
1871	67,634,000	69,945,220	+ 2,311,220	2 4 5
1872	72,315,000	74,708,314	+ 2,393,314	2 7 8
1873	71,846,000	76,608,770	+ 4,762,770	2 8 2
1874	73,762,000	77,335,657	+ 3,573,657	2 8 2
1875	74,425,000	74,921,873	+ 496,873	2 6 3
1876	76,625,000	77,131,693	+ 506,693	2 7 1
1877	78,412,000	78,565,036	+ 154,036	2 7 6
1878	79,146,000	79,763,299	+ 617,299	2 7 8
1879	83,230,000	83,115 972	− 114 028	2 9 2
1880	83,055,000	81,265,000	− 1,790,000	2 7 7
1881	82,696,000	84,041,288	+ 1,345,288	2 8 9

YEARS ending March 31	Expenditure			Proportion of Expenditure Per Head of Population.
	Estimated in the Budgets.	Actual Payments out of the Exchequer.	More (+) or Less (−) than Budget.	
	£	£	£	£ s. d.
1866	67,249,000	65 914,357	− 1,334,643	2 4 2
1867	67,031,000	66,780,396	− 250,604	2 4 0
1868	71,287,000	71,236,242	− 50,758	2 6 6
1869	77,8.8,000	74,971,816	− 2,886,184	2 8 6
1870	68,498,000	68,864,752	+ 366,752	2 4 0
1871	69,486,000	69,548,539	− 62,539	2 4 3
1872	72,433,000	71,490,020	− 942,980	2 5 0
1873	71,663,000	70,714,448	− 948,552	2 4 5
1874	75,511,815	76,466,510	+ 954,695	2 7 7
1875	74,527,000	74,328,040	− 198,960	2 5 10
1876	76,741,000	76,621,773	− 119,227	2 6 10
1877	78,901,000	78,125,227	− 775,773	2 7 2
1878	85,669,000	82,403,495	− 3,265,505	2 9 3
1879	86,241,110	85,407,789	− 833,321	2 10 6
1880	85,999,871	84,105,754	− 1,894,117	2 9 3
1881	83,840,025	83,107,924	− 732,101	2 8 3

The expenditure for the financial years 1868 and 1869 included supplemental appropriations for the Abyssinian expedition, amounting to £5,600,000, and the expenditure for 1874 included the sum of £3,200,000 paid for the Alabama claims under the treaty of Washington. — During the whole period of sixteen years there has been an almost uninterrupted reduction of taxation, as may be seen from the following statement. In 1864 the taxes were *reduced* by £4,615,508; in 1865 by £3,235,384; in 1866 by £5,343,405; and in 1867 by £601,462. In 1868 they were *increased* by £1,285,000; and in 1869 by £1,450,000. In 1870 they were *reduced* by £2,735,670; and in 1871 by £4,497,343. In 1872 they were *increased* by £3,050,066. In 1873 they were *reduced* by £3,895,105; in 1874 by £3,327,380; in 1875 by £4,554,903; and in 1876 by £66,000. In 1877 they were *increased* by £1,549,050. In 1878 they were *reduced* by £6,000. In 1879 they were *increased* by £4,340,000. The increase in 1868 and 1869 was connected with the expenses of the Abyssinian expedition; that of 1877 was connected with extraordinary disbursements on account of the war between Russia and Turkey; and that of 1879 was connected with the war in South Africa. — The annual revenue derived from the income tax, the most important of the direct taxes, during each of the financial years 1870–81, was as follows.

YEARS ending March 31	Tax in £.	Annual Receipt.	Limitations.
	d.	£	
1870	5	10,044,000	On incomes of and above £100, with an abatement of £60 on incomes under £200.
1871	4	6,350,000	
1872	6	9,064,000	
1873	4	7,500,000	On incomes of and above £100, with an abatement of £80 on incomes under £300.
1874	3	5,691,000	
1875	2	4,306,000	
1876	2	4,109,000	
1877	3	5,280,000	On incomes of and above £150, with an abatement of £120 on incomes under £400.
1878	3	5,820,000	
1879	5	8,710,000	
1880	5	9,230,000	
1881	6	10,650,000	

—3d. National Debt. The largest branch of national expenditure is that for the interest and management of the national debt. The origin of the national debt goes back to 1694, when the bank of England loaned the government £1,200,000 at 8 per cent. interest, in consideration of certain chartered privileges which were secured to it at about that time. During the past hundred years the expenditure on account of the debt has increased more than fivefold. The debt is partly funded, partly unfunded. The holders of the funded debt can not demand the payment of the principal, but only the annual interest, while the holders of the unfunded debt can call for payment of principal as well as interest. The funded debt has been funded partly in perpetuity, partly in terminable annuities. The perpetual annuities are redeemable on payment of the principal which they represent; but in the case of most of them the government can not exercise its right of redemption without giving at least a year's notice. The unredeemed principal of the perpetual funded debt amounted in 1871 to about £731,000,000. Of the terminable annuities, some are the outstanding balances of annuities of which the term was originally fixed, while others are brief annuities created by the government in exchange for loans of money applied to the redemption of the perpetual funded debt; so that the creation of a terminable annuity in this way is a step toward the payment of the debt. — An attempt was made by Mr. Gladstone in 1853 to reduce the interest of a considerable portion of the debt to 2½ per cent.; but the attempt was unsuccessful. The principal feature of this plan was the issue of exchequer bonds bearing 2½ per cent. interest until 1864, and 2½ per cent. until 1894, after which the bonds should be redeemable at the pleasure of the government. These bonds were offered in exchange for bills of exchequer or for shares in the consolidated fund, but they were only taken up to the amount of about £400,000, and this was almost solely in exchange for bills of the exchequer. The arrears of the national debt are paid through the agency of the bank of England, which receives a commission upon the payments that it makes. Formerly so much importance was attached to the maintenance of a sinking fund for redeeming a certain amount of the debt each year, that loans were often made for the purpose of keeping it up. But the obvious futility of borrowing in order to pay the debt caused this sinking fund to be abolished. But by the provisions of an act of parliament of 1875, the national debt is now to be gradually reduced by means of a new permanent sinking fund, maintained by annual votes of the legislature. The charge of the sinking fund for the financial year ending March 31, 1876, was fixed at £27,400,000; for the following year at £27,700,000; and for every subsequent year at £28,000,000. It was also provided that the charges under this head should be entered under the consolidated fund.—The unfunded or floating debt comprises bills of the exchequer and bonds of the exchequer. There are various kinds of exchequer bills, distinguished as "supply bills," "deficiency bills," and "ways and means bills." Between the two latter kinds of bills there is a close analogy. The bills of ways and means serve as a guaranty for loans made at the bank in order to cover some deficit in the quarterly revenues designed for supplying the public service; and in just the same way the deficiency bills provide against slight deficits in the consolidated funds. These two classes of bills may be issued without special recourse to parliament, in virtue of the general authority given to the government for financial management. The supply bills of the exchequer are issued in virtue of a direct authorization by parliament. They are a kind of promissory notes, bearing an interest fixed from time to time by the treasury, and pay-

able at assigned dates. These notes are usually issued in March and June of each year, and they usually run for one year from the date of issue. They have most of the characters of bank bills, and are receivable in payment of the revenues for the year in anticipation of which they are issued. But formerly the sum of these bills in circulation would occasionally become too large to be redeemed under these conditions; and in such cases it was customary to authorize a new issue each year for the purpose of paying off the bills of the preceding year arrived at maturity. The inconvenience of this is obvious, and in 1861 a new system was introduced. Bills of the exchequer are now charged to the account of the consolidated fund. They are thus payable at the close of one year from the date of issue, but are only paid in case payment is demanded by the holders. If they are not presented for payment at the end of the year, they are payable at the end of the following year, and so on. The treasury is authorized to issue new bills in amount sufficient to replace those which have been paid on presentation. The holders of bills of the exchequer which have not more than six months to run may offer them in payment of taxes. The treasury has the right to fix the rate of interest on these bills, which can not, however, exceed 5½ per cent. per annum. The sum total of exchequer bills in circulation does not exceed £6,000,000, though formerly it attained a much higher figure.—Exchequer bonds are notes bearing interest and payable at specified dates. They are issued for periods of five or six years. The sum total of bonds in circulation twenty years ago was nearly £4,000,000, but has dwindled until it is now less than £1,000,000.—The following table exhibits the condition of the national debt from its origin down to the year 1881, at various periods:

PERIODS.	Principal of Debt.	Interest, and cost of Management.
	£	£
Debt at its beginning in 1694	664,263	89,855
Excess of debt contracted during reign of William III. over debt paid off	15,730,439	1,271,087
Debt at accession of Anne, 1702	16 394,702	1,310,942
Debt contracted during Anne's reign	87,750,661	2,040,416
Debt at accession of George I., 1714	54,145,363	3,351,358
Debt paid off during George I.'s reign over debt contracted	2,053,125	1,133,807
Debt at accession of George II., 1727	52,092,238	2,217,551
Debt contracted from 1727 till peace of Paris, 1763	86,773,192	2,634,500
Debt in 1763	138,865,430	4,852,051
Paid during peace, 1763–75	10,281,795	380,480
Debt at beginning of American war, 1775	128,583,635	4,471,571
Debt contracted during American war	121,267,993	4,980,201
Debt at close of American war	249,851,628	9,451,772
Paid during peace, 1784–93	10,501,380	243 277
Debt at beginning of French war, 1793	239,350,148	9,208,495
Debt contracted during French war until overthrow of Napoleon	601,500,343	22 829,696
Total funded and unfunded debt on Feb. 1, 1817, when English and Irish exchequers were consolidated	840,850,491	32,038,191
Debt paid from Feb. 1, 1817, to Jan. 5, 1836	53,211,675	2,894,674
Debt on Jan. 5, 1836	787,638.816	29,143.517
Debt on March 31, 1880	774,044.235	27.488.187
Debt, including terminable annuities and charge thereon on March 31, 1881	768,703,692	2 ,448,598

— During the fifteen years 1867–81, the capital of the national debt varied as follows:

YEARS ending March 31	DEBT.			
	Funded.	Terminable Annuities.	Unfunded	Total.
	£	£	£	£
1867	770,188.625	25.607 076	7 956,800	803,752 501
1868	741,844.981	53.258 874	7,911.100	803,014.955
1869	741,112,640	51,913,623	9,896,100	802.922,363
1870	741,514,681	49.667,479	6,761,500	797.943.660
1871	732,043,270	54,413 310	6,091,000	792,547.580
1872	731,756,962	52,286,775	5,155.100	789.198,837
1873	727.374,082	50 201.768	4.829,100	782,404,950
1874	723.514,005	48,021,178	4.479.600	776,017,783
1875	714,797,715	52,311.487	5 239,000	772.348 202
1876	713,657,517	49,078 792	11,401,800	774.138,109
1877	712.621,355	46,549,819	13.943,800	773,114 974
1878	710.843,007	43,644,057	20,603,000	775 090 064
1879	709,430.593	40.345.454	25.870.100	775,646 147
1880	710,476,359	36,222.976	27 344,900	774,044,235
1881	709,078.526	37,547,666	22,077.500	768,703,692

— The balances in the exchequer for the sixteen years 1866–81, are shown in the following table:

YEARS ending March 31	Balance in Exchequer.	YEARS ending March 31.	Balance in Exchequer
	£		£
1866	5,851,314	1874	17,442.854
1867	7,294,151	1875	6,265,322
1868	4,781,846	1876	5.119.587
1869	4,707,259	1877	5,988.650
1870	8,606 647	1878	6,243 389
1871	7,023.435	1879	6,915,756
1872	9,342,652	1880	3,273,428
1873	1,992,705	1881	5,923,662

— Parliament has at various times placed at the disposal of the government large sums to be loaned to private individuals or companies upon personal security, in order to facilitate the progress of works of national importance. Advances of this sort are known as "exchequer loans." They are made upon proper security, at a reasonable rate of interest, and are payable at specified periods. — III. Local Administration. The principal administrative division of the kingdom is the *county*, of which, as above stated, there are 52 in England and Wales, 33 in Scotland (including the "stewartry" of Kirkcudbright), and 32 in Ireland. The county of York is divided into three parts or districts known as *ridings*, a word which is probably a corruption of *trithing* or

"third." The principal county magistrates are the lord lieutenant, the sheriff, the justices of the peace, and the coroners. — *Lord Lieutenant.* This officer is appointed by the crown (*i. e.*, by the prime minister), and is chosen from among the principal noblemen residing in the county. He is assisted by one or more deputies whom he appoints himself, and who compose with him the lieutenancy of the county. He is the keeper of the rolls, and in this capacity takes part in the sittings of the justices of the peace. Down to 1871 he was commander of the militia, and appointed its officers, as well as those of the yeomanry and the volunteers; but in 1871 these prerogatives were transferred to the crown. — *Sheriff.* In ancient times the sheriff was elected by the freeholders of the county; but since the reign of Edward I. he is appointed annually by the crown. It is not permissible to refuse the position of sheriff, although no salary is attached to it and the office brings with it considerable expense; but the social consideration connected with the office is such that the principal landholders of the county are usually very desirous of obtaining it. The penalty, in case of refusal, is a fine of £600. An interval of three years must elapse between any two successive incumbencies of the same sheriff. The sheriff is charged with the maintenance of the public peace and the execution of the laws. He presides over elections, he is superintendent of jails, he arrests persons accused of crime or misdemeanor, he summons juries, and sees that judgment is executed. To assist him in the discharge of his duties he appoints a deputy sheriff, as well as bailiffs and jailors. The sheriff is not a justice of the peace, and can not take part in the sittings of these magistrates. The sheriff of the county of Middlesex is not appointed by the crown, but is elected by the citizens of London. — *Justices of the Peace.* The administrative functions of the ancient county courts have been passed down to the justices of the peace. These magistrates are nominated by the lord lieutenant in his capacity of keeper of the rolls, and are appointed by the lord chancellor. They must necessarily be residents in the county. Their numerous duties are performed in assemblies known as quarter sessions, petty sessions, and special sessions. The business transacted in quarter sessions is both judicial and administrative. As civil judges they decide appeals from decisions of the petty county courts; they decide upon questions relating to local taxation, licenses, and the practical administration of the poor laws. As criminal judges they have cognizance of petty crimes and misdemeanors, and may arrest persons or bind them over to keep the peace. Their principal administrative duties relate to the supervision of bridges and highways, prisons and asylums, and local police. They appoint the chief of the police, subject to the approval of the home secretary, and the chief appoints his subordinate officers, subject to the approval of the justices of the peace. An officer known as "clerk of the peace" who is appointed by the lord lieutenant, attends the sessions as secretary, and is charged with the execution of their decisions. The justices of the peace appoint a treasurer In order to facilitate the transaction of business, each county is divided into districts, and the justices resident in each district hold petty sessions, from which an appeal lies to the quarter sessions. The justices of the peace in quarter sessions also assess the county taxes in accordance with a uniform valuation of the taxable property in the county. The county expenses are chiefly incurred in the building and repair of bridges and highways, and of county court houses. These are all provided out of the general tax levied at the quarter sessions. A special tax is devoted to the maintenance of prisons and lunatic asylums. The local police is also supported in the main by the county, though a certain proportion, not exceeding one-fourth of the expense, is usually contributed by the national treasury. The various committees charged with the separate items of county affairs, such as the committee on prisons, the committee on buildings, etc., prepare an account of the expenses incurred in their several departments; and these accounts, together with the report of the treasurer, are submitted to the approval of a committee of finance appointed by the justices of the peace. — *Coroners.* The duties of the coroner are the same in Great Britain as in the United States. Though, as his title imports, he is *par excellence* the "crown officer" or representative of the crown, he is usually elected by the freeholders of the county. In some instances, however, he is appointed by the crown, or by the chief magistrates of certain cities. Each county has from three to six coroners. — *Cities and Boroughs.* These names are applied particularly to municipal corporations independent of the county, which retain, by virtue of a charter or of a special act of parliament, the power of self-government intact. Legislation regarding these corporations was summed up and epitomized in an act of 1835. A municipal corporation consists of a mayor, a board of aldermen, a common council, and citizens or burgesses. The citizens are all individuals having attained their legal majority who have occupied during three consecutive years a house, shop or office within the city, or who have their true residence within the city or within a radius of seven miles of it, and who have besides been enrolled as liable to the poor tax. The citizen list, or roll of burgesses, is publicly revised every year. The citizens elect the councilors, auditors and assessors. Councilors are chosen subject to a property qualification of not less than £500. No ecclesiastic can be elected councilor, nor can any one who is in receipt of a salary from the city. Councilors are elected for a term of three years. Aldermen are appointed by the common council, and hold office for a term of six years, and no one is eligible as alderman who is not eligible as councilor. The alder-

men preside at city elections, and one of them takes the place of the mayor in the case of his absence or death. The mayor is elected annually by the common council, and is taken indifferently from among the aldermen or from among the councilors. The mayor is *ex officio* justice of the peace during his year of office and the following year. In the municipal council his sole privilege is to preside at the meetings. The municipal council holds its meetings quarterly, and besides this, extraordinary meetings can be summoned by the mayor or by any five councilors. Two-thirds of the members of the council are required for a quorum. The council may make regulations for the city and ensure their observance by affixing fines not exceeding £5. Such regulations become effective only after having been posted for forty days at the entrance to the city hall, and after having been communicated to the home secretary. The council administers the municipal estates and revenues, and it has supervision over the local administration of justice, over prisons and houses of correction, and other local matters. Besides the council there are in every city certain officers which are either appointed by the council or elected by the citizens. The assessors and auditors are elected by the citizens, while the other officers are appointed by the council and hold office for life or during good behavior. Among these are the town clerk (who has charge of the charters and archives of the city, and prepares the electoral lists), the town treasurer, etc., etc. In most cities and boroughs there are county courts for the trial of civil actions, the extent of their circuit being prescribed by the lord chancellor. These courts have cognizance of all civil actions not exceeding £50 in value. At the request of any city, its magistrates may undertake the administration of criminal justice in petty cases, the expense being defrayed by the city. The principal expenses of cities and boroughs are expenses for lighting, water, repair of streets, and police. — *Parishes.* At the base of local administrative organization in Great Britain is found the parish. The ancient division of the county was into hundreds and townships, but these divisions at the present day have had their principal functions merged in or obscured by those of the county and the parish. At the head of each hundred there is an officer called the high constable, who was formerly elected by the freeholders of the hundred, but who is now appointed by the justices of the peace in quarter sessions. The duties of this officer have lost their ancient importance, and are now limited to the collection of taxes and the serving of writs. The word "town" has to a considerable extent departed from its ancient meaning. Towns which are not especially chartered as cities or boroughs have no distinct government as such, but for all administrative purposes make a part of the county in which they are situated. Nevertheless, neither the old townships nor the old free assembly of the township have disappeared, though both are disguised by a peculiar nomenclature. The change from the old *township* to the modern *parish* is in most instances merely a change of name; and the old *town meeting* survives in the *vestry meeting* of the parish. The vestry elects officers for the administration of parochial affairs, such as church wardens, commissioners of cemeteries, constables, overseers of the poor, and highway surveyors. The church wardens, of whom there are two in each parish, have charge of the repair of the parish church and of whatever secular business belongs directly to the church. They are paid from the revenues of the church; and before 1868, when their wages from this source were inadequate, a special tax was levied, known as the church rate, which could not exceed 5 per cent. of the annual revenue from the properties on which it could be laid. Since 1868 the payment of church rates has been made optional. Wherever there is a parochial cemetery, its administration is entrusted to a special committee, which provides for its expenses by a tax on burials. Whenever it is necessary to establish a new cemetery, or enlarge an old one, the committee may negotiate a loan, with the consent of the vestry. All country roads except turnpikes are kept up by the parishes, by means of a highway rate which is assessed in precisely the same manner as the poor rate. Petitions for the abatement of these classes of taxes may be heard by the justices of the peace in special or quarter sessions. Besides these obligatory charges, the vestry can undertake, at its own option, the service of the police and that of lighting the streets, the taxes for these purposes being assessed after the manner of the poor rates, except that properties consisting in buildings pay three times as much as lands. Besides these local services, there are others—such as public carriages, water supply, fire department, repair of town clocks, public baths, markets, etc.—which are sometimes discharged by the vestry, but perhaps more generally by local committees whose sphere of activity may extend over several parishes. The extent of the circuit of such local committees is determined by the home secretary, but the committees are responsible not to the national government, but to the parishes with which their work is concerned. — *City of London* The huge metropolis, with its population (in 1879) of 4,714,000, is technically known as the "Metropolitan District," and its current name is London. Properly speaking, however, the city of London contains hardly 100,000 of this vast population. The city contains 108 parishes, and is divided into 26 quarters or wards. The municipal government is vested in the council, consisting of the lord mayor, 26 aldermen, and 206 councilors. The lord mayor is elected annually by the council of aldermen and the assembly of guild masters, among the aldermen who have held the office of sheriff. Within the city the lord mayor takes precedence over the members of the royal family with the exception of the sovereign. He has the

prerogatives of a lord lieutenant, and besides his administrative functions he is the first justice of the peace for the city, and sits in several local courts. The aldermen are elected by the freeholders occupying houses of more than £10 rental. The common council can not contain more than eight members following the same trade. To be eligible as councilor it is necessary to possess, in one's own ward, a house of at least £10 rental. The common council is at once a legislative and an executive body. It regulates and alters the constitution of the city, without appeal to any other authority in the kingdom. It disposes of all the funds of the municipal corporation; and it appoints all the municipal officers whose appointment has not been reserved to the aldermen. Among the municipal officers the most important is that of the *recorder*, who is elected for life by the board of aldermen. He is the consulting lawyer of the corporation, and represents the lord mayor in his judicial functions. In all cases where the lord mayor and the aldermen sit as judges, the recorder sums up the arguments and pronounces the decisions. He also attends the central criminal court as representative of the lord mayor, and at the close of each session of this court he makes report to the crown concerning capital sentences. He presides over the quarter sessions at the Guildhall and at Southwark; and he is also the advocate of the city, charged with the defense of its interests, if necessary, before parliament. The *common sergeant*, elected by the common council, is the assistant of the recorder. He attends the meetings of the aldermen and common council, as well as those of the different municipal committees, to give legal advice when required. The *town clerk*, chosen also by the common council, has charge of the archives and is keeper of the municipal seal. The *remembrancer* is an officer who attends the houses of parliament in order to watch the interests of the city there, and to make a report of whatever is said or done that may affect its privileges. The *chamberlain*, besides filling the office of city treasurer, receives the oath from persons who have established their right to the freedom of the city, and decides disputes between masters and apprentices. After these officers come the comptroller, the auditors, the secretary of municipal works, the coroner, and the two sheriffs. — *Metropolitan District.* The various departments of public service entrusted to local committees, of which mention was made above, constitute in London a special administrative department, which deals principally with public works. The metropolitan circuit, for this purpose, comprises the city of London and county of Middlesex, with certain parts of the counties of Essex, Surrey and Kent, the whole making up the enormous aggregate known to modern geography as London. This metropolitan circuit is divided into thirty-eight districts, each of which has its board of commissioners. The city by itself forms one district, and the same is the case with some of the more important metropolitan parishes. The administration of the entire metropolis is under the supreme direction of a metropolitan commission composed of forty-three members, appointed by the district commissions and by those vestries which perform the same work as the district commissions. The members hold office for three years, one-third of the number being replaced each year. The metropolitan commission elects its own president and other officers. This metropolitan commission has charge of the sewers, decides upon the opening of new streets or the widening or altering of old ones, and also controls the naming of the streets and the numbering of houses. The purification of the Thames is one of the most important works which the commission has in hand; and to defray the cost of it parliament has authorized a tax of three pence in the pound on the rental of all the real estate in the metropolis for forty years. The general expenses of the commission are met by a tax graded equitably with reference to the wealth of the various districts and the advantage which they relatively receive from a given set of improvements. The members of the district commissions are chosen in each parish from among those people who pay poor rates assessed on an annual income of not less than £40; and they are chosen by a vestry consisting of not less than 18 nor more than 120 members. Parishes containing more than 2,000 electors are divided into sections. In districts formed of a single parish the vestry itself acts as a district commission. These local commissions and vestries superintend the local lighting, sewerage, paving, and street cleaning. They also employ physicians to inspect the sanitary condition of their districts. Each vestry or district commission defrays its expenses by means of two taxes: the general rate and the sewer rate. Separate accounts are kept for each of these taxes, as well as for street lighting when that is provided for by a general tax. The vestry or district commission is authorized to abate taxes, in whole or in part, in the case of localities which derive little or no advantage from them. These taxes are collected by the inspectors of the poor rate, unless the vestries or district commissions appoint special collectors. The accounts of all these local boards are approved by auditors elected at the same time as the vestrymen. A special auditor, appointed by the government, approves the accounts of the metropolitan commission.— The total amount annually raised by local taxation was as follows, in the three divisions of the United Kingdom, in the year ending March 31, 1874, this being the latest official return:

DIVISIONS.	Receipts from Taxes.	Raised by Loans.	Tot'l Local Revenue from all Sources.
	£	£	£
England and Wales	23,897,029	8,201,499	37,731,193
Scotland (partly estimat'd)	2,372,557	149,494	3,202,714
Ireland	2,996,009	129,493	4,599,908
Total for United Kingdom	29,265,595	8,480,486	45,533,815

—The following table exhibits the amounts of the various branches of local expenditure in the year ending March 31, 1874:

ENGLAND AND WALES.

In the Metropolis:	
Poor relief, including workhouse loans repaid	£ 1,636,541
All other parochial expenditure payable out of poor rates	136,507
	£ 1,773,048
Local management by vestries (exclusive of metropolitan board of works) maintenance of roads, watering, lighting, sewerage, etc.	1,516,964
Metropolitan board of works: local public works, sewerage, etc.	1,385,015
Corporation and com'rs of sewers of London: local public works, sewerage, etc.	1,136,371
Metropolitan police	1,041,601
School boards	743,448
Burial boards, etc.	56,710
Total local expenditure in metropolis	£ 7,653,157
County Districts:	
Poor relief, includ'g workhouse loans repaid.	£ 6,053,998
All other parochial expenditure payable out of poor rates	583,154
	£ 6,637,152
County purposes: police, prisons, asylums, etc.	2,780,165
Municipal boroughs, for public works, police, etc.	3,573,433
Urban sanitary authorities	7,958,208
Rural sanitary authorities	159,419
For maintenance of public roads, by highway boards	1,575,608
Turnpike trusts	671,099
School boards	1,214,617
Burial boards for public cemeteries	341,971
Other purposes	422,465
Total local expenditure in country districts	£25,334,137
Coast Districts:	
For erection and maintenance of commercial harbors	£ 3,082,571
Lighthouses, pilotage, and saving life at sea	680,689
Total local expenditure in coast districts	£ 3,763,260
Summary: Metropolis	£ 7,653,157
Country	25,334,137
Coasts	3,763,260
Total England and Wales	£36,750,554

SCOTLAND.

Parochial boards for relief of the poor	£ 851,365
Town authorities	1,176,000
County assessments: police, prisons, roads, etc.	258,000
Turnpike trusts	180,158
School boards	327,847
Other purposes	364,172
Total Scotland	£ 3,157,542

IRELAND.

Poor relief	£ 1,000,880
Town authorities	663,776
Grand jury cess: roads, bridges, prisons, etc.	1,139,483
Police	1,214,183
Harbors and lights	477,861
Other purposes	119,341
Total Ireland	£ 4,615,624
Summary: England and Wales	£36,750,554
Scotland	3,157,542
Ireland	4,615,624
Total United Kingdom	£44,523,720

—IV. CHURCH. The established church of England is the Protestant Episcopal, the fundamental doctrines of which are regarded as embodied in the thirty-nine articles, agreed upon in convocation in 1562, and finally settled in 1571. The separation of the English church from Rome, which was declared by Henry VIII., was consummated at the beginning of the reign of Elizabeth. The crown was declared by parliament to be the supreme head of the realm in matters spiritual as well as in matters temporal The thirty-nine articles, together with the book of common prayer, were adopted as containing an authoritative statement of the cardinal tenets of the church. The dogma of transubstantiation was rejected, and with it were rejected works of supererogation, purgatory, indulgences, the worship of images and relics, the worship of the virgin and the saints, auricular confession, and the celibacy of the clergy; and communion in both kinds was allowed to the laity as well as to the clergy. An oath was required of all the clergy, as well as of all members of parliament and all public officials, recognizing the sovereign as the head of the church. At first there was no recognition of liberty of conscience; both Catholics on the one hand, and Calvinistic Puritans on the other, were subject to persecution. But the spirit of persecution is not congenial with the spirit of civil liberty which has always been so powerful in England; and by the eighteenth century complete toleration had begun to prevail. At the present day all sects are fully tolerated in England, and civil disabilities do not attach to any class of citizens for religious reasons. — The sovereign, as temporal head of the church, possesses the right to nominate to all vacant archbishoprics and bishoprics; but this, like most of the rights of the crown, is practically exercised by the prime minister. The premier appoints to deaneries and such prebendaries and canonries as are in the gift of the crown. There are 2 provinces and 31 dioceses in England. The provinces are those of Canterbury and York, each under its archbishop. The former contains 23 dioceses, the latter contains 8. The archbishop of Canterbury is the primate; as spiritual head of the church he presides at the coronation of the sovereign and administers the oath. The archbishops are the chiefs of the clergy in their provinces, and they confirm and consecrate all the bishops. They have also each his own diocese, wherein they exercise episcopal, as throughout their provinces they exercise archiepiscopal jurisdiction. Thus there is the diocese of Canterbury, as well as the province of Canterbury, comprising the dioceses of Canterbury, Winchester, Salisbury, Exeter, London, etc. For the management of ecclesiastical affairs, the provinces have each a council, called the convocation, consisting of the bishops, archdeacons and deans, in person, while the inferior clergy are represented by proctors. These councils are summoned by the archbishops in the queen's name. In the province of Canterbury the convocation is divided into two houses, like parliament, the archbishop and bishops sitting in the upper house, while the deans and the representatives of the inferior clergy sit in the lower house. In the province of York all sit together in one house. The archbishop of Canter-

bury takes precedence of all other subjects, after the members of the royal family. The archbishops and bishops sit, by virtue of their office, in the house of lords; and this circumstance in English history has, very fortunately, prevented the development of the convocation into a separate estate of the realm, co-ordinate with the peers and the commons. The houses of convocation have their sessions during the same season as the sessions of parliament, but their powers have become with time very much restricted, and at the present day none of their decrees are in any way binding on the laity unless confirmed by act of parliament. It has become one of those happy devices, of which English history is so full, of allowing certain classes of people to play at sovereignty, and even to exercise here and there a little harmless jurisdiction, while the real sovereignty remains all the time with the chosen representatives of the people in the house of commons. The ecclesiastical courts take cognizance of questions of heresy and schism, of public worship, and of the revenues of the clergy. In each diocese the archdeacon's court is the court of primary jurisdiction. Above this comes the consistorial court of the bishop. Appeals lie from this to the provincial court of Canterbury, known as the court of arches, and from this there is a final appeal to the judicial committee of the privy council.—There are about 12,000 parishes in England, besides something like 200 places ranked as extra-parochial. Every parish has a parish church, presided over by the rector, who is called the "parson." He holds during life the freehold of the parsonage, with its manse and glebe-lands, and receives the tithes and other dues. But in some cases the benefice is annexed in perpetuity to some spiritual corporation, which thus appropriates the dues and becomes the patron of the living. A *vicar* is a person appointed by such a corporation, to hold the living as its lieutenant; in other respects the vicar does not differ from a rector The patronage, or right of nomination to a benefice, is called the *advowson*, and is legally classified under the head of real property. Of the 11,728 benefices now existing in England and Wales, 1,144 are in the gift of the crown, 1,853 are presented by bishops, 938 by chapters, 931 by officers of metropolitan churches, 770 by the universities of Oxford and Cambridge, the colleges of Eton, Winchester and others, and 6,092 by lords, gentlemen and ladies in the enjoyment of private patronage. Rectors receive the whole revenue of their benefices; but vicars, as simple agents or delegates of the holders of the benefices, receive only a portion. By an act of 1871, when a parson who has held a living for seven years or more is incapacitated by physical infirmity from discharging his duties, he may be retired on a pension not exceeding one-third the revenue of the living.—The church revenues are derived very largely from real estate, and also from tithes (which in 1836 were commuted for a fixed charge in money), as well as from surplice fees for baptisms, marriages and burials. The sum total has been estimated at £4,480,000. The archbishop of Canterbury receives about £15,000; the archbishop of York, £10,000; the bishop of London, £10,000; the bishop of Durham, £8,000; the bishop of Winchester, £7,000; and the other bishops from £3,000 to £5,000. The deans receive £1,000 and upward.—Of the entire population of England and Wales, about 14,000,000 belong to the established church, leaving about 11,500,000 to all other sects. Among the Protestant dissenters, the most numerous and influential are the Independents or Congregationists, the Wesleyans, and the Baptists. The Wesleyans have more than 9,000 places of worship, the Congregationalists about 3,500, and the Baptists about 2,000. Other dissenting sects of more or less social importance, are the Unitarians, Quakers and Moravians. There are about 1,000,000 Roman Catholics in England; and the Roman church has 14 dioceses there, all united in the so-called "province of Westminster," and presided over by one archbishop and thirteen bishops. In Scotland the Roman church has three vicars. In 1877 there were 1,039 Catholic chapels in England, and 233 in Scotland.—The established church in Scotland is Presbyterian in government and Calvinistic in doctrine. There is in each parish a parochial tribunal, called a "kirk session," consisting of the minister as president, together with several other persons prominent in the neighborhood, of whom two are selected as "elders." A certain number of parishes constituting a district send each its minister and one of its elders to an assembly called a "presbytery," which has the power of ordaining ministers, of authorizing candidates to preach before ordination of investigating complaints against members of the church, of admitting new members, and of pronouncing sentences of excommunication. Minor matters of church discipline are dealt with in the kirk session, from which, however, an appeal always lies to the presbytery, and ultimately to the general assembly, the highest body in the Scotch church. The general assembly is composed partly of ministers and partly of lay members, elected annually by the different presbyteries, boroughs and universities. It consists of 386 members, and meets in May every year. The nomination of ministers belongs either to the crown or to private individuals. In 1830 some of the Scotch people protested against this use of patronage, and in 1843 the result was the division of the church. Alongside of the national church of Scotland there grew up the free church of Scotland. The latter church, supported entirely by voluntary contributions, has built 900 churches and 600 school houses, besides establishing several foreign missions. Including the free church, considerably more than half the population of Scotland may be ranked as dissenters from the established church of Scotland. There are numerous bodies of Con-

gregationalists, Wesleyans, Baptists and Unitarians. The national church of Scotland has three presbyteries in England. — In 1876 it was estimated that there were 51,250 Jews in Great Britain, of whom 39,883 resided in London. — In 1871 the census of Ireland showed the following distribution of sects: Roman Catholics, 4,141,933; Episcopalians, 683,295; Presbyterians, 558,238; Wesleyans, 41,815; Baptists, 4,643; Congregationalists, 4,485; Quakers; 3,834; Jews, 258; Miscellaneous, 19,035. — The Roman Catholic church in Ireland has 4 archbishoprics (Armagh, Cashel, Dublin and Tuam) and 23 bishoprics. The church is supported by fees on the celebration of births, marriages and masses; by Christmas and Easter dues; and by voluntary subscriptions and free-will offerings. The Catholic college of Maynooth was disendowed Jan. 1, 1871. The Protestant Episcopal church was established by law in Ireland, from the time of Elizabeth until 1869, when Mr Gladstone's government disestablished it. It is henceforth on the same footing practically as any other free or dissenting sect. — V. Poor Law. Down to the time of Henry VIII. the only institutions for public charity were the monasteries, which by distributing alms alleviated distress in a fitful and irregular manner. Upon the dissolution of the monasteries it was soon found desirable to establish some civil machinery for the relief of the poor, and various more or less ineffectual measures were passed during the sixteenth century, with this object in view, until at last in 1601 the famous statute 43 Eliz., c. 2, became the foundation of the modern English poor law. This statute provided that every parish should have a board of overseers of the poor, consisting of the churchwardens, together with from two to four householders to be appointed annually by the justices of the peace nearest at hand. It was the duty of these overseers to levy a "poor rate" upon the landed property in the parish, and to apply the proceeds of this tax, first, in setting to work indigent children and able-bodied persons without means of subsistence; and secondly, in relieving the aged or infirm or other poor people who were unable to work, and who had no parents, grandparents or children able to support them. Should any parish prove unable to furnish sufficient money for these purposes, the justices might make good the deficiency out of any other parish within the hundred; and if the resources of the hundred also were found inadequate to bear the burden, the deficiency might be made good out of some other part of the county. An appeal against the rates might be carried to the justices in quarter sessions. The overseers were further authorized to apprentice pauper children, and, with the consent of the lord of the manor, to build poor houses on the waste land of the parish. In cities and boroughs the mayor might exercise the powers herein granted to the justices of the peace. One evil result of this arrangement was that the well-regulated parishes had to carry a heavier burden than the poor and ill-managed parishes, as paupers were inclined to migrate from the latter to the former. This evil gave rise to what was known as the doctrine of settlement, in accordance with which it was provided in 1662 that, on complaint of the churchwardens or overseers, an indigent person coming into a parish might be compelled to return to the parish where he was born, or at least where he was last settled. Such abuses prevailed in the administration of this system of poor relief that in 1834 a new act was passed, placing the administration of the poor law under the control of a board of commissioners to be appointed by the crown. The powers lodged in this board passed through various vicissitudes into the hands of the local government board in 1871. By the act of 1834, and later acts, the board was authorized to insist upon the erection of workhouses in which able-bodied paupers should be compelled to reside; and, wherever necessary, to consolidate several adjacent parishes into a union, with a workhouse in common. Masters of workhouses and other wage-receiving officers of unions or parishes were made removable by the board, which was also empowered to provide for a thorough inspection of workhouses, and for a proper audit of the accounts of overseers. Each parish was to remain separately chargeable for the maintenance of its own poor. The effects of this act of 1834 were such that within three years from its passage the total annual expenditure for the relief of the poor was reduced from £6,317,253 to £4,044,741. The expenditure at the present time is over £8,000,000 annually for England and Wales; but in view of the enormous increase in wealth and population, this burden is much lighter than in 1834. — VI. Public Instruction. Public education has made great progress in Great Britain during the past half century, but has nowhere attained so high a level as has been reached in the northern United States. The difference in respect of illiteracy, moreover, between different counties of Great Britain is quite as marked as the difference between Massachusetts and Mississippi. The test usually applied is only an approximate one, consisting in ascertaining the proportion of men or women who are able to sign the marriage register. Judged by this test, the percentage of illiterate men in England in 1841 was 33, and the percentage of illiterate women was 49; but in 1876 the percentage of men was reduced to 16 and that of women to 22; and in 1877 the percentage of men was 15 and of women 20. In Scotland the percentage of illiteracy is much smaller, being 9 in the case of men and 18 in the case of women. In Ireland it is much greater, being 31 in the case of men and 37 in the case of women. Among the different parts of England the smallest percentage of illiteracy is found in Westmoreland, and next in Middlesex, while next in honorable mention come Surrey and Rutland. The highest percentage of illiteracy is found in Wales. As compared with the rest of Great Britain in respect to

public education, Scotland has ever since the reformation been far in advance. The Presbyterian reformers ordered every parish to establish a primary school under the supervision of the minister, and these schools have been of immense benefit to the country. In 1871, out of 629,235 children in Scotland between the ages of five and thirteen years, 494,860 were enrolled as attending the public schools. An important measure toward the advancement of primary education in England was carried through parliament by Mr. Gladstone's government in 1870. In this act it is ordered that "there shall be provided for every school district a sufficient amount of accommodation in public elementary schools available for all the children resident in such district, for whose elementary education efficient and suitable provision is not otherwise made." These schools are in each district placed under school boards invested with great powers, among others that of enforcing attendance at school upon all children between the ages of five and thirteen. The expenses of these schools are charged upon the local rates. Under the operation of this act we find that whereas in 1871 there were 9,521 schools, attended by 1,345,802 children, in 1879 there were 17,166 schools, attended by 2,594,995 children. The members of the school boards are elected for three years by the burgesses in boroughs or by the rate payers in parishes. The number of members varies from five to fifteen. They serve gratuitously, but are allowed indemnity for expenses or damages resulting from their service on the board. The board appoints the instructors and any other necessary officials, it fixes their salaries, and can dismiss them when requisite. Instruction is not absolutely gratuitous, as in the United States, but there is a small charge for tuition, the rate being fixed by the board. If the parents of a child are too poor to pay the tuition fee, the board pays it for them; if it appears, on due inspection, that a district is too poor to bear the expense of tuition fees, the department of education authorizes the board to establish a school there which shall be entirely gratuitous. In 1879 the average amount of school fees paid by each scholar was 10s. 5½d., equivalent to $2.50½. Scholars who distinguish themselves may continue their education in normal schools, where £23 are allowed for expenses in the case of a boy and £17 in the case of a girl. — In secondary as well as primary education Scotland takes the lead. Instruction is given in the "borough schools," and in special industrial schools or mercantile colleges. The Andersonian university, founded in 1708 at Glasgow for scientific studies, is now an evening school where some 800 pupils receive instruction in penmanship, modern languages, book keeping, and elementary mathematics and physics. At Edinburgh the Watt institution, founded in 1821, teaches chemistry, physics, mathematics, modern languages, drawing and modeling; more than half the pupils are laboring men. There are something like twenty mechanics' institutes in Scotland; and schools of design have been established in many cities, of which that in Edinburgh is attended by 1,800 pupils. In England there are a great many higher schools established by private liberality and more or less richly endowed. In the first rank come the great schools of Eton with 800 pupils, Harrow with 520, and Rugby with 500, which were founded in the sixteenth century and are situated in the country; others, somewhat less celebrated, are situated at Winchester, London and Shrewsbury. The expense of living at these schools often reaches £200 per year, but there are systems of pecuniary aid analogous to those adopted in American colleges. More modern in character are the college of the city of London, founded in 1841, giving instruction in ancient and modern languages, mathematics and vocal music; the Owens college at Manchester, giving scientific and literary instruction; and the collegiate institution at Liverpool, which is at once a scientific school and a preparatory school for the universities. Among the institutions especially devoted to industrial training, a most conspicuous place is held by the public institution established in 1859 at South Kensington under the name of the "Science and Art Department." This establishment comprises a normal school of design, a central school of design, and an industrial museum. Pupils in the normal school of design, after having passed six semi-annual examinations, are placed in charge of art schools established in different towns and cities of the United Kingdom. In 1871 there were 212,500 pupils studying in these art schools. In scientific instruction the department has made use of various "mechanics' institutes" and other popular courses of instruction which were already in existence. Deserving pupils obtain prizes and endowments for the purpose of pursuing their studies in the royal school of mines, the royal college of chemistry, the London laboratory of metallurgy, or the royal scientific college at Dublin. The courses of study comprise all the sciences, as well as architecture and the designing of machinery. — As regards the higher instruction, the two great universities at Oxford and Cambridge are subjects far too extensive and complicated to be treated, even in a cursory way, in a brief, sketchy article like the present. The university of London, founded in 1837, differs from these in giving no direct instruction; it simply examines candidates for a degree, and its examinations are very severe. Women are admitted as candidates. To this university, however, are attached two colleges, both situated in London The one, known as University college, prepares pupils for the examinations, and is entirely unsectarian in its management; the other, called King's college, is Episcopalian in complexion. In Scotland there are four excellent universities, at Edinburgh, Glasgow, Aberdeen and St. Andrews.— VII. ADMINISTRATION OF JUSTICE. The simplest form of the administration of justice in England has already been described under the

head of "Local Administration." In every county there are magistrates called justices of the peace, selected from among the most respected landholders of the county. They serve without pay, and when once appointed usually hold their offices for life. Their general administrative duties have already been described. At assizes the justices usually sit as a grand jury, though the members of a grand jury do not need to be justices. As judges in quarter sessions, or even sitting singly, the justices of the peace may try petty cases, either civil or criminal; but an appeal always lies from the decision of a single justice to the quarter sessions. There are about 18,300 justices of the peace in England, but in some cases the title does not necessarily imply an active discharge of the duties of the office. There are sinecures in this, as in all other institutions. — Besides the justices of the peace, there are the sixty *county courts* in England and Wales, which deal with petty matters. These courts are held by a single salaried judge, appointed for life, and they can try cases involving not more than £50. They have also the powers of a court of chancery in cases involving not more than £500. By an act of 1863, in towns with a population of 25,000 or more, there may be appointed, at the request of the local authorities, a salaried magistrate who, either by himself or with the aid of the justices of the peace, may do the work of these county courts. In London and some other cities there are special police courts, held also by a single salaried judge, which take cognizance of petty crimes and misdemeanors. In the city of London the lord mayor also holds a police court at the Mansion House, and one is held by an alderman at the Guildhall. — The higher courts of common law (modified by acts of 1873 and 1875) are: the court of king's bench, the court of exchequer, and the court of common pleas. They are held at Westminster, where the court of chancery also sits. Each of these common law courts is held by a president and four assistants. The presiding judge, in the queen's bench and in the common pleas, is called lord chief justice; in the exchequer he is called lord chief baron. Formerly the provinces of these three courts differed considerably, but with the progress of business they have come to overlap each other in many directions; but the court of exchequer, as its name implies, is purely a fiscal court; the common pleas is simply a civil court; while the queen's bench has cognizance of both civil and criminal cases, and appeals lie to it from all the inferior courts. — For judiciary purposes, England is divided into eight circuits, and the judges of these three supreme courts are obliged twice a year to hold *assizes* in these circuits. The judges allot these circuits among themselves, and go about, holding their assizes in person. Each individual judge, in holding a court on his circuit, sits as a delegate of the supreme court to which he belongs. By means of these circuits, the jurisdiction of the common law courts at Westminster is extended all over England, taking direct cognizance of all cases, whether civil or criminal, which lie beyond the jurisdiction of the county courts or of the justices of the peace. — The supreme court of chancery at Westminster is held by the lord chancellor, but as the relations of equity to common law are very much the same in England as in the United States, the peculiar functions of this court require no special explanation here. A final appeal, in many cases, lies to the house of lords; but there is nothing in England which answers to the supreme court of the United States, as the circumstances pertaining to a federal government are non-existent in Great Britain. Within the limits of the crude outline sketch here given, however, the administration of justice in England does not materially differ from the administration of justice in the United States. But the English understand the value of a good judge better than the Americans; for the inferior judges receive salaries equivalent to $6,000, while the judges of the highest courts are paid at the rate of from $30,000 to $40,000 per year. — VIII. ARMY. The maintenance of a standing army in time of peace, without the consent of parliament, was prohibited in 1690 by the bill of rights. It requires an annual vote of the house of commons to keep the army in existence from year to year. A cabinet meeting is held shortly before the sitting of parliament, which receives communications from the commander-in-chief respecting the number of officers and men, in each branch of the service, which are needed for the ensuing year. On the basis thus furnished, the cabinet authorizes the secretary of state for war to draw up his "army estimates" to be submitted to the approval of the house of commons. A further efficient means of controlling the army is furnished by the mutiny act. In the absence of the mutiny act, the soldier on English soil is subject only to the common law, and could be punished, even for desertion, only by a civil action of contract. That martial law, without which an army can not maintain its orderly existence, exists itself only through the mutiny act which is limited in duration to a single year, and consequently has to be renewed at the beginning of every session of parliament. To such precautions were the English people led by the attempts of the Stuarts to set up a tyranny; and they were obviously so thorough as to make henceforth the merest beginning of a military despotism well nigh impossible. — The force of the regular army at decennial periods since the beginning of the present century, and cost of maintaining it, have been as follows:

1800,	240,505 men	£17,350,000
1810,	352,982 "	23,240,000
1820,	120,765 "	10,580,000
1830,	110,481 "	8,840,000
1840,	131,112 "	8,840,000
1850,	143,850 "	8,960,000
1860,	227,733 "	14,840,000
1870,	107,836 "	14,093,500
1880,	107,100 "	15,541,300

The regular army of the United Kingdom in 1882, exclusive of India, consisted of 7,222 commis-

sioned officers, 17,555 non-commissioned officers, trumpeters and drummers, and 108,217 rank and file; a total of 132,994 men of all ranks. The following table shows the composition of this force:

BRANCHES OF THE SERVICE.	Officers	Non com. Officers	Rank and File.
Officers on the General and Departmental Staff:			
General staff	256	146	.....
Army accountants	254	.....	.....
Chaplain's department	87	.....	.....
Medical and veterinary department	676	.....	.....
Commissariat department, etc.	337	.....	.....
Total Staff	1,610	146	.....
Regiments:			
Royal horse artillery, including riding establishment	115	218	2,445
Cavalry, including life and horse guards	581	1,381	10,420
Royal artillery	665	1,540	16,637
Royal engineers	382	797	4,001
Army service corps	2	525	2,503
Infantry, including foot guards	3,223	7,018	68,400
Army hospital corps	52	310	1,590
West India regiments	100	156	1,580
Colonial corps, including gun lascars	20	57	482
Total Regiments	5,140	12,032	108,058
Staff of Militia:			
Artillery and engineers	52	856	.....
Infantry	253	4,078	.....
Total Militia Staff	305	4,934	.....
Miscellaneous Establishments:			
Instruction in gunnery and engineering	22	63	71
Royal military academy, Woolwich	23	20	8
Royal military college, Sandhurst	35	21	18
Staff college	6	2	2
Regimental schools	16	174	.....
Manufacturing establishments	19	39	.....
Various ditto	46	124	50
Total Miscellaneous	167	443	149
Summary:			
Total general and departmental staff	1,610	146	.....
Total regiments	5,140	12 032	108,068
Total militia staff	305	4,934	.....
Total miscellaneous establishments	167	443	149
Total Regular Army	7,222	17,555	108,217

—The following table shows the cost of maintaining the army for the year ending March 31, 1882:

EFFECTIVE SERVICES.

1. *Regular Forces.*

General staff and regimental pay, allowances, etc.	£4,436,000
Divine service	52,400
Administration of martial law	39,800
Medical establishment and services	300,500

2. *Auxiliary and Reserve Forces.*

Militia pay and allowances	476,800
Yeomanry cavalry	73,900
Volunteer corps	540,500
Enrolled pensioners, and army reserve force	218,800

3. *Commissary Department.*

Commissariat establishments and wages	404,800
Provisions, transport, and other services	3,411,000
Clothing establishments and supplies	780,000
Manufacture and repair of war stores	1,170,000

4. *Works and Buildings.*

Superintending establishment and expenditure for works, buildings and repairs, at home and abroad	758,900

5. *Various Services.*

Military education	£ 164,100
Miscellaneous services	40,100
Administration of the army	222,200
Total effective services	£13,089,800

NON-EFFECTIVE SERVICES.

Rewards for military service	84,000
Pay of general officers	129,700
Pay of reduced and retired officers	1,054,700
Widows' pensions and compassionate allowances	124,300
Pensions for wounds	17,600
In-pensions	33,900
Out-pensions	1,386,500
Superannuation allowances	202,200
Militia and volunteer corps	87,400
Total non-effective services	£3,019,600
Summary: Effective services	£13,089,800
Summary: Non-effective services	3,019,600
Total	£16,109,400

One or two items of the foregoing table require a word of explanation. Beside the regular forces, the army estimates include appropriations for four classes of auxiliary and reserve forces, the titles of which appear in the table under that heading. In the year 1880–81 the total number of militia was 139,111; that of yeomanry, 14,511; that of volunteers, 245,648; and that of enrolled pensioners, etc., 47,000; making the total auxiliary force, 446,270. This, added to the regular army, 1880–81, makes a total of 553,370 men available for the military defense of Great Britain. — The total force of the British army in India usually stands at about 60,000; since 1877 it has been kept at the figure of 62,653. — About 40 per cent. of the British regular army is stationed in England and Wales, 2 per cent. in Scotland, 12 per cent in Ireland, and 46 per cent. abroad. — There is no conscription, or enforced military service, in Great Britain; the force of the army is maintained entirely by voluntary recruiting. The greatest abuse which had characterized the army administration, namely, the purchase of commissions, was abolished by Mr. Gladstone in 1871.— IX. NAVY Down to the time of Henry VII., whenever it was necessary to have an armed fleet for the defense of the British or the assault of the French coasts, it was customary to press merchant vessels into the service, very much as the United States government in 1861 appropriated New York ferry-boats to be used as gunboats. It was under Henry VIII. that the English navy first assumed a distinct existence, although nearly two centuries before, under Edward III., the English had won at Sluys a naval victory of the first magnitude, destroying the antagonist French fleet almost as thoroughly as at the Nile or at Trafalgar. The superiority of the English navy became pronounced in the reign of Elizabeth, and by the end of the seventeenth century was generally acknowledged, though the French and Dutch still held their position as formidable rivals. Since the middle of the eighteenth century the supremacy of the English navy over the waters of the earth has been undisputed. Until the reign of Anne the government of the navy was

vested in the lord high admiral; but since then it has been administered by the board of admiralty, or "Lords Commissioners for executing the office of Lord High Admiral." The board consists of five members who are always changed with every change of the government. The financial secretary of the board is also changed. The fixed administration, independent of the state of political parties, consists of two permanent secretaries, the controller of the navy, the accountant general, the directors of engineering and architectural works, of transports, of contracts, of naval construction, of naval ordnance, and of the medical department, and the superintendents of victualing and stores. The first lord of the admiralty, corresponding to our secretary of the navy, is always a member of the cabinet; he has supreme authority over the navy, and all questions of importance are left to his decision. The other members of the board are the senior naval lord, who is responsible for the discipline of the fleet, and directs its general movements; the third lord, who superintends the management of the dock yards and the building of ships; the junior naval lord, who superintends the transport and commissariat; and the civil lord, who is responsible for the accounts. Unlike the army, the existence of which has to be renewed every year by act of parliament, the British navy is a permanent establishment, and the statutes in accordance with which its discipline is maintained run in perpetuity, or until revoked or amended by the house of commons.—The following table gives the navy estimates for the year ending March 31, 1882:

EFFECTIVE SERVICES.

Wages to seamen and marines	£2,704,226
Victuals and clothing	1,014,481
Admiralty office	180,583
Coastguard service, naval coast volunteers, and royal naval reserve	194,481
Scientific branch	120,382
Dock yards and naval yards at home and abroad	1,446,346
Victualing yards and transport establishments	71,917
Medical establishments	65,969
Marine divisions	22,188
Naval stores	1,172,700
Ships, etc., built by contract	683,239
New works, building, machinery, and repairs	550,141
Medicines and medical stores	70,460
Martial law and charges	10,069
Miscellaneous services	127,421
Total effective services	£8,494,553

NON-EFFECTIVE SERVICES.

Half-pay, reserved half-pay, and retired pay to officers of the navy and royal marines	£ 877,890
Military pensions and allowances	847,085
Civil pensions and allowances	337,991
Total non-effective services	£2,062,916

SERVICES FOR OTHER DEPARTMENTS.

Army department for conveyance of troops	£ 228,450

Summary:	Effective services	£ 8,494,553
	Non-effective	2,062,916
	Other departments	228,450
Total		£10,725,919

These estimates not being found quite sufficient, a supplementary grant for the navy, of £83,000, was made toward the close of the session of 1880.—The number of seamen and marines at present serving in the navy is as follows:

Seamen	35,700	
Boys, including 2,200 for training	4,900	
		40,600
Marines, afloat	6,200	
" ashore	6,800	
		13,000
Coast guard, officers and men		4 000
Indian service		1,200
Total		58,800

—The number of ships in the British navy has undergone great variations, not simply with the growth of the navy in actual strength, but also with the progress of the art of naval warfare. In 1588 the fleet which defeated the Spanish Armada consisted of 176 ships and 14,992 men; but of this great force only 34 ships and 6,225 men belonged to the royal navy; the rest were volunteers serving in merchantmen pressed into the service. In 1679 there were 76 ships-of-the-line in commission. In 1750, shortly before the beginning of the war which made England the mistress of the seas, the navy consisted of 135 ships-of-the-line, 112 frigates, and 130 sloops and smaller vessels. During the great war between England and France at the beginning of this century, the British navy was increased to enormous dimensions. In 1800 it comprised 850 ships of all classes. In 1810 it comprised 1,239 vessels actually ready for service, of which nearly 300 were ships-of-the-line, about 600 were frigates, and the remainder were sloops and corvettes. In 1820 the navy comprised 745 vessels, of which 140 were ships-of-the-line. In 1822 the introduction of steam brought about an entire revolution in naval warfare. The grand old line-of-battle ships soon began to become obsolete. Down to 1835, however, the 625 vessels of which the British navy consisted comprised 110 ships-of-the-line, 150 frigates, and 350 smaller craft, with only 15 steam ships. In 1842 the invention of the screw propeller by Ericsson, and its substitution for the paddle wheel, introduced fresh changes of great importance into the art of naval construction; six years after, the British navy contained 49 screw steamers, of which 1 was classed as a ship-of-the line and 10 as frigates. At the close of the Crimean war in 1856, the navy comprised 964 vessels, among which were 45 screw steamers classed as ships-of-the-line, 30 classed as frigates, and 300 of inferior power; besides all this, there were 14 paddle wheel frigates, and 100 paddle wheel corvettes; of sailing vessels, there were 50 ships-of-the-line, 125 frigates, and 300 sloops and brigs. In 1860 the introduction of plated armor, followed in 1862 by Ericsson's invention of the turret ship, taken in connection with the simultaneous progress in the art of gunnery, entirely revolutionized the art of naval construction. The appearance of the "Monitor" in Hampton Roads, March 9, 1862, marks perhaps the greatest single step that has ever been taken in the history of naval warfare. Its immediate effect was to render antiquated all the most recently built ships then existing in all the navies of the world. Important innovations have been made since the invention of the "Monitor"; but

the present British navy dates from the year 1862; and for the purposes of naval warfare at the present day the great navy of the Crimean war would be of no more use than a squadron of 964 pleasure boats. — The most important portion of the present British navy at the beginning of 1881, consisted of 68 ironclad ships, afloat and building, of which number 48 were described as efficient, while 17 had become antiquated or otherwise inefficient, and 3 had been built solely for colonial use and were not reckoned as strictly British. The following table gives a general idea of the character of the 48 effective ironclads:

NAMES OF IRONCLADS	Thickness of Armor.	Guns.		Horse Power.	Displacement or Tonnage
		No	W'ght		
First Class —	Inches.		Tons.		
Inflexible	16 to 24	4	81	8,000	11,406
Dreadnought	14	4	38	8,000	10,886
Devastation	12 " 14	4	35	6,652	9,387
Thunderer	12 " 14	2 2	38 35	6,270	9,387
Colossus*	16 " 18	4	38	5 500	9,150
Majestic*	16 " 18	4	38	6,500	9.146
Second Class —					
Neptune	10 " 12	4	35	6,000	9,000
Agamemnon*	10 " 12	4	25	6,000	8,492
Ajax*	10 " 12	4	25	6,000	8,492
Superb	10 " 12	4	25	7 430	8,760
Belleisle	10	4	25	3.200	4,720
Orion	10 " 12	4	25	3,900	4,720
Glation	10 " 12	2	25	2,868	4,912
Rupert	9 " 14	2	18	4.200	5,358
Hotspur	8 " 12	1	25	3,497	4,010
Conqueror*	4(steel)	2	25	4.500	6,200
Polyphemus*	3(steel)	--	--	5,500	2,640
Third Class —					
Monarch	8 to 10	4 2 8	25 6½ 18	7,842	8,322
Hercules	6 " 9	2 4	12 6½	7,200	8,677
Sultan	6 " 9	8 4	18 12	8,629	9,286
Alexandra	8 " 12	2 10	25 18	9,492	8,615
Téméraire	8 " 11	4 4	25 18	7.700	8,540
Collingwood*	8 " 10	4 (st'l)	35	7 000	9,150
Nelson	8 " 10	4 8	18 12	6,640	7,323
Northampton	8 " 10	4 8	18 12	6,070	7,323
Shannon	8 " 10	2 6	18 12	8,370	5,439
Bellerophon	4 " 9	10 4	12 6½	6,521	7,551
Audacious	6 " 8	14	12	4,021	6,034
Invincible	6 " 8	10	12	4,832	6,084
Iron Duke	6 " 8	10	12	4,268	6,084
Swiftsure	6 " 8	10	12	4,913	6,343
Triumph	6 " 8	10	12	4 892	6,660
Penelope	5 " 6	10	12	4,703	4,394
Fourth Class —					
Cyclops	6 " 10	4	18	1,660	3,430
Gorgon	6 " 10	4	18	1,670	3,430
Hecate	6 " 10	4	18	1,755	3,430
Hydra	6 " 10	4	18	1,472	3,430
Fifth Class —					
Warrior	4½	1 1	9 6½	5,469	9,137
Black Prince	4½	10 16	9 6½	5,772	9,137
Minotaur	5½	10 7	12 6½	6,702	10,627
Achilles	4½	10 6	12 6½	5,722	9,694
Agincourt	5½	10 16	12 6½	6,867	10,627
Northumberland	5½	10 16	12 6½	6,558	10,627
Lord Warden	4½ to 5½	18	6½	6,706	7,842
Hector	4½	18	6½	3,256	6.713
Valiant	4½	18	6½	3 256	6,713
Defence	4½	16	6½	2,537	6,070
Resistance	4½	18	6½	2,537	6,070

In this table the ships marked with an asterisk were not yet launched at the beginning of 1881, but were expected to be finished in the course of the year. The Inflexible, built at Portsmouth and launched in 1878, is the most formidable war vessel that has ever existed. She is 320 feet in length and 75 feet in extreme breadth. In her central part a citadel 12 feet high, one-half above and one-half below the water, contains the engines and boilers, the hydraulic loading gear, the magazines, and the base of the rotating turrets. The walls of this citadel, 41 inches thick, consist of armor plates varying from 16 to 24 inches in thickness, with a strong teak backing. Within this armored citadel are the two turrets, 12 feet high and 28 feet in diameter. The turrets do not stand in line fore-and-aft, but are placed *en échelon*, so as to command a fore-and-aft fire from all the guns. Each turret holds two 81-ton guns, capable of firing a ball weighing 1,650 lbs., with a charge of 300 lbs. of powder. The vessels of the second class are designed for ocean warfare, but are inferior in power to those of the first class. The Polyphemus, now building at Chatham, deserves especial mention as representing an entirely new style of war ship. She may be described as simply a steel tube, deeply immersed, her convex deck rising but 4½ feet above the water line. She carries no heavy guns, her whole power being concentrated in a tremendous ram 12 feet in length. Besides the ram, the Polyphemus has three torpedo ports. The third class comprises a group of very swift and powerful cruisers. The ships of the fourth class are at present regarded as fit only for coast defense. Those of the fifth class were built for the most part between 1861 and 1863, and are now antiquated, except for the protection or destruction of mercantile fleets. Not a single vessel built prior to 1861 now remains in use in the British navy. — X. RESOURCES: AGRICULTURAL, INDUSTRIAL AND COMMERCIAL. *Agriculture.* According to the official reports, of the 77,000,000 acres constituting the superficial area of the United Kingdom, about 47,000,000 are devoted to agriculture, including both grazing and the growth of cereals, etc. Of this, 11,833,000 acres are devoted to cereals; 5,271,000 to kitchen vegetables; 565,000 are left fallow; 6,236,000 are laid out in gardens, orchards, etc.; and 22,525,000 are utilized as pasture lands. The area devoted to cereals is subdivided as follows: wheat, 3,831,000 acres; barley, 2,617,000 acres; oats, 4,362,000 acres; rye, 81,222 acres; beans, 550,613 acres; and pease, 391,250 acres. The average yield of wheat in the United Kingdom is estimated at 27 bushels per acre, of barley from 35 to 40 bushels, and of oats about 45 bushels; thus giving a total average yield of wheat, 103,437,000 bushels; of barley, 98,137,500 bushels; and of oats, 196,290,000 bushels. The principal fruit raised in Great Britain is the apple, the yield of which is estimated at four tons to the acre. — The average number of domestic animals in the annual census taken on the 25th of June

is about three million horses, ten million oxen and cows, thirty-three million sheep, and five million hogs. — The census of 1871 showed in Great Britain 549,784 farms of all sizes. Of this number 51.3 per cent. were farms of 20 acres and less, and 48.7 per cent. were larger farms. It is difficult to make a very precise estimate of the wages paid for agricultural labor, since the usages, the rates and the mode of payment differ considerably in different parts of the country. In some districts wages are paid in kind; in some places a certain amount of labor is given in exchange for rent. Wages paid in money range ordinarily from 12 to 15 shillings (*i. e.*, from $2.88 to $3.60) per week. — *Mineral Products.* British agriculture, though conducted with great care and skill, is too limited in extent either to obtain a controlling position in the markets of the world, or to furnish a sphere for the activity and satisfaction for the material wants of the dense and rapidly increasing population of the United Kingdom. The industrial and commercial development of Great Britain has been primarily due (next to the free constitution of the government) to the immense mineral resources of the country. The most important mineral and metal products are coal and pig iron, the annual yield of which, in the years 1868–79, is shown in the following table:

YEARS.	Coal.		Pig Iron.	
	Quantities	Value	Quantities.	Value.
	Tons.	£	Tons.	£
1868	103,141,157	25,785,289	4,970,206	12,381,280
1869	107,427,557	26,856,882	5,445,757	13,614,397
1870	110,431,192	27,607,798	5,963,515	14,908,787
1871	117,439,251	35.121,347	6,627,179	16,667,947
1872	123,497,316	46,311,216	6,741,929	18,540,304
1873	127,016 747	47,631,380	6,566,451	18,057,739
1874	125,043,257	46,849,194	4,985,084	14,844,936
1875	131.867,105	46,163,486	6,365,420	15,645,774
1876	133,344.766	46,670,668	6,555,997	16,062,192
1877	134.610,768	47,113,767	6,608,664	16.191.236
1878	132,654,887	46,429,210	6,381,051	16,154,992
1879	132,606,012	46,332,012	5,995,337	14,788,342

The total amount of iron ore produced in 1879 was 16,692,802 tons, valued at £6,746,668. As to other mineral products, the yield for 1879 is shown in the following table:

PRODUCTS.	Quantities.	Value.
Lead ..... tons	80,850	£1,123,952
Tin ..... "	14,142	572,763
Copper ..... "	73,141	282,271
Salt ..... "	2,735,001	1,504,250
Silver ..... ounces	833,462	70,860
Gold ..... "	447	1,790

— The production of coal in 1879 was distributed as follows.

	Tons.
Durham and Northumberland	31,210,000
Wales and Monmouthshire	19,464,000
Scotland	15,320 000
Lancashire	17,621,000
Yorkshire	15,900,000
Staffordshire and Worcestershire	13,990,000
Derbyshire	6,975,000
All other districts	9,268,012
Total	132,808,012

The production of pig iron in 1879 was distributed as follows:

		Tons
England —		
Yorkshire	1,425,000	
Elsewhere	2,851,000	4,276,000
Scotland		982,300
Wales and Monmouthshire		737,037
Total		5,995,337

The exports of coal to foreign countries have increased more than fivefold since 1850. In 1879 the quantity of coal exported was 15,740,082 tons, valued at £6,793,932, of which 3,317,370 tons went to France, 2,055,080 tons to Germany, and the remainder, distributed in quantities not exceeding 100,000 tons, to some forty different countries. — *Textile Industries.* Important as are the working of metals, and the mining of coal, as elements in the national wealth of Great Britain, these industries still derive their chief importance from the facilities which they have afforded for the development of the enormous textile industries for which Great Britain is so famous. The various inventions designed to replace by machinery the slow processes of manual labor have been promptly put into operation in England, thanks to the abundance of all the raw materials needed for the construction of machinery, as well as of cheap coal, placing at the disposition of manufacturers all the mechanical power required for their various purposes. The introduction of machines for spinning and weaving has had such an influence upon manual labor as to reduce very considerably the number of hands requisite for producing a given quantity of thread or of cloth. But, far from lessening the general demand for labor in textile industries, it has enlarged the field of labor to such an extent that the population for which these branches of production now furnish the means of subsistence, in the United Kingdom alone, may be counted by millions. It is to the work of Arkwright, Watt, and their fellows, more than to all other causes combined, that the enormous increase of Great Britain in wealth and population during the present century is due. — The recent condition of the textile industries of Great Britain may best be represented in a series of tables. In 1815 the total imports of cotton were 99,000,000 lbs.; in 1820, 152,000,000 lbs.; in 1830, 264,000,000 lbs., in 1840, 592,000,000 lbs.; in 1850, 663,576,861 lbs.; in 1860, 1,390,938,752 lbs.; and in 1863, 669,583,264 lbs. The falling off between 1860 and 1863, due to the blockade of the southern states in the rebellion, is very noticeable; and it is worthy of remark that a supply of cotton more than adequate for the industries of England in 1850, had become, through the mere expansion of industry, so inadequate, only thirteen years later, as to produce a period of distress almost compar-

able to a famine. Subsequent fluctuations are exhibited in the following table:

YEARS.	Total Imports of Cotton.	Total Exports of Cotton.	Retained for Home Consumption.
	lbs.	lbs.	lbs.
1867	1,282,536,912	350,626,416	911,910,496
1868	1,328,084,016	322,600,480	1,005,483,536
1869	1,220,809,856	272,928,544	947,881,312
1870	1,388,305,584	286,630,576	1,101,675,008
1871	1,778,139,776	362,284,160	1,415,905,616
1872	1,408,837,472	273,005,040	1,135 832,432
1873	1,527,396,224	220,000,256	1,307,595,968
1874	1,568,864,432	258 967 632	1,307,896,800
1875	1,492,351,168	262 8.3,868	1,229,497,360
1876	1,487,856,848	203,305,872	1,284,552,976
1877	1,355,281,200	169,396,304	1,185 884,896
1878	1,340,380 048	147,257 936	1,193,122,112
1879	1,469,358,464	188,201 888	1,281,156,576
1880	1,628,664,576	224,577,360	1,404 087,216

The first shipment of cotton from the United States to Great Britain was in 1791, and consisted of 182,000 lbs. During the past fifty years other countries have begun to rival the United States as cotton growers. The imports of raw cotton, from various parts of the world, in 1837 and in 1879, have been as follows:

COUNTRIES.	1837.	1879.
	lbs.	lbs.
From the United States	300,000,000	850,000,000
From India	50,000,000	350 000,000
From Brazil	25,000,000	100,000,000
From Egypt	10,000,000	200,000,000
Total	385,000,000	1.500.000,000

— Until the nineteenth century the manufacture of woolen cloths was the principal industry of Great Britain. In 1801 the total manufactures of the country were valued at £60,000,000, of which woolens represented more than one-fourth. Since then the production has quadrupled. England and Scotland now consume in their mills one-fourth of the total wool clip of the world; the mills count more than 5,000,000 spindles and 279.000 operatives. The fluctuations in the wool trade from 1867 to 1880, inclusive, were as follows:

YEARS	Total Imports of Wool	Total Exports of Wool	Retained for Home Consumption
	lbs	lbs	lbs.
1867	233,703,184	90,832,584	142,870,600
1868	252,744,155	105,070 311	147,673,844
1869	258,461,699	116,608,305	141,856,384
1870	268,250,499	92,542,384	170,706,115
18.1	323,036,299	135,089,794	187,946,505
1872	306,379,664	137,511,247	168,868,417
1878	318,036,779	123.246,172	194,790,607
1874	344,470,897	144,294,663	200,176,234
1875	365,065,578	172,075,439	192,990,139
1876	390,055,759	173,020,372	217 035 387
1877	409,949,198	187,418,627	222,530,571
1878	399,449,435	199,286,514	200,162,891
1879	417,110,099	243,886,008	173,724,091
1880	463,508,963	237,408,589	226,100,374

— The following table shows the numbe of textile factories, and of operatives employed in them, in the three divisions of the United Kingdom, on Oct. 31, 1874:

	Number of Factories.	Persons Employed.		
		Males	Females	Total
Cotton Factories:				
England and Wales	2,542	180,607	259,729	440,3 6
Scotland	105	5,880	80 274	86,104
Ireland	8	1,188	1,892	3,075
Total	2,655	187,620	291,895	479,515
Woolen Factories:				
England and Wales	1,483	54,119	51,252	105,371
Scotland	257	11,816	15,912	27,728
Ireland	60	782	724	1,506
Total	1,800	66,717	67,888	134,605
Shoddy Factories:				
England and Wales	123	1,568	1,856	3,424
Scotland	2	3	4	7
Ireland	.....	.....	.....	.....
Total	125	1,571	1,860	3,431
Worsted Factories:				
England and Wales	648	53,995	77,835	131,830
Scotland	43	3,052	7,203	10,255
Ireland	1	3	9	12
Total	692	57,050	85,047	142,097
Flax Factories:				
England and Wales	141	6,856	15,471	22.327
Scotland	159	12,752	33,064	45,816
Ireland	149	18,323	41,993	60,316
Total	449	37,931	90,528	128,459
Hemp Factories:				
England and Wales	45	1,465	1,574	3,039
Scotland	12	581	1,250	1,831
Ireland	4	221	120	341
Total	61	2,267	2,944	5,211
Jute Factories:				
England and Wales	15	1,510	3,423	4,933
Scotland	84	9,543	21, 50	30,893
Ireland	11	479	1,615	2,094
Total	110	11,532	26,388	37,920
Hair Factories:				
England and Wales	21	464	322	786
Scotland	6	48	377	425
Ireland	.....	.....	.....	.....
Total	27	512	699	1.211
Silk Factories:				
England and Wales	812	12,772	31 647	44,419
Scotland	4	109	631	740
Ireland	2	290	110	400
Total	818	13,171	32,388	45,559
Hosiery & other Factor's				
England and Wales	548	15,158	11,419	26,577
Scotland	8	585	585	1,120
Ireland	.....	.....	.....	.....
Total	556	15,698	12,004	27.697
Summary:				
England and Wales	6,379	328,491	454,528	783.022
Scotland	680	44,269	110,650	154 919
Ireland	235	21,281	46,463	67.744
Total	7,294	394,044	611,641	1,005,685

Of this total number of persons employed (1,005,685) there were 61,209 boys and 64,677 girls under thirteen years of age. The average wages of the cotton operatives in Lancashire were estimated in 1860 at 18s. 6d. per week for men, 10s. 2d. for women, 7s. for boys, 5s. for girls. In the linen factories at Belfast wages vary from 5s. 6d. to £2 per week, according to the skill of the workman. The average wages paid in England and Scotland for work in the woolen factories were at the same time from 6s. to 7s. per week for spinning, and 9s. for weaving; these operations being mainly carried on with the assistance of women and young girls; the wages of men in the same factories averaged from 16s. to 26s. per week. — *Hardware.* The manufacture of hardware, cutlery and machinery employs 530,000 workmen. The raw material is valued at £20,000,000, and the manufactured goods amount in value to over £100,000,000 annually, of which about two-thirds are used in Great Britain and one-third exported. Until quite recently the hardware industry of Great Britain surpassed in magnitude that of all the rest of the world put together; and, though no longer without competitors, it is still advancing as rapidly as ever. Through the increase of the maufacture of cutlery, pins, and other hardware, such towns as Sheffield and Birmingham have quadrupled their population within seventy years.

	1811.	1881.
Sheffield	58 000	284,000
Birmingham	86,000	380,000

The annual product of the *total manufactures* of the kingdom is about £665,000,000, and the number of workmen employed is 2,930,000. — *Commerce.* In the first decade of the nineteenth century, when the grandfathers of the present generation of Englishmen were spending £624,000,000 to overthrow Bonaparte, the commerce of the British empire did not exceed £60,000,000. At the present day it reaches about £931,000,000, of which about £320,000,000 represents the trade of the colonies. This is about one-third of the entire trade of the world. The following table gives the declared value of the imports and exports during the eighth decade of the century:

YEARS	Total Imports	Exports of British Produce.	Exports of Foreign and Colonial Produce.	Total Imports and Exports
	£	£	£	£
1871	331,015,380	223,066,162	60 508,538	614,590.080
1872	354,693 624	256,257,347	58 331,487	669,282,458
1873	371,287,372	255,164,608	55,840,162	682,292,187
1874	370,082,701	239,558,121	58,092.343	667,733,165
1875	373,939,577	223.465 963	58 146,360	655.551.900
1876	375.154,703	200,639,204	56,137,398	631,931,305
1877	394,419.682	198,898.065	53 452,955	646,765,702
1878	368,770,742	192.848,914	52.634,944	614,254,600
1879	362,991,875	191,531,758	57,251,606	611,775,239
1880	411,22-,566	223,060 446	63,345,020	697,635,031

—The following table exhibits the dealings of the United Kingdom with the remainder of the world during the year 1879:

COUNTRIES.	Imports, 1879	Exports of British Produce, 1879.	Total Imports and Exports, 1879.
	£	£	£
United States	91,839.221	20,321,990	112,161.211
France	38,459,096	14,988,857	53,447,953
British India	24 698,213	21,374,404	46 072,617
Germany	21,604,890	18,591,545	40,196,435
Australasia	21,962,823	16,270.736	38,233,559
Netherlands	21.959.384	9,353,151	31.312,535
Russia	15,876,461	7,644,629	23,521,090
British North America	10,445.689	5,445,130	15,890.819
Belgium	10.725,739	5,106,479	15.832.218
China	11.056 935	4,649,978	15.706,913
Spain	8,739,449	3,113,733	11,853 182
Egypt	8 890,052	2,143.681	11,043,733
Turkey	3,473,461	7.208.240	10,681,701
British South Africa	4,610,031	5.853 037	10,463 068
Brazil	4.749,816	5.685,054	10,434.870
British West Indies	7,294.273	2,762,799	10,057,072
Italy	3,233,594	4,983,676	8,217.270
Sweden	6,462,810	1,400.085	7.862.895
Denmark	4,675,090	1,647.967	6.323.057
Portugal	3 240,560	2,010,357	5.250,917
Spanish West Indies	2 929,826	1,771,528	4,701,354
Chili	3,738,158	950 286	4,688,444
Straits Settlements	2,565,361	2,029,018	4,594,379
Ceylon	3 568,965	780,918	4,349,883
Hong Kong	1,327,085	2,947,984	4,275,069
Peru	3,388,532	747,427	4.135,959
Java	1,784,140	1,643.416	3.427,556
Japan	450.945	2.638,002	3.088 947
Norway	1,917,352	1,086,171	3,003.523
Argentine Confederation	828,365	2,063,254	2,891,619
Greece	1,861.196	944,336	2,805,532
Austria	1,685,602	799,085	2,484,687
Roumania	1,373,002	997,078	2,370 080
Foreign West Africa	1,473.516	836.424	2,309,940
Central America	1,385,940	722,628	2,108,568
Philippine Islands	1,480,821	599.024	2,079.845
Colombia	926,105	882,190	1,808.295
Channel Islands	737,793	598,835	1,336,628
British West Africa	580,150	744,160	1.324 310
Uruguay	871,990	922,625	1,294,615
Mexico	582,759	693,123	1,275,882
Mauritius	641,836	341,257	983,093
Malta	184,891	768,558	953.449
Ecuador	523 172	281,985	805.157
Gibraltar	35.969	677.687	713.656
East Africa	162,537	534,374	696,911
Algeria	454,246	225,572	679,818
Venezuela	114,804	462,037	576,841
Aden	206,911	326,572	533 483
Tunis and Tripoli	406,833	57,393	466,226
Dutch West Indies	215,458	211.658	427.116
Morocco	154.270	245.037	399,307
Bolivia	306, 23	53,477	359,600
French North America	.....	354.168	354,168
Pacific Islands	138,366	167,388	305.754
Hayti	104,239	151,000	255 239
Danish West Indies	35.921	200,248	236.169
Persia	71,921	163.063	234,984
French West Indies	11,854	186,911	198,765
Northern Whale Fisheries	89,494	150	89,644
Falkland Islands	63,420	12 035	75,455
Bermudas	8,648	47.527	56,175
Siam	29 666	15,479	45,425
Bourbon (Réunion)	2,315	27,538	29,853
French India	6.845	22,760	29.605
Cochin China	24,787	4.697	29,484
St. Helena	8,596	18.889	27,485
Madagascar	10,320	15,427	25,747
Patagonia	19,191	.....	19,191
Arabia	2,038	670	2,708
Ascension	14	2,505	2,519
Indian Sea Islands	.....	1,373	1,373
Portuguese India	.....	943	943
Heligoland	.....	60	60
Total	362 991,875	191,531,758	554.523 633

And the following shows the dealings of the United Kingdom with the different countries in 1880 (This table, like the former, is taken from the "Statesman's Manual," by Frederick Martin.)

COUNTRIES.	Imports, 1880.	Exports of British Produce, 1880.	Total Imports and Exports, 1880.
	£	£	£
United States	107,081,260	30,855,871	137,937,131
British India	30,117,960	30,451,314	60,569,294
France	41,970,298	15,594,499	57,564,797
Australasia	25,663,334	16,990,935	42,594,269
Germany	24,355,419	16,943,700	41,299,119
Netherlands	25,909,373	9,246,682	35,156,055
Russia	16,029,695	7,952 226	23,981,921
British North America	13,388,988	7,708,870	21,097 858
Belgium	11,253,664	5,796,024	17,049,688
China	11,884 727	5,064,308	16,899.035
Spain	11,128,256	3,480,777	14,559,033
British South Africa	5,638.522	6,629,780	12,268,302
Egypt	9,190,589	3,060,640	12,251,229
Brazil	5,260,670	6,681,726	11,942 396
Turkey	3,874,280	6,765,966	10,640,246
Sweden	8,264,956	1.942,069	10,207,025
British West Indies	6,761,301	2,961,975	9,723,276
Italy	3,385,109	5,432,908	8,818,017
Denmark	5,285,767	1.899,659	7,185 426
Portugal	3,990,099	2,227,356	6,217,455
Straits Settlements	3,697,624	2,268,697	5.966,321
Chili	3,456,633	1,919,454	5,376 087
Hong Kong	1,253,541	3,778,201	5,031,742
Ceylon	3.386,369	987,222	4,373,591
Java	2,236,585	1,747,431	3,984,016
Norway	2,724.044	1,253 655	3,977.699
Japan	531,621	3,290,906	3,822,527
Argentine Confederation	886,628	2,450,576	3,337,204
Spanish West Indies	1,752,635	1,469,489	3.222,124
Philippine Islands	1,688.663	1,300,040	2,988,703
Peru	2,652.623	312.808	2,965,431
Foreign West Africa	1,910.641	993,737	2,904,378
Roumania	1,461,836	1,112,761	2.574.597
Greece	1,483,462	820.508	2,303,970
Uruguay	694,593	1,381,338	2,075,931
Austria	1,430,949	593,561	2,024,510
Central America	1,338.926	658,476	1,997,402
New Granada	838,439	1,039,806	1,878,245
Mexico	628,071	1,225,567	1,853,638
British West Africa	779.248	789.975	1,569,223
Channel Islands	810,435	583.668	1,394,103
Algeria	741,453	292 087	1,033,540
Malta	201,010	825,819	1,026,829
Ecuador	647,331	352,313	999,644
Gibraltar	41,275	771 862	813,137
Hayti	187,212	504,425	691,637
Mauritius	284,485	358,160	642,645
Venezuela	198,304	428.142	626,446
Morocco	350,564	246,584	597,148
Tunis and Tripoli	500,108	88.443	588,551
Aden	390.399	101.780	492,179
East Africa	235,308	228,953	464,261
Dutch West Indies	118,575	296.558	415,133
Bolivia	329,071	78.929	408,000
Siam	340,786	23,285	364,071
Persia	81,614	226,402	308,016
Danish West Indies	70,295	201,956	272,251
Islands in the Pacific	121,782	84.180	205,962
French West Indies	137	161,922	162,059
Falkland Islands	97,152	24,812	121,964
Cochin China	119,348	1,375	120,723
Northern Whale Fisheries	119,038	----------	119,038
Bermudas	5,693	59.486	65.179
Madagascar	7,557	49,610	57,167
French North America	----------	34,805	34,805
Bourbon (Réunion)	----------	27,364	27,364
St. Helena	1,449	19,276	20,725
French India	----------	10,042	10,042
Patagonia	8,054	----------	8,054
Indian Sea Islands	3,712	1,622	5,334
Ascension	----------	2,347	2,347
Arabia	----------	1,867	1,867
Portuguese India	----------	879	879
Total	411,229,565	223,060,446	634,290,011

These tables show that while the commerce of the United Kingdom extends all over the world, its principal dealings are with few countries. More than one-half of all its commercial dealings are with six countries: the United States, France, India, Germany, Australasia, and the Netherlands. Our own country ranks first in the list; and the trade between Great Britain and the United States is more than twice as great as that between Great Britain and France, the second country on the list in the table of 1879. In other words, the commercial ties between Great Britain and the United States are more than twice as strong as the ties between any other two countries in the world; and their strength is rapidly growing year by year.—The six chief articles of import into Great Britain for the year 1880 are as follows:

1.	Wheat and flour	£62,857,269
2.	Cotton, raw	42,772,088
3.	Wool	26,375.407
4.	Sugar	22,894,885
5.	Wood and timber	16,736,809
6.	Tea	11,613,398

The six chief articles of export for 1880 are exhibited in the following table:

1.	Cotton manufactures:	
	Piece goods, white or plain	£34,755,147
	" " printed or dyed	22,377,370
	" " of other kinds	6,529,916
	Cotton yarn	11,901,623
	Total	£ 75,564,056
2.	Woolen manufactures:	
	Cloths, coatings, etc.	6,736,721
	Flannels, blankets and baizes	897,088
	Worsted stuffs	7,241.156
	Carpets and druggets	1,133,545
	All other sorts	1,256,667
	Woolen and worsted yarn	3,344,740
	Total	£ 20,609,917
3.	Iron and steel:	
	Iron, pig and puddled	5.218,660
	" bar, angle, bolt and rod	2,376,379
	" railroad	5,072.353
	" wire	827,915
	" tinned plates	4,457,887
	" hoops and plates	3,383,120
	" wrought, of all sorts	3,792,128
	" old, for re-manufacture	1,165,089
	Steel, wrought and unwrought	2,096,805
	Total	£ 28,390,316
4.	Coal, cinders and fuel	8,372,933
5.	Machinery	9,263,516
6.	Linen manufactures:	
	White or plain	4,818,841
	Printed, checked or dyed	150,182
	Other sorts	886,996
	Linen yarn	1,201,542
	Total	£ 7,057,561

—*Shipping.* The number of vessels carrying the British flag was at the beginning of the present century greater than that of any other nation of ancient or modern times, and during the present century it has quadrupled. The following table exhibits the total shipping of the United Kingdom, both sailing and steam, and for both home and foreign trade, for years 1867–80:

YEARS.	Number of Vessels.	Tons.	Men
1867	21,777	5,493,708	196,340
1868	22,250	5,516,434	197,502
1869	21,881	5,557 308	195,490
1870	22,180	5,559,110	195,962
1871	22,207	5,633,561	199,732
1872	22,554	5,761,606	203,720
1873	21,581	5,748,097	202,230
1874	20,872	5,864,588	203,606
1875	20,191	5.891,692	199,667
1876	20,349	5,996,152	198,638
1877	20,319	6,115,638	196,562
1878	20,094	6,236,124	195,585
1879	20,029	6,249,633	193,548
1880	19,972	6,344,577	192,972

— The following table shows the distribution of the total amount of shipping into sail and steam, and also into home and foreign trade, for the years 1866 and 1879, omitting the intervening years:

	YEARS.	Sailing Vessels.			Steam Vessels.		
		Number.	Tons.	Men.	Number.	Tons.	Men.
Home Trade...	1866	11,212	813,909	37,440	612	147,194	9,005
	1879	10,709	706,082	36,782	1,344	240,070	14,279
Partly Home and Partly Foreign	1866	1,546	278,167	10,055	110	47,194	2,050
	1879	909	126,027	4,743	209	84,496	3,153
Foreign Trade.	1866	7,454	3,612,973	109,073	784	553,425	28,748
	1879	4,831	3,082,567	73,652	2,027	2,006,591	60,939

It will be seen from this that the proportion of steamers is growing so rapidly that before very long the sailing vessels will be in the minority. The tendency of the merchant vessels is to increase in size and tonnage. The average tonnage has more than doubled since 1840, and in this way the nation has effected a saving of 123,000 seamen, as compared with the former number of hands to tonnage, as we may see from the following table:

YEARS.	Total Tonnage.	Sailors	Tons Per Man.
1849	3,096,000	153,000	20
1861	4,360,000	172,000	25
1877	6,116,000	197,000	32

According to the scale of 1849 it is obvious that 320,000 seamen, instead of 197,000, would be required to man the British merchant fleet at the present day. The saving thus effected in gross amounts to 38 per cent., thus allowing a great reduction of freight charges, and enabling food and raw materials to be imported, and manufactures to be exported, with less expense and greater profit. — The proportion of trade done all over the world in British vessels is as follows: United Kingdom, 55.120,000 tons, or 88 per cent.; United States, 7,434,000 tons, or 59 per cent.; Canada, 5,673,000 tons, or 80 per cent.; France, 5,254,000 tons, or 36 per cent.; Australasia, 4,492.000 tons, or 93 per cent.; Netherlands, 3,790,000 tons, or 51 per cent.; Germany, 2,298,000 tons, or 36 per cent.; Italy, 1,887,000 tons, or 23 per cent.; South America, 1,200,000 tons, or 50 per cent.; West Indies, 1,180,000 tons, or 60 per cent.; Russia, 1,006,000 tons, or 34 per cent.; South Africa, 1,004,000 tons, or 86 per cent. The total carrying trade of Great Britain is therefore about 90,000,000 tons, which, at an average of 10s. ($2.40) per ton, yields an income of £45,000,000 per annum. The sum paid by British underwriters averages £1,500,000 yearly, being about £6 per ton on vessels and £8 per ton on cargoes. The total amount of marine insurance usually exceeds £450,000 —

Railways. From the opening of the first railway, in 1825, down to the end of 1850, the number of miles of railway constructed in the United Kingdom was 6,621; this was at the rate of 265 miles annually. In 1860 the length of lines was 10,433, the average rate of construction being 381 miles annually. At the end of 1879 the length of lines was 17,696, the annual average on the total length having increased to 402 miles. The principal recent railway statistics of Great Britain are comprised in the following table:

YEARS.	Length of Lines open at the end of each Year.	Total Capital Paid Up (shares and loans) at the end of each Year.	Number of Passengers Conveyed (exclusive of season ticket holders).		Traffic Receipts	
			Total.	Per Mile.		Per Mile.
	Miles.	£	No.	No.	£	£
1871	15,756	*552,680,107	375,220,754	23,814	48,892,780	3,063
1872	15,814	569,047,346	422,874,822	26,740	51,304,114	3,244
1873	16,082	588,320,306	455,320,288	28,312	55,675,421	3,462
1874	16,449	609,895,919	478,316,701	29,078	56,901 281	3,459
1875	16,658	630,226,942	507,532,187	30,468	58,982,753	3,541
1876	16,872	658,214,776	538,681,722	31,928	59,917,868	3,551
1877	17,077	674,059 048	551 593,654	32,301	62,973 328	3,687
1878	17,335	698,545,154	565,024.455	32,594	60,486,122	3,485
1879	17,696	717,003,469	562,732,890	31 800	59,395,282	3,356
1880	17,945	728,621,657	603,884,752	33,652	61,954,754	3,453

At the end of 1878 the total length in miles of railways in the British empire was as follows:

United Kingdom			17,335
India		8,215	
Ceylon		92	
Dominion of Canada		5,574	
Jamaica		25	
British Guiana		21	
Australasia	New South Wales	650	
	Victoria	931	
	South Australia	292	
	Queensland	298	
	Tasmania	175	
	New Zealand	718	
		3,064	
Cape Colony and Natal		154	
Mauritius		66	
			17,211
Total			34,546

At the end of 1879 between 5,000 and 6,000 miles of new lines were in process of construction in the different parts of the empire. The railways in the United Kingdom employ a force of 276,000 men. No less than 176 members of parliament are railway directors. From 1847 to 1873 the number of passengers killed per million steadily decreased; since 1873 it has risen, as is shown in the following table:

In	1847-9	the	ratio	of deaths was	1 in 4,782,000
	1856-9	"	"	"	8,708,000
	1866 9	"	"	"	12,941,000
	1871-3	"	"	"	20,083,000
	1874-8	"	"	"	11,688,000
	1879	"	"	"	5,350,000

— BIBLIOGRAPHY. Beda, *Historia ecclesiastica gentis Anglorum*, and the *Anglo-Saxon Chronicle*, published by Thorpe, 2 vols., London, 1861; Malmesbury, *Historia novella* and *De gestis pontificum;* Savile, *Rerum Anglicarum scriptores post Bedam præcipui*, London, 1596; Camden, *Supplementa*, Frankfort, 1603; Gale, *Historiæ Britiæ, Saxonicæ, Anglodanicæ scriptores XV.*, Oxford, 1691; Dugdale and Dodsworth, *Monasticum Anglicarum*, 3 vols., London, 1655–73; Stevens, *History of Ancient Abbeys*, 3 vols., London, 1722–3; Wilkins, *Concilia Magnæ Britanniæ et Hiberniæ*, 5 vols., London, 1737; Thorpe, *Ancient Laws and Institutes of the Anglo-Saxon Kings*, London, 1840, and *Diplomatarium Anglicanum ævi Saxonici*, London, 1865; De Thoyras, *Histoire d'Angleterre*, 9 vols, Hague, 1733; Hume, *History of England*, 6 vols., London, 1754–61; Jones, *History of England during the Reign of George III.*, 3 vols., London, 1825; Henry, *History of Great Britain*, 6 vols., Edinburgh, 1771–93; Heinrich, *Geschichte von England*, 4 vols., Leipzig, 1806–10; De Molleville, *Histoire d'Angleterre*, 6 vols., Paris, 1815; Lingard, *History of England*, 13 vols., London, 1854; Lappenburg, *Geschichte von England*, 2 vols., Hamburg, 1834–7; Macgregor, *History of the British Empire*, 2 vols., London, 1852; Keightley, *History of England*, 3 vols., London, 1839, 2 vols, 1859; Hallam, *Constitutional History of England*, London, 1827, 3 vols., London, 1871; May, *Constitutional History of England since the Accession of George III.*, 3d ed., 3 vols., London, 1871, and *Constitutional History of England from* 1760 *to* 1860, 3d ed., 2 vols., London, 1871; Stubbs, *The Constitutional History of England in its Origin and Development*, 2 vols., London, 1874–5; Creasy, *Rise and Progress of the English Constitution*, 9th ed., London, 1866; Agnes Strickland, *Lives of the Queens of England*, 12 vols., London, 1840–48, 6 vols., London, 1864–5; Ranke, *Englische Geschichte vornehmlich im* 16 *und* 17 *Jahrh.*, 9 vols., Berlin and Leipzig, 1862–72; Buckle, *History of Civilization in England*, 2 vols., London, 1874; Green, *A Short History of the English People*, London, 1874, and *History of the English People*, 4 vols., London; Kemble, *Codex diplomaticus ævi Saxonici*, 6 vols., London, 1845–8, and *The Saxons in England*, 2 vols., London, 1849; Palgrave, *Rise and Progress of the English Commonwealth, Anglo-Saxon Period*, 2 vols., London, 1832; James, *History of England in the Time of the Romans, Saxons, Danes and Normans*, London, 1851; Haigh, *Conquest of Britain by the Saxons*, London, 1861; Pauli, *König Aelfred und seine Stelle in der Geschichte Englands*, Berlin, 1857, and *Bilder von Altengland*, 2d ed., Gotha, 1876; Vaughan, *Revolutions in English History*, 3d ed., 3 vols., London, 1867; Thiérry, *Histoire de la conquête d'Angleterre par les Normands*, Paris, 1825, new ed., 1867; Turner, *History of England from the Norman Conquest to* 1500, 6th ed., 3 vols., London, 1852, *Modern History of England, part I., Reign of Henry VIII.*, London, 1826, new ed., 2 vols., London, 1835, and *Modern History of England, part II., Reigns of Edward VI, Mary and Elizabeth*, London, 1829, new ed., 2 vols., London, 1854; Froude, *History of England from the Fall of Wolsey to the Defeat of the Spanish Armada*, new ed., 12 vols., London, 1870; Clarendon, *History of the Rebellion and Civil Wars in England*, 7 vols, Oxford, 1849; Gardiner, *History of England under the Duke of Buckingham and Charles the First*, 1624–8, London, 1875; Brodie, *Constitutional History of the British Empire from the Accession of Charles I. to the Restoration*, 4 vols., Edinburgh, 1827, new ed., 3 vols., London, 1865; Mackintosh, *History of the Revolution in England in* 1688, London, 1834; Guizot, *Histoire de la révolution d'Angleterre*, 4th ed., 2 vols., Paris, 1850, and *Pourquoi la révolution d'Angleterre a-t-elle réussi* 2, Paris, 1850; Younge, *History of the English Revolution of* 1688, London, 1874; Birchall, *England under the Revolution and the House of Hanover*, 1688–1820, Manchester, 1876; Merle d'Aubigné, *Le Protecteur, ou la république d'Angleterre aux jours de Cromwell*, Paris, 1848; Macpherson, *History of Great Britain from the Restoration of Charles II. to the Accession of the House of Hanover*, London, 1775; Macaulay, *History of England from the Accession of James II.*, 5 vols., London, 1848–61, new ed., London, 1875; Earl Stanhope, *History of England from the Peace of Utrecht to the Peace of Versailles*, 1713–83, 5th ed., 7 vols., London, 1858; Massey, *History of England during the Reign of George III.*, 4 vols., London, 1861–5, 2d ed., 1866; Martineau, *History of England during the Thirty Years' Peace*, 2 vols., London, 1848–50; Roebuck, *History of the Whig Ministry of* 1830, 2 vols., London, 1850–51; Pauli, *Geschichte Englands seit den Freidensschlüssen von*

1814 *und* 1815, 8 vols., Leipzig, 1864–75; Molesworth, *History of England from* 1830–74, *to the Resignation of the Gladstone Ministry*, new ed., 3 vols., London, 1874; Bagehot, *The English Constitution*, London, 1867, 2d ed., 1872; Gneist, *Das englischen Verwaltungsrecht mit Einschluss des Heers, der Gerichte und der Kirche*, 2d ed., 2 vols., 1866–7, and *Selfgovernment, Communalverfassung und Verwaltungsgerichte in England*, 3d ed., Berlin, 1871; Baxter, *The Taxation of the United Kingdom*, London, 1869; Burrows, *Constitutional Progress*, London, 1869; Clode, *History of the Administration and Government of the British Army from the Revolution of* 1688, 2 vols., London, 1869–70; Freeman, *The Growth of the English Constitution from the Earliest Times*, London, 1873; Hearn, *The Government of England*, London, 1870; Holms, *The British Army in* 1875, London, 1876; Noble, *National Finance*, London, 1875; Palgrave, *The Local Taxation of Great Britain and Ireland*, London, 1871; Reed, *Our Ironclad Ships*, London, 1869; Scott, *The British Army*, 2 vols., London, 1868; Stephens, *New Commentaries on the Laws of England*, 4 vols., London, 1868; Todd, *On Parliamentary Government in England*, 2 vols, London, 1867–9; Young, *Imperial Federation of Great Britain and Her Colonies*, London, 1876. — (See IRELAND, SCOTLAND.)

JOHN FISKE.

GREECE, a kingdom in the southeast of Europe, consisting of old Middle Greece (Hellas), the Peloponnesus (Morea) and the islands Eubœa, the Cyclades, the Northern Sporades, and, since Nov. 14, 1863, of the Ionian islands, which up to that time had been an independent state under the protection of England. The kingdom of Greece has an area of 19,941 English square miles, and a population (1879) of 1,679,775, of which number 37,598 are Albanians, 1,217 Wallachians, a total of 29,126 foreigners, *i. e.*, Germans, French, English, Italians, and comers from the Ionian islands. The rest of the population are modern Greeks; that is, descendants of the ancient Hellenes, with a mixture of Slave blood. They speak the Greek language. The majority of the population belongs to the orthodox Greek Catholic Church. In 1870 there were 12,585 Roman Catholics and 2,582 Jews in the kingdom. The capital is Athens, with a population of 68,677. Greece won her independence, after a long struggle, from Turkish rule, and was declared a sovereign kingdom by the London protocol of Feb. 3, 1830. A treaty between England, France, Russia and Bavaria procured for Prince Otto the Grecian kingly crown; and he continued to reign until Oct. 22, 1862, when a provisional government constituted at Athens declared him deposed. On Dec. 22, 1862, the constitutive national convention assembled at Athens, on the motion of the protecting powers, chose Prince William (George), second son of the present king, Christian IX. of Denmark, (Schleswig-Holstein-Sonderburg-Glücksburg,) king of the Hellenes, under the title of Georgios I. But the constitutive national assembly established, in 1864, a new constitution of the monarchy, a constitution which King George swore to support, Nov. 26, 1864. According to the provisions of this constitution, the crown shall be hereditary in the male line of the king's posterity; it passes eventually to the younger brother of the latter; but in no case can the crowns of Greece and Denmark belong to the same monarch. The executive power is in the king, and in the legislature. The national assembly consists of a single chamber of 187 deputies. This chamber has taken the place of the former estates assembly, with two chambers. The members of the national assembly are elected at general elections, and by direct election. Elections for members of the assembly take place every four years. The supreme executive board consists of the council with the ministers of foreign affairs, of justice, of the finances, of worship, public instruction, war, the navy, and of the interior. For the purposes of administration the country is divided into thirteen *nomarchies* (government districts), at the head of which stands a *nomarch* (president): Attica and Beotia; Eubœa; Phthiotis and Phocis; Acarnia and Ætolia; Achaia and Elis; Arcadia; Laconia; Messenia; Argolis and Corinth; Cyclades; Corfu; Cephalonia; Zante. The subdivisions of the *nomarchies* are the *eparchies*, governed by an *eparch*. There are fifty-nine *eparchies*. The capital is under a special prefect of police. In the administration of justice the areopagus is the highest court. There are, besides a court of cassation at Athens, courts of appeal at Athens, Nauplia, Patras and Corfu. Subordinate to these are the sixteen courts, and courts of assize, besides which there are 175 "justices of the peace" for lesser civil cases and lesser criminal offenses. The metropolitan of the Greek Catholic church resides at Athens. There are fourteen archbishops and sixteen bishops. Roman Catholic archbishops are located at Romas and Corfu. There are four bishops under their jurisdiction. — By a statute of Jan. 15, 1867, a law of military duty, applicable to all, was introduced into Greece. The time of service, according to this law, begins with a person's twentieth year. He must remain six years in the reserve *corps* and ten in the *landwehr*. — According to the budget of 1880, the receipts of the Grecian state were estimated at 46,716,857 drachmas. The state debt amounted, in 1880, to 315,209,011 drachmas. — BIBLIOGRAPHY. Blockhaus, *Griechenland, geographisch, geschichtlich und cultur-historisch von der ältesten zeit bis auf die Gegenwart*, 8 vols, Leipzig, 1870; Gervinus, *Geschichte des* 19 *Jahrh.*, 4 vols, Leipzig, 1859–60; Schmeidler, *Geschichte des Königreichs Greichenlands*, Heidelberg, 1876; Bernardakis, *Le présent et l'avenir de la Grèce*, Paris, 1870; Campbell, *Turks and Greeks*, London, 1877; Carnarvon, *Reminiscences of Athens and the Morea*, London, 1870; Cusani, *Mémorie storico-statische sulla Dalmazia, sulle isole Ionie e sulla Grecia*, Milan, 1862; Digenis, *Quelques notes statis-*

tiques sur la Grèce, Marseilles, 1878; Dora d'Istria, *Excursions en Roumélie et en Morée*, 2 vols., Paris, 1865; Kirkwall, *Four Years in the Ionian Islands*, 2 vols., London, 1864; Leconte, *Etude économique de la Grèce*, Paris, 1849; Mansolas, *Rapport sur l'état de la statistique en Grèce présenté au Congrès International de Statistique de St. Petersbourg en* 1872, Athens, 1872, and *La Grèce à l'Exposition universelle de Paris en* 1878, Paris, 1878; Maurer, *Das griechische Volk in öffentlicher und privatrechtlicher Beziehung*, Heidelberg, 1835; Schmidt, *Beiträge zur physicalischen Geographie von Griechenland*, 3 vols., Leipzig, 1864–70; Sergeant, *New Greece*, London, 1878; Strickland, *Greece, its Condition and Resources*, London, 1863; Tuckerman, *The Greeks of To-Day*, London, 1873; Wyse, *Impressions of Greece*, London, 1871.

K. BAUMBACH.

GREELEY, Horace, was born at Amherst, N. H., Feb. 3, 1811, and died near New York city, Nov. 29, 1872. He became a printer and a whig editor, founded the "New York Tribune" April 10, 1841, was a whig representative in Congress 1848–9, and was defeated in 1872 as liberal republican and democratic candidate for the presidency. The excitement of the campaign, the alienation of his personal and party friends because of his acceptance of the democratic nomination, and the sudden death of his wife, to whom he was tenderly attached, overwhelmed him, and he died of softening of the brain soon after the election. — Until 1872 Greeley's personality was usually merged in his newspaper. He made it the most prominent of abolition newspapers, but by no means confined it to abolition. In it he especially advocated a high protective tariff and the expenditure of surplus revenue upon public improvements; but he opened it also to the discussion of Fourierism, dress reforms, the marriage relation, vegetarianism, and every other theory which seemed to him to offer a possibility of good. These discussions and his personal eccentricities of dress and manner, impeded any general popular recognition of his real solidity of sense; and his nomination, solely on the score of availability, by his life-long political opponents, the democrats, was a sheer absurdity. Nevertheless it opened the way for *post-bellum* politics, and in this way Greeley's death was a sacrifice which was not made in vain. (See DEMOCRATIC PARTY, VI.; REPUBLICAN PARTY, III.) — See Greeley's *Struggle for Slavery Extension, American Conflict, Recollections of a Busy Life*, and *Essays on Political Economy;* Parton's *Life of Greeley* (1868); Reavis' *Life of Greeley;* Whitelaw Reid's *Memorial of Greeley;* Hudson's *Journalism in the United States; Galaxy*, March, 1873; Stowe's *Men of our Times.*

ALEXANDER JOHNSTON.

GREENBACK-LABOR, or NATIONAL PARTY, The (IN U. S. HISTORY). I. Before the war of the rebellion agriculture was under many disadvantages in the western states and territories. Grain, after the payment of transportation to a market, seldom paid any great profit, and the use of corn for fuel was quite common. During the war the government became a heavy customer of easy access, the mortgages on farms, originally due in gold, were paid in paper at from 50 to 60 per cent. discount, and in 1865 agriculture was at its flood tide of prosperity. All was commonly attributed, however, to the inflation of the currency by the introduction of "greenbacks," and since 1865 there has been a constant disposition among many men of all parties in the agricultural states to recur to the inflation of the currency as a remedy for evils of all sorts, for the loss of the government as a customer, for loss upon crops, or for general financial distress. — Another influence, closely kindred to the foregoing, is the feeling of many farmers that the bankers, particularly in the eastern states, whom they suppose to hold most of the bonds of the United States, made a hard bargain with the government in the time of its greatest need, and have been trying to make their bargain harder ever since; that, having paid for their bonds in greenbacks worth from 38 to 75 cents on the dollar, they would have been well paid in greenbacks at or near par; that they had influenced congress to give them, in the act of March 18, 1869, more than their due by making all bonds payable "in coin," even when the face of the bond did not specify the medium of payment, and that, when silver began to decrease in value as compared with gold, they had again influenced congress in 1873 to demonetize silver and thus make their bonds payable in gold alone. These two influences, aided by discontent at the exemption of United States bonds from taxation, have been the foundation of the greenback party proper; subsidiary influences only began to affect it after 1876. — So early as 1868 the proposition to pay in greenbacks that part of the national debt not specifically payable in coin, particularly the 5-20 bonds, had become known as the "Ohio idea." It controlled the democratic convention of that year see (DEMOCRATIC PARTY, VI.), and its leading advocate, Pendleton, was strongly pressed for the democratic nomination for the presidency. For some years afterward democratic state conventions throughout the western states reiterated the Ohio idea in their platforms, but this had generally ceased except in Ohio, before 1871, and disappeared in the coalition of the democratic and liberal republican parties in the following year. — II. GREENBACK PARTY. The passage of the resumption act of Jan. 14, 1875, committing the government and people to the payment of the debt in specie in 1879, revived the greenback feeling. The proposal of the measure had brought about a greenback convention at Indianapolis, Nov. 25, 1874, which adjourned after indorsing by resolution the three propositions which have been the foundation of all greenback platforms since that time: 1, that the currency of all national and state banks and corporations should be

withdrawn; 2, that the only currency should be a paper one, issued by the government, "based on the faith and resources of the nation," exchangeable on demand for bonds bearing interest at 3.65 per cent.; and 3, that coin should only be paid for interest on the present national debt, and for that portion of the principal for which coin had been specifically promised. The development of the new party was checked for a time by the continued adoption by democratic state conventions of the three propositions just mentioned; but it was revived again toward 1876 by the growing likelihood that the democratic nomination for the presidency would fall to Gov. Tilden, of New York, who was not an advocate of the Ohio idea. A national convention of the "independent" party, the formal name of the party at this time, was held at Indianapolis, May 17, 1876, and nominated Peter Cooper, of New York, for president, and Newton Booth, of California, for vice-president. The latter declined, and Samuel F. Cary, of Ohio, was substituted. The platform indorsed the three propositions above mentioned, and demanded the repeal of the resumption act. In the presidential election the greenback candidates received 81,737 popular votes, over half of them in the five states of Illinois, Indiana, Iowa, Kansas and Michigan.— In the state elections of 1877 the vote of the party rose to 187,095. Greenback state tickets were nominated in most of the northern states, though they had little popular strength outside of the western states — III. GREENBACK-LABOR PARTY, or NATIONAL PARTY. Workingmen's parties have always been occasional features in state and local politics. About 1877 they began to be more general, and the grievances which led to the railroad riots of that year gave them a national importance. In some state elections, as in Massachusetts and Pennsylvania, the "labor reform" and "greenback" parties united, and the union was made national by the convention of Feb. 22, 1878, at Toledo, Ohio. This convention recognized the name "national" for the party, which seems to have been first used in Ohio in 1877, but the usual name for the party continued to be "the greenback-labor party." The platform added to the former greenback platform some resolutions in favor of legislative reduction of workingmen's hours of labor and against the contract system of employing inmates of prisons. — In the state and congressional elections of 1878 the greenback-labor vote suddenly rose to over 1,000,000, and fourteen congressmen were elected by it. The increase, however, was almost entirely due to the fact that the party had become a union of all the discontented elements. Its greatest development was in states like Iowa, Maine and Massachusetts in the north, or West Virginia, Georgia and Missouri in the south, where the dominant party's majority was fixed and large, and where the minority in despair adopted the greenback-labor organization as the only possible means of success. In the north the fusions were of democrats and nationals; in the south they were of republicans and nationals; while in the closely contested and doubtful states the national vote amounted to nothing except as a means of drawing off a small per centage of votes from the democratic or republican party. (See MAINE, DELAWARE, MASSACHUSETTS.) Thus, of the fourteen congressmen above mentioned, five were "republican-nationals," seven "democratic-nationals," and but two "nationals" pure and simple.— The party's national convention was held at Chicago, June 9, 10, 1880, and nominated Jas. B. Weaver, of Iowa, and B. J. Chambers, of Texas, as its presidential candidates. The latter is said to have declined the nomination, but no substitute was appointed. The platform renewed the former greenback platform, and added various resolutions in favor of the eight-hour law and the sanitary regulation of manufactories, and against Chinese immigration, land grants to railroads, and grants of special privileges to corporations and bondholders. The party's popular vote in the presidential election was 306,867, being about 3 per cent. of the total vote. The number of greenback-labor congressmen was reduced to eight, four from Missouri, two from Maine and one each from New York and Texas. — The leaders of the party have been Gilbert De La Matyr, of Indiana; Weaver, and Edward H. Gillette, of Iowa; Hendrick B. Wight, of Pennsylvania; and Solon Chase, Geo. W. Ladd, and Thompson H. Murch, of Maine. Of these, Chase has never been in congress; and all the others, except Ladd and Murch, failed to be re-elected in 1880. William D. Kelley, of Pennsylvania, a republican, was usually considered a greenback-labor member until 1880. — The political principles of the party are peculiar in many respects. Its proposition to pay the debt in that which is not money, but a promise to pay money, was a novelty in American politics before 1868, but will probably be renewed at intervals until the final extinction of the debt. Its opposition to banks is in the general line of the strict construction or democratic party's history (see LOCO-FOCO; DEMOCRATIC PARTY, IV.), and has given it most of its democratic allies. Its proposition that congress should assume the power to reduce workingmen's hours of labor, to regulate their sanitary condition, to reduce railroad freights in regulating interstate commerce, and to impose a graduated income tax, is entirely loose-construction in its nature. It is impossible therefore to specify any distinctive constitutional basis for the party's future. (See CONSTRUCTION, III.) ALEXANDER JOHNSTON.

GREENBACKS. (See U. S. NOTES.)

GUARANTEE, International. The necessity of securing to one's self the right of property in one's part of a common conquest or inheritance, and more recently the necessity of protecting small states against the ambition of large ones, has given birth to international guarantees.

The European balance of power can continue only by means of these guarantees: for how could Belgium and Switzerland on one side, and the Roumanian principalities and Servia on the other, maintain their independence without efficient protection, the one against France or Germany, the other against Russia or the Ottoman porte? The system of alliances between the weak and the strong would often attain the same object, but in the system of alliances small nations contract compromising obligations, and may at a given moment find themselves dragged into a European war, and they would be subject to its chances; while with the system of guarantees, whether the guaranteed states remain neutral, or even independent, their safety may be absolutely assured, they may escape the alternatives of the rivalry of great European states and pass the most dangerous crises as simple spectators. In this respect international guarantees present a considerable advantage to weak states. Hence, international guarantees are an improvement and a progress in the formation of the European equilibrium, which is such a difficult and laborious work. For several centuries all politicians capable of extending their views beyond the egotistical interests of their own country to the general good of mankind, have endeavored to establish a system of states, constituted with sufficient strength and durability to prevent Europe from becoming the prey of one of those large nations which are struggling for primacy—an event with which it has been several times threatened. Can international guarantees obtain this object partially? We think so. We shall cite several examples of these guarantees in order to show what they are. It is known that the powers assembled at the congress of Vienna joined in a final act dated June 9, 1815, and that all signed the various stipulations, relative to the territorial redistribution of Europe, which had become the object of several separate treaties. This act sets forth in its articles 84 and 94 that the neutrality of Switzerland is *recognized and guaranteed.* In a subsequent special act, exchanged at Paris, Nov. 20, 1815, under the name of "Declaration between Austria, England, France, Prussia and Russia," the contracting powers declare, that they *recognize formally and authentically the perpetual neutrality of Switzerland, and guarantee the integrity and inviolability of its territory.* After the events which brought about the independence of Belgium, Holland made peace with the new state by the treaty of April 19, 1839, of which article seven declares that Belgium *forms an independent and perpetually neutral state, and that it will be held to observe this same neutrality with reference to all other states.* Now, the same day several acts were exchanged, one between the five great powers and Belgium, another between the five great powers and Holland, the third between the five great powers and Belgium, Holland and the Germanic confederation; and in these treaties the convention concluded separately between Belgium and Holland, and in which their neutrality is stipulated, is placed under the guarantee of the five great powers. In 1867, after Switzerland and Belgium, a third neutral state was constituted in Europe, the grand duchy of Luxemburg. The treaty concluded at London, May 11, 1867, between Holland, England, Belgium, Austria, France, Italy, Prussia and Russia, declares that the grand duchy *is a neutral state in perpetuity, and that this neutrality is placed under the collective guarantee of all the contracting powers, except Belgium, which is itself a neutral state.*— The stipulations of the final act of Vienna which we have cited above, show clearly what difference there is between an international convention and an international guarantee. The convention does not oblige the contracting party, against which the treaty is violated, to take up arms in defense of the treaty; this is a right, but not a duty. Thus the possession of Lombardy by Austria was stipulated in the final act of Vienna by the eight signatory powers; and nevertheless Austria was deprived of Lombardy by the arms of France in 1859, and Austria did not think of claiming the aid of any of the signatory powers. It is altogether different with the guarantee: the guaranteeing power has, to begin with, the right of intervening, if the treaty is violated, just as if a simple convention were in question; but in addition it is obliged to take up arms in defense of the thing guaranteed; it is obliged to do this on the demand of the guaranteed state or the co-guaranteeing states, whether the treaty has been violated by one of these or some other power. Such is the essence of the guarantee, without which it would not differ from the convention. It obliges the guarantor to take up arms at the moment required. A recent example shows that the guarantee should be understood in this sense. In 1870, when the war broke out between Prussia and France, it was feared that the neutrality of Belgium would be violated by one of the belligerents. England, according to the treaty of 1839, was one of the five great powers guaranteeing this neutrality; without appealing to the accompanying guarantee of Austria and Russia, she stipulated by two separate treaties of August 11, 1870, on one side with France, and on the other with Prussia, for the execution of the guarantee of 1839, and, in case this guarantee should be violated by one of the belligerent powers, she engaged to co-operate with arms in favor of this neutrality with that one of the two adversaries who should wish to defend it against the one violating it. England interpreted her duties soundly in thus declaring her readiness to take up arms even against one of the co-guaranteeing powers. — In the three examples of contemporary guarantees which we have just cited, the states guaranteed are neutral. This neutrality was constituted in the interest of peace and the equilibrium of Europe, in order to hinder the great neighboring states from disputing over the possession of these small territories. The effect

of the guarantee was to cause the neutral state to be respected, which without this would have been powerless for self-defense; and, on the other hand, the guarantee is subordinated to the observance of neutrality by the neutral state itself. If this state violated its neutrality, it would lose the benefit of the guarantee; every duty on the part of the guaranteeing states would disappear with reference to it; but the duty of making the neutrality respected would remain to the guarantors with respect to each other. For example, if Belgium had allied herself to France in 1870, we believe that Prussia would have had the right to require England, Austria and Russia to cause the treaty of 1839 to be respected by France and Belgium. But there is little probability that a neutral state would abandon a position so advantageous to itself, and put the guaranteeing powers in movement by its own ambition. These run the danger of having to protect it either from the attacks of one of themselves, or those of another nation. The case is different when the guarantee applies to a state not tied by international law, and which preserves the fulness of its liberty. Turkey since 1856 is the subject of a guarantee of this nature. By article seven of the treaty of Paris of March 30, 1856, which put an end to the Crimean war, Austria, England, France, Prussia, Russia, and Sardinia which subsequently became Italy, *engaged each on its own behalf to respect the independence and territorial integrity of the Ottoman empire; they guaranteed collectively the strict observance of this engagement, and declared that they would consequently consider every act hostile to this as a question of general interest.* A separate treaty, concluded April 15, 1856, between England, Austria and France, confirmed with reference to these three states the obligations resulting from the preceding treaty. This treaty declared that *the three signatory states guaranteed collectively the independence and integrity of the Ottoman empire consecrated by the treaty of March 30, and that every infraction of this treaty would be considered by these signatory states of the treaty of April 15 as a casus belli.* The guarantee thus given to Turkey differs from those touching Switzerland, Belgium and the grand duchy of Luxemburg in this, that the situation which it undertakes to maintain may be imperiled, not only by an act of the co-guaranteeing powers or other states which might attack Turkey, but also by an act of Turkey itself, which, not being held to neutrality, may, by making war on another nation, lose its integrity and independence. What in the last case would be the duties of the guaranteeing powers? We believe that the guarantee could not be invoked by Turkey, which would have compromised its position by its own fault, but we believe that one of the guaranteeing powers, in whose interest the integrity of Turkey was stipulated, might either interfere individually or appeal to the co-guarantors to interfere collectively. Thus in our opinion the obligations of the guarantee are different when applied to neutral states, from what they are when applied to independent states. — The same treaty of March 30, 1856, constituted a guarantee of a third kind in favor of the two Roumanian principalities and the principality of Servia with respect to Turkey. Article 22 states that *the principalities of Wallachia and Moldavia shall continue to enjoy, under the suzerainty of the porte and the guarantee of the contracting powers, the privileges and immunities which they possess. No exclusive protection shall be exercised over them by one of the guaranteeing powers. There shall be no particular right of interference in their internal affairs.* Article 28 states that *the principality of Servia shall continue to depend on the porte in conformity with the imperial hatti which fixes and determines i's rights and immunities, placed henceforth under the collective guarantee of the contracting powers.* Thus they became two vassal states guaranteed against their suzerain in the possession of their rights; this is a special and definite guarantee; it is limited to the case in which the suzerain should attempt to abuse his superior power. It is given to the vassal against the suzerain; it does not extend to the case in which a stranger state should attack the vassal. — It will be observed that in all the conventions which establish international guarantees, no term of duration is assigned to the guarantee. The obligation contracted is therefore perpetual, unless the contract is canceled according to the forms admitted by all other international contracts. We have a quite recent example of the modification of a treaty by the common consent of the contracting parties. The treaty of March 30, 1856, was revised by the treaty of London, March 13, 1871, in its provisions relative to the neutralization of the Black sea. In the same way the guarantees may come to an end by the consent of the co-guarantors; but is it right that in default of this common agreement a nation should remain bound forever by agreement full of danger to itself? We think not. Contracts of an international guarantee, like contracts of a similar nature concluded by private persons, should have only a limited duration. It is not right that either nations or individuals should find themselves so situated that they can not free themselves from an engagement which has become impossible, except they do so through a dishonest act, or by making an heroic sacrifice. The utility of international guarantees for the peace and repose of Europe is very great. They should not, therefore, be too risksome for the co-guarantors. The responsibilities which they impose may be very onerous as was shown by the double convention which England was obliged to conclude in 1870 to preserve the neutrality of Belgium. The danger revealed by this event aroused in England a general uneasiness with regard to various international guarantees in which it was involved, an uneasiness which had manifested itself as early as 1867 after the treaty relative to the grand duchy of Luxemburg. Lord

Stanley, in the house of commons in 1867, calmed this feeling by the argument that each one of the guaranteeing powers, in a treaty which stipulates a collective guarantee, is not held individually, but only collectively with all the co-guaranteeing powers. At the same time the earl of Derby enunciated the same doctrine in the house of lords, and cited the treaty of March 30, 1856, as an example of the collective guarantee which obliges all together, and none separately, and the treaty of April 15, 1856, as an example of the individual guarantee which obliges each guarantor whatever the conduct of the co-guarantors. The question was again discussed in the house of lords, March 6, 1871, between Lord Malmesbury and Lord Granville, and April 12, 1872, in the house of commons, where Mr. Gladstone, in language very carefully worded, made an explanation from which it results that the engagements of international guarantees are not binding in an absolute manner on the contracting powers, and that their execution may be subordinated to circumstances. This doctrine is not admissible; it is as contrary to the text of the treaties as to morals, and there is no need of refuting it. But we find the distinction established by Lord Stanley and the earl of Derby partially correct, according to which England was not bound by the guarantees regarding the grand duchy of Luxemburg and Turkey except in so far as the co-guarantors decided to fulfill their obligations. This interpretation is too absolute, for if the co-operation of all the co-guarantors is necessary to render the obligation binding, the bad faith of one of the parties may annul the whole guarantee. What may be admitted is this, that if the majority of the guaranteeing powers refuse to co-operate, the minority are freed from their obligations and retain merely the right of interfering if they think proper. The difference noted by the earl of Derby between the treaties of March 30, 1856, and April 15, 1856, is a real one; the first mentions a collective guarantee and the second a guarantee of all and each. The latter, according to the principles of private law, binds each power individually even if the others should not act. The interests of European peace require that international guarantees should be serious, and in order that they should be so we think their duration should be limited to a definite period, and treaties should explain more precisely the obligations they impose. F. A. HÉLIE.

We wish to insist, above all, on the necessity of limiting the guarantee to a certain number of years. It is impossible to foresee events long in advance; it is imprudent, therefore, to bind one's self for an indefinite period. It is doubtless impossible to foresee circumstances even for a relatively short period, ten or twelve years, for example. But as in political and social life it is impossible to go so far as to refuse every engagement concerning the future, the risk is lessened by limiting the engagement to a fixed period. We can generally calculate with sufficient accuracy the probable chances for ten or twenty years; these are very short periods for a non-revolutionary nation. — On the other hand, a serious and efficacious guarantee of ten or twenty years duration, (and not one in name, which is no guarantee at all), would generally suffice either to consolidate a new state (established and maintained by its own population), or to allow the danger to pass which comes of the claims or the selfishness of a man, or from passion of any kind. If, on the contrary, the object of the guarantee is to assure permanence to any state of things, what is there to hinder a periodical renewal of the treaty of guarantee? Consequently our advice is to guarantee rarely, to guarantee only for a definite period and in specific cases, and to guarantee only with serious intent.

MAURICE BLOCK.

GUATEMALA. *Historical.* During the Spanish rule the kingdom of Guatemala included the five provinces of Guatemala, Honduras, San Salvador, Nicaragua and Costa Rica. After their declaration of independence in 1821 they joined Mexico for a short period, but, two years later, formed themselves into a federal republic, under the presidency of Morazan. This state of things was not long-lived. In 1832 the confederacy had merely a nominal existence. In fact, the five states had already separate governments. Morazan's two defeats, in 1839 and 1842, and his death in the latter year, destroyed the last traces of federalism and left the field free to the champion of separatism, a creole, Don Rafael Carréra. Gen. Carréra's rule was not established without difficulty. He gave himself out as the armed representative of democracy. He had to meet, therefore, the opposition of the wealthy classes. But when his power was once well established he made very large concessions to the social interests of these classes, and the constitution of October, 1851, voted by an assembly whose members owed their election to him, was far from being demagogic. According to the terms of this constitution, which was revised in 1859 without any very important modifications, it is necessary to have a profession, property, or some trade furnishing the means of living independently, in order to be a citizen of Guatemala. Public functions can only be exercised by persons enjoying the rights of citizenship. The appointment of a foreigner to the performance of these functions confers on him the quality of citizen. — The government consists of the president, council of state and the house of representatives. The president is elected for four years, by an assembly composed of the house of representatives, the metropolitan, archbishop, members of the court of justice, and the council of state. He is re-eligible indefinitely. The president directs foreign affairs, makes treaties of alliance and commerce, is the custodian of public order, and, in conjunction with the council of state, has the pardoning power; proposes

and sanctions laws, and in case of urgency issues decrees which have the force of law; presents to ecclesiastical dignities; and may, in an urgent case, contract a loan when the legislature is not in session, provided he calls an extraordinary session immediately after. The choice of ministers plenipotentiary and the principal financial officers must be confirmed by the council of state. The council is composed of the secretary of state, eight councilors appointed by the house of representatives, and as many members as it pleases the president to appoint from among the former chiefs of the executive power, the former presidents of the representative bodies, the former ministers of state, and the presidents and regents of the court of justice. The council is elected for four years. The house of representatives, whose term of office is the same, consists of fifty-two deputies. It votes the budget, examines and corrects accounts, and has the right to impeach the president, the ministers, councilors of state and ministers plenipotentiary; its ordinary session commences Nov. 25 and ends Jan. 31. It has the power to revise the constitution, with the concurrence and sanction of the government — In 1855 President Carréra, in accordance with wishes which were more or less spontaneously and sincerely expressed in several large cities, was constrained to accept the presidency for life and the power of appointing his successor. Till 1862 the government met no serious obstacles at home. But at that epoch Carréra had to defend his authority and his life against insurrections and conspiracy, with which the army was not unacquainted. Carréra died in 1865. — *Area and Population.* The area of the state is estimated at 41,830 square miles. According to a census taken in 1880 the population is 1,215,310, of whom a third are of European descent and two-thirds "aborigines." Diversity of race is one of the great causes of the troubles which agitate the Central American countries. — The capital of Guatemala, Santiago de Guatemala, has 57,728 inhabitants, one-tenth of whom are of European origin. — *Finances.* In the year 1879 the sources of revenue and branches of expenditure of the state of Guatemala were as follows:

REVENUE.	
Import duties	$1,144,158
Export duties	267,668
Spirit licenses	900,988
Tax on sugar-cane plantations	41,305
Extraordinary and miscellaneous receipts	2,159,021
Surplus of 1878	21,617
Total revenue	$4,534,757

EXPENDITURE.	
Interest of public debt	$1,000,382
Army	1,278,994
Pensions	24,671
Ministry of foreign affairs	102,311
Ministry of interior and finance	734,852
Ministry of public works	31,092
Public instruction	245,695
Miscellaneous expenses	835,760
Total expenditure	$4,534,757

On Jan. 1, 1880, the debt of Guatemala amounted to $7,334,358. — *Army.* Guatemala has a standing army of 2,180 men, and a militia of 33,229 men. — *Public Instruction.* The higher and middle schools are in the hands of the Jesuits. By the provisions of the concordat the supervision of all departments of education belongs to the clergy. — *Church and State.* Ecclesiastical affairs are regulated by the concordat of April 17, 1852, which contains very nearly the same provisions as the concordats concluded between the holy see and the other states of Spanish America. Nevertheless, in civil and criminal matters, ecclesiastical jurisdiction is maintained in all questions which arise exclusively between the clergy. — *Administration of Justice.* The administration of civil and criminal law is nearly the same as it was under Spanish dominion. Above the lower tribunals is a supreme court whose members can be removed only in cases specially provided for by the constitution. — *Resources.* Guatemala abounds in dye and cabinet woods, gum and balsam trees, and sugar cane; palm trees grow there in abundance. The principal exports are coffee, cochineal, skins, indigo and cotton. The total exports in 1880 were estimated at $4,425,000, and the total imports at $3,647,000. The foreign trade is almost entirely with the United States and Great Britain — The position occupied by Central America between the two oceans, with its numerous watercourses, some of which flow into the Atlantic and others into the Pacific, is of a nature to greatly facilitate communication between the two oceans. In 1861 the five states of Central America accepted the proposition made by the state of Costa Rica to establish in the city of Leon (Nicaragua) a general council to be entrusted with the management of foreign affairs, the command of the army, and the collection of customs which were to be levied thenceforth according to a common tariff. The same committee was to establish a uniform system of weights, measures and coinage. This was in reality a return to federalism, the system for which Morazan struggled during twenty years. — BIBLIOGRAPHY. Baily, *Central America*, London, 1850; Bernouilli, *Briefe aus Guatemala*, in Petermann's *Mittheilungen*, Gotha, 1868–9, and *Reise in der Republik Guatemala*, in Petermann's *Mittheilungen*, Gotha, 1873; Fröbel, *Aus America*, 2 vols., Leipzig, 1857–8; Laferrière, *De Paris à Guatemala, Notes de voyage au Centre d'Amérique*, Paris, 1877; Marr, *Reise nach Central America*, 2 vols., Hamburg, 1873; Morelot, *Voyage dans l'Amérique Centrale*, 2 vols., Paris, 1859; Scherzer, *Wanderungen durch die mittelamerikanischen Freistaaten*, Brunswick, 1857; Squier, *The States of Central America*, London, 1868; Whetham, *Across Central America*, London, 1877. A. D. H.

GUILDS. Several causes have of late years awakened interest in the mediæval guilds. The rise and growing importance of trades-unions and the differences between labor and capital, have led economists, especially in Germany, to investigate the points of analogy between these

ancient and modern associations. The enormous wealth of some of the surviving London trade companies has led to inquiries into their origin and history. Dr. Luigi Brentano's works have contributed much to attract attention to the whole subject. This eminent writer, however, has allowed certain views respecting the modern trades-union to bias and color his account of the mediæval guild, the importance of which he has exaggerated; while he has also been led to misconceive in some degree its constitution and its position as a factor in mediæval economy, by overlooking two other factors of greater power and yet higher antiquity, the town or civic commune and the state. Without a clear apprehension of the parts filled by these two factors and of the relation in which they stood to the guild, it is impossible to understand the true place and functions of the last institution, or the real course of its development and history. — The guild, according to Dr. Brentano, was the germ of the constitution of the mediæval town. The organization and polity of the town had in fact a more archaic source. Could a full history of the early English towns be recovered, it would exhibit many varieties of development under diverse conditions of origin, situation, physical geography, tenure and local surroundings. But however different their career and fortunes, their growth and structure had in ordinary and typical cases some broad features in common. Their rise and growth were not in accordance with what seemed to the economic philosophy of the last century the natural order of things. The original germ was not a concourse of individuals attracted together by the pursuit of gain, but an organized community bound together by ties of kinship. Broad as the contrast is to modern thought between the city and the rural village, the fact which throws most light on the essential features of mediæval urban economy, is the evolution of the city in normal cases from the old village community, *vicus* or township, or an aggregation of such communities; the members of which were kinsmen or fellow-clansmen, with exclusive rights over the village territory and all advantages to be derived from it, equal lots in the arable land and common enjoyment of the pasture and forest. No stranger could settle within the mark without the permission of the community, or share in their rights without formal adoption. Every member of the little body must farm as the village assembly thought fit, or according to common usage. If any special crafts or trades had grown up, or had been admitted from without, they were subject to control and regulation, and the craftsmen were bound to accept customary remuneration, or such as seemed reasonable to the community and its governing body. Every one within its borders was either a kinsman by blood or adoption and a copartner, and therefore bound by fellowship and unity to conform to its customs and rules, or a servant or stranger on sufferance, and, as such, bound to obedience. In all cases there was a subordination of the individual to the community. The village assembly controlled the rotation of fallow and crop, the use of the forest or waste, the processes of trade, the payment for labor, and the prices of such commodities as were sold within the township. It was not a mere agricultural community. The townsmen had co-ownership of their territory not only for the purpose of husbandry, but in relation to every means of subsistence and profit to be derived from it, whether by means of hunting, fishing, pasture or the practice of handicrafts or trade. Where local conditions favored the growth of commerce, a mediæval guild might spring up for its protection and regulation, but the powers which such a body exercised, unless conferred in later times by the crown, must be regarded as originally derived from, if not expressly granted by, the town community or its governing body. In like manner when industrial progress and the extension of the market led to the formation of special craft guilds or trade fraternities, these must be considered as owing their powers, jurisdiction and exclusive rights to the town, and as exercising them subject to its control. The state or national government, or the king as its head, might override local authority and confer special privileges on a particular trade fraternity or body of craftsmen, but otherwise the guild drew its rights and privileges from the civic body, and was regarded as possessing them not for its own subsistence or profit only, but for the good of the whole town and its burghers. Hence, too, the civic authorities, following the usage of the primitive township, regulated wages and prices.— But, as already said, to understand the economy of the mediæval town and the position of the guild, we must take account of another factor in the constitution of early Teutonic society, the state or central government, acting as the representative of the whole nation. Beyond assigning to the clan or body of kinsmen settling down in a *vicus* or township their mark or common territory, the central government originally did not intervene in the affairs of the local community, unless to compel its members to perform military or public duties, but the right to control them in all matters, if not involved in the fundamental relation between the two bodies from the first, was at least subsequently evolved from it. And in proportion as the state grew stronger and better organized on the one hand and industrial development advanced on the other, the intervention of the state began to extend to trade internal and foreign. This function of the state or the king was not regarded as essentially different from that of the administration of justice. As to enforce just weights, measures and money was not considered fundamentally distinct from the maintenance of just dealing between man and man in relation to property and the observance of contracts, so to secure good and genuine commodities at reasonable, moderate and equitable prices, as opposed to exorbitant and extortionate charges,

partook of the nature of the maintenance of justice; though in later times the growth of the maxim *caveat emptor* removed this branch of jurisdiction from the tribunals. The king's court not only intervened, on complaint before it, to compel the strict observance of royal charters to guilds, but enforced on the trades generally both special ordinances of the king and principles of the common law relating to the quantity, quality and price of wares. The guild system never reached so great a development in England as in Germany or even in France; the earlier centralization of government and establishment of royal authority diminishing the power of both town-governing bodies and guilds in England, as the inferiority of its civic architecture still indicates. No such splendid town halls and guild halls rose in the English cities as were to be seen on the continent of Europe. As the governing body of the mediæval town represented the civic community evolved from the township or aggregation of townships, so the state represented the larger community of the nation evolved from the tribe or aggregation of tribes. And ancient ideas of the relationship of the members of the tribe and the duties they owed to one another, underlay in altered forms the whole industrial and commercial structure of mediæval society. The trader was regarded as trading for the advantage of the public, not for his own gain, in respect of which he was held entitled only to a fair livelihood and to such profit as secured it. — No records of the beginnings of the earliest trade guilds exist, but when they first come before us in history, they bear all the marks of having been modeled and organized on the type of the archaic joint family. The principle *natura non facit saltum* is as applicable to the social as to the physical world. In Dr. Johnson's time, as we know from Boswell's accounts of his tour in the Hebrides, various crafts were still hereditary in the highlands of Scotland, as they are still in the east, and as there is reason to believe they once were in English townships and manors. And when the village community grew into a town in which the demand was sufficient to employ a number of persons, several branches of the same family might follow the same craft, dwelling side by side, and organized like a joint family. There is no foundation for Dr. Brentano's supposition that England was "the birthplace of guilds." Trade guilds, doubtless of higher antiquity than any purely English institution, existed in India in the middle ages; and the Indian caste is in one of its aspects simply a wider development than the guild of a joint family following hereditarily a particular occupation. A few of the mediæval trade corporations in France may have descended from the Roman *Collegia*. Some certainly are traceable to the organization, by the Frank conquerors, of their serfs into industrial bodies. The laws of the barbarians show that the German lords maintained great establishments of serfs skilled in various industrial arts; and it is well established that in many towns on the continent of Europe during the middle ages, there were organizations of bondsmen in crafts. But the original and typical trade guild, there is strong reason to believe, grew out of a joint family of freemen pursuing an hereditary employment. We find, then, three great original factors in mediæval urban economy, the town commune, the state and the guild; and without reference to all three it is impossible to understand the position and founding of the third. The constitutions and regulations of the guild did not flow simply from its character as a brotherhood or joint family. It stood within and subordinate to the town-governing body on the one hand, and the state on the other hand. The industrial and commercial organization of the towns in relation to prices, profits and wages, the processes of manufacture, the quality of commodities, the regulation of commerce internal and foreign, resulted from the action of the three factors—the legislature or the king, acting ostensibly on behalf of the public at large or the nation; the town authorities, representing the civic community; and the guild, looking to the interests of the particular trade and the fraternity which practiced it. Dr. Ochenkowski has justly criticised Dr. Brentano's description of the organization, discipline and regulations of the guilds, as overlooking their subordination to the state, the king, the law and the tribunals; and as ascribing to the parental character of the guild in respect of its own members on the one hand, and its regard for the public good on the other, much that was the result simply of compulsory obedience to the supreme government and the law of the land. The fundamental principles of the ordinances of the guilds, Dr. von Ochenkowski urges, rested on the common laws of the realm; where a guild organization was granted it was with the proviso, implied if not expressed, that the rules must be in accordance with law; and the rights and duties of the guild members attached to them as citizens and subjects, so much so that in many cases where the craftsmen of a particular place had no organization, they were required to prepare the proper regulations. Dr. von Ochenkowski himself, however, overlooks the relation in which the town commune stood to all trades practiced and all bodies practicing them within its jurisdiction. All rights of trade within the town territory had originally belonged to the communal body. Just as the township had originally regulated the modes of husbandry, the rotation of crops, the times of sowing, plowing and reaping, the size of each man's lot in the arable land, the rights of common over the waste, and the number of animals that could be put on the common pasture, so it had original jurisdiction over all crafts and commerce within its boundaries. The ordinances of the London guilds were by consequence made under supervision and subject to the approval of the town council or the court of mayor and aldermen. The articles of the bowyers and fletchers ap-

proved in the 45th year of Edward III., afford an illustration. As Mr Riley, in his "Memorials of London and London Life," cites them from the records of the city, a petition to the court of mayor and aldermen of "the good folks of the trades of bowyers and fletchers," showed that it was "finally ordained and agreed between the said persons of the one trade and of the other, four men only excepted, for the profit and advantage of all the community, that no man of the one trade should meddle with the other. And counsel having been held between the mayor and aldermen upon the matter, it was agreed and granted by them that the articles in the said petition should in future be observed for the common profit of all the people. Afterward, at a hustings of common pleas of law, the aforesaid four persons came before the mayor and aldermen and said that they had divers things of each of those trades which they were working upon and not completed, and that some of them had apprentices in both trades and many bows and arrows finished for sale; and they wished for some respite, and for leave to complete the things aforesaid that were not completed, and that they might expose the same for sale, etc., so that they might be able in the meantime to decide which of the said trades they should elect to adopt and follow from henceforth. And the same was granted unto them." — Rules limiting the number of apprentices a craftsman might keep, or the hours which he might work, might be secretly designed by the members of a craft guild to limit competition and production and to keep up prices, but they were submitted to the town authorities and sanctioned by them as tending to secure efficient work and good articles; and as, for that end, prohibiting craftsmen from taking more apprentices than they could efficiently teach, or from working at night by insufficient light and at the risk of fires in the city. The theory of the organization, discipline and regulations of the guilds was that the good of the community, not the gain of the members of the craft, was the paramount object, and that the craftsmen owed obedience to the town authorities who had granted to them their privileges and powers. There is no trace in the history of the English towns of any general struggle, such as Dr. Brentano has assumed, between patrician members of a great mediæval guild and plebeian members of craft guilds. But the governing body of the town, as exercising the ancient rights of jurisdiction of the civic community, regarded with natural jealousy attempts on the part of a particular craft to set aside its control and to exercise unauthorized jurisdiction over its own members and those of cognate trades, as the London weavers attempted to do. The contest between the weavers and the city in London (where it is uncertain if there was any primitive merchant guild) was not one between patricians and plebeians, but between the legitimate government of the citizens and a trade fraternity which aimed at complete independence on the ground of a special royal charter, the powers conferred by which it was ultimately convicted before the king's judges of exceeding. — The three great factors in mediæval urban economy, the town government, the state and the guild, were sometimes in unison, sometimes at variance. But all three were essentially adverse to the idea that the gain of the individual trader was to be his paramount object. The welfare of its citizens was the object of the town; the state aimed professedly at the general good of the public, though often really consulting chiefly the interest of the governing classes; and the guild, while ostensibly seeking the benefit of the community at large of consumers, made the advantage and credit of the trade and the fraternity practicing it its dominant object. The notion that every man had a right to settle where he liked, to carry on any occupation he thought fit and in whatever manner he chose, to demand the highest price he could get, or, on the contrary, to offer lower terms than any one else, to make the largest profit possible and to compete with other traders without restraint, was absolutely contrary to the whole structure and spirit of mediæval economy. — Much misconception exists with respect to the policy and effect of the enactments of Edward III.'s 37th parliament, which ordained that every craftsman should choose his occupation, and abide by it thenceforth without following any other, and that merchants should deal in only one kind of merchandise. Some have regarded these statutes as creating a division of labor. The first of the two in fact only recognized a separation of occupations which had naturally taken place, as in the case of the bowyers and fletchers already referred to. Though the legislature could not have sought to initiate the separation of trade, of making bows from that of making arrows, and would never have conceived the idea of such a separation had it not spontaneously arisen. Nor could it have entered into the minds of legislators to subdivide the business of making knives into three distinct trades of bladesmiths, sheathers and cutters. The division of labor was no discovery of Adam Smith's, neither was it a discovery of Edward III. and his parliament, who simply acted on a well-understood principle that it tended to secure good and cheap articles for consumers; while at the same time it prevented quarrels between trades people about what they might sell, such as often occurred. The act of the 37th of Edward III. c. 6, did indeed attempt to introduce a novel division of labor by compelling every merchant to deal in only one kind of merchandise. It was speedily found that the enactment tended to defeat its real object, which was by no means what Dr. Brentano has supposed. This eminent writer speaks of the act as "a legal recognition of the principle of the trade policy of the craft guilds, namely, that provision should be made to enable every one with a small capital and his labor to earn his daily bread in his trade freely and independently, in opposition to the principle of

the rich, freedom of trade." The real policy of the measure was to keep down prices in the interest of the governing classes. The idea of the legislature at the moment was, as the petition on which the act was grounded expresses it, "that great mischiefs had newly arisen, as well to the king as to the great men and commons, from the merchants called grossers, who engrossed all manner of merchandise vendible, and who suddenly raised the prices of such merchandise within the realm." It was immediately found that so absurd an interference with commerce would not tend to the advantage of rich consumers, and the enactment was repealed in the next parliament. But its policy was the same as that of the statutes of labor of the same period: the regulation of prices ostensibly for the good of the public, but really of the governing orders. — The middle ages were profoundly hypocritical, and the state, the town and the guild alike frequently professed to study the welfare of the public, when the real object was the advantage or gain of a particular class, or local community, or body of traders. There was a principle of exclusiveness, monopoly and self-seeking at the root of every early association, whether the tribe, the village community, or the family. All these—and mediæval economy was based on these original principles of organization—were exclusive bodies and occupied a position of antagonism toward strangers and the world without. They combined, it is true, with the principle of exclusion that also of adoption; putting the one or the other into practice according as their own interests at the moment suggested. The mediæval guilds became ultimately such grasping and extortionate bodies as well to merit Bacon's condemnation of them as "fraternities of evil." Yet their later career was not simply degeneracy as Dr. Brentano describes it; it was a development of the principle of exclusiveness inherent in the spirit and constitution of every early form of human association.

T. E. CLIFFE LESLIE.

GUNBOAT SYSTEM, The (IN U. S. HISTORY). President Jefferson succeeded an administration which had begun the formation of a navy, and for the first year of his first term he made no open effort at a change in this particular. In his message of Dec. 15, 1802, he proposed the addition to the navy yard of a dry dock in which the vessels of the navy could be laid up under cover. This proposition was much ridiculed as a fresh instance of Jefferson's ruling passion for public economy. About the year 1803 the president's attention seems to have been attracted to the figure made in naval action by the armed galleys of the Barbary and other Mediterranean powers, and it seems to have struck him that here was a species of vessel which, in American hands, would prove a very effective and, above all, economical naval force. Feb. 28, 1803, an act was passed appropriating $50,000 to build gunboats, mainly for use on the Mississippi; but the acquisition of Louisiana gave further time for experiment. The message of Nov. 8, 1804, announced the expenditure of the appropriation, and expatiated with considerable enthusiasm on the utility and economy of a gunboat system instead of a navy. This part of the message was referred to a house committee of which Nicholson was chairman, and to this gentleman the president, in a letter of Jan. 29, 1805, fully elaborated his pet scheme. He argued that coast and harbor defenses would cost at least $50,000,000, and could never prevent the entrance of a hostile vessel. A more advisable measure was to provide for the defense of the fifteen principal harbors by 240 gunboats, to cost from $2,000 to $4,000 each. The seamen and militia of the various towns were to be trained to man them, and the vessels were ordinarily to be drawn up under sheds, in which situation they would cost nothing but an inclosure or a sentinel to see that no mischief was done them. A few were to be kept constantly afloat as revenue cutters, and in case of war the emergency would determine the number necessary to be equipped. The gunboats were to be built in ten years, at the rate of twenty-five annually. Their effective force was to be increased by another feature of the plan. This consisted in loaning to the seaports heavy cannon, to be mounted on traveling carriages and dragged along the beach by the militia to points from which a hostile vessel or fleet might be annoyed or dislodged. — All this now seems a very extraordinary plan to be the sole reliance of a neutral nation against the unbridled license of the great European belligerents; but congress appropriated $60,000 to try the system, and at the following session, in 1806, fully adopted it, refused further appropriations for a navy, authorized the president to sell such frigates as required repairs, ordered the other vessels to be laid up in ordinary, and appropriated $250,000 for gunboats. The fact that New England federalists favored, and President Jefferson opposed, the creation of a strong navy was sufficient for the southern and western members of congress, and adherence to the gunboat system became, for nearly six years, a test of orthodox republicanism. Thus was inaugurated a system, founded in a confessed, and even avowed, ignorance of nautical affairs, which temporarily demoralized the navy, cramped its energies, proved utterly and hopelessly useless either for offense or defense, and never realized even Jefferson's leading ideal of economy, since the gunboats were found to cost about $10,000 each (instead of $2,000). Nevertheless the system was continued, in spite of the incessant ridicule of the federalists, and 103 gunboats were built in Jefferson's last year of office. — Much of the harbor defense during the war of 1812 was left of necessity to the gunboats, as the only important naval provision which had been made for war; but the gunboat system was no longer a test of party faith. Rodgers, of the navy, receiving early news of the declaration of war, and escap-

ing from New York harbor before orders to remain in port could reach him, vindicated the fair fame of his branch of the service by the capture of the Guerrière. Subsequent successful sea fights increased the popular enthusiasm for the navy, in which the democratic president and congress joined as heartily as if naval equipment had always been the main article in the party creed. The appropriations for the support of the navy rose from $1,870,274 in 1811 to $7,989,910 in 1814. The last appropriation for gunboats was made in 1813; after that time no attempt was made to build any other than sea-going vessels. But the initial successes of the little American navy had already drawn a strong detachment of the heaviest British vessels to the American coast, and toward the close of the war the capture or blockade of most of the national vessels compelled an unwilling dependence upon the gunboats on the seaboard. On the great lakes, the naval operations during the war advanced from the original employment of gunboats by both sides to the building of ships of over 100 guns.— See Cooper's *Naval History of the United States; American Register*, 1806–10; 5 Hildreth's *United States*, 538, 579, and 6: 29; 1 *Statesman's Manual* (Jefferson's *messages*); 4 Jefferson's *Works* (ed. 1829), 28; 2 Tucker's *Life of Jefferson*, 175; 1 Garland's *Life of Randolph*, 271; Carey's *Olive Branch*, 51; 3 Benton's *Debates of Congress*, 516 (see also index); 2 *Stat. at Large*, 206, 616, and 3: 105–144. ALEXANDER JOHNSTON.

H

HABEAS CORPUS is a writ ordered by a court of law or equity, to produce before it the body of a prisoner, that the court may inquire into the cause of imprisonment or detention with a view to protect the right of personal liberty. Properly speaking, this writ is known in law as *habeas corpus ad subjiciendum*. The term *habeas corpus* is, however, used as the formal commencement of several other legal writs known to English and American law, and of a character closely identified with the writ of *habeas corpus ad subjiciendum*, to wit: The writ of *habeas corpus ad respondendum* is a writ issued by a common law court to bring up a prisoner to be served with a writ in another action. The writ of *habeas corpus ad satisfaciendum* is a similar writ to take the prisoner in execution for another cause of action. The writ of *habeas corpus ad testificandem* is the writ by which a prisoner is brought up by the jailor to testify in a court of justice. — This writ of *habeas corpus ad subjiciendum* is the writ, however, which holds its exalted place in history as one of the greatest barriers ever erected by a people against the encroachment of executive authority and the oppression of a tyrannical sovereign, and is universally acknowledged as the chief safeguard of English liberty. It is of ancient origin, and came into existence amid the early struggles of our English ancestry for personal freedom. It is one of those great unrepealable laws which without the aid of legislation became a part of the common law of England and is of greater age than *magna charta* itself. — In his "History of the Middle Ages," that great historian, Hallam, referring to its ancient origin, says, "Whether courts of justice framed the writ of *habeas corpus* in conformity to the spirit of this clause, or *found it already in their register*, it became from that era (*magna charta*) the right of every subject to demand it." The origin of this writ is, however, commonly referred to the clause to which Hallam alludes, in the great charter of English freedom granted by King John to the barons of England, in June, 1215, at Runnymede. — Again, in 1 Const. History, 16, Hallam also states in reference to this writ: "From earliest records of English law no freeman could be detained in prison except upon a criminal charge or conviction, or for a civil debt. In the former case it was always in his power to demand of the court of king's bench a writ of *habeas corpus ad subjiciendum* directed to the person detaining him in custody, by which he was enjoined to bring up the body, with the warrant of commitment, that the court might judge of its sufficiency, and remand the party, admit him to bail, or discharge him according to the nature of the charge."— Sir William Blackstone, that great expositor of English law, in one of those Commentaries (1 Bl. Com. 135) which form the groundwork of all modern legal acquirements, thus presents the social and political influence of that particular clause of the writ which declares that every English freeman shall be entitled to a trial by a jury of his peers: "Of great importance to the public is the preservation of this right of personal liberty. for if once it were left in the power of any of the highest magistrates to imprison arbitrarily whomsoever he or his officers thought proper, there would soon be an end of all other rights and immunities. Some have thought that unjust attacks even upon life or property at the arbitrary will of the magistrate are less dangerous to the commonwealth than such as are made upon the personal liberty of the subject. To bereave a man of life, or by violence to confiscate his estate without accusation or trial, would be so gross and notorious an act of despotism as must at once convey the alarm of tyranny throughout the kingdom; but confinement of the person by secretly hurrying him to jail where his sufferings are unknown or forgotten, is a less public, a less striking, and

therefore a more dangerous, engine of arbitrary government. And yet sometimes when the state is in real danger, even this may be a necessary measure. But the happiness of our constitution is, that it is not left to the executive power to determine when the danger of the state is so great as to render this measure expedient, for it is the parliament only or legislative power that, whenever it sees proper, can authorize the crown, by suspending the habeas corpus act for a short and limited time, to imprison suspected persons without giving any reasons for so doing."— The origin of this writ for the protection of personal liberty is frequently, although erroneously, stated to be in the passage of the English statute called the habeas corpus act. This act was passed during the reign of Charles II., over 450 years from the time of magna charta (31 Car. II, c. 2), and neither added to nor detracted from the fundamental principles of that efficacious writ, but was passed in order to define with clear precision the appropriate remedies attendant upon the invasion of personal rights. This passage of the act appears to have been induced by certain rulings and frivolous objections made by judges of English courts during the preceding reign when relief was applied for under the provisions of the writ. — The great charter had laid the foundation of this part of English liberty; the petition of rights had renewed it; and the bill of rights had extended it. There were, however, certain provisions still wanting in the manner and form of its execution to render it complete and prevent all evasion or delay on the part of judges who were disposed to interfere with the personal rights of the subject.—This act provided that, when any person was committed charged with crime, the lord chancellor or any of the judges should, upon proper application, issue the writ and order the prisoner to be brought up and discharged, either with or without bail. That the writ should be more or less promptly obeyed according to the distance. Should the jail lie within twenty miles of the judge, the writ must be obeyed in three days, and proportionably so for greater distances; but on no account whatever must the delay exceed twenty days. That any officer or jailor who should neglect to deliver a copy of the warrant of commitment, or who should convey the prisoner to another jail or place of custody without cause, should forfeit £100, and for the second offense £200, and be forever debarred from again holding office. That no person once liberated by the operation of the writ of *habeas corpus* should be recommitted for the same offense, under a penalty of £500. That every person committed for treason or felony should be tried at the next assizes following, or admitted to bail, unless the attendance of the witnesses for the crown could be enforced at that session of the court; and if not tried at the next succeeding session of the assizes, he should be discharged from further imprisonment. That no justice, under a penalty of £500, should refuse to any prisoner a writ of *habeas corpus*, and that application for the writ might be made to either the court of chancery or to the court of queen's bench, common pleas or exchequer, and that the writ might be applied for by persons imprisoned in any part of England, Guernsey or Jersey. — It has been held by some of the English courts that this power extended over all of England's colonies, and the judges of the queen's bench once held that this prerogative power had always been inherent in English courts in favor of British subjects wherever imprisoned, save of course in a foreign country. A statute (Vict. 25) is now in force taking away from English courts this jurisdiction over the colonies of England, whenever such courts exist as can exercise such a jurisdiction. — The act of habeas corpus passed during the reign of Charles II. related alone to persons imprisoned on criminal charges; all other cases demanding relief were left to the operations of the common law. These operations were ascertained to be entirely inadequate to the required relief; and to institute the proper remedy the statute 56 Geo. III., c. 100, was enacted by parliament, extending the action of the writ of *habeas corpus* to other than criminal cases. Under the provisions of this statute any person restrained of his liberty, (those in custody for criminal matters and persons imprisoned under a judgment for debt excepted, as coming under the act of Charles II. for relief), could apply to any judge of the common law courts for a writ of *habeas corpus* provided that by affidavit a reasonable and probable ground of complaint was shown. — Thus by the enactment of this statute the chain of defenses erected and established by law for the protection of the personal rights of the subject, and to guard against their infringement by the crown, was rendered perfect and complete. And to-day, whenever within the physical boundaries of England a subject of either sex or any age is unlawfully imprisoned, he or she, or, if a minor, by his or her next friend or guardian, may apply for relief under the operations of the writ of *habeas corpus*, and if a *prima facie* case can be shown, a writ will be immediately issued by the judge before whom the information is filed, directed to the person or jailor who unlawfully holds in custody such person, and if he fail to make prompt and proper return by showing good and sufficient cause on legal grounds for detainer in his custody as a prisoner such person, he will be committed by the court for contempt. If it be ascertained that the party is confined under legal authority, the court will compel the production of the warrant of commitment, and the warrant of commitment must plainly set forth the cause of detainer and the jurisdiction of the judge or justice committing the accused, upon which the reviewing court shall pass, in determining the legality of the imprisonment. — The act of parliament known as the habeas corpus act (31 Car. II., c. 2,) does not extend in jurisdiction to Scotland, but

in that country the subject is protected in his personal rights and liberty, by the provisions of an act passed in 1701, c. 6 (*q. v.*), known as the "Wrongous Imprisonment Act," and which by many is called the "Scotch Habeas Corpus Act." — Under the power conferred by the constitution of the United States, establishing within its physical boundaries the privilege of the writ of *habeas corpus*, congress at various times has enacted such wholesome laws as have proven efficacious in promoting the operations of this writ for the defense of the personal rights of the citizen. It has ordained, That the supreme court and the circuit and the district courts shall have power to issue writs of *habeas corpus*, and that the several justices and judges of the said courts, within their respective jurisdictions, shall have power to grant writs of *habeas corpus* for the purpose of an inquiry into the cause of restraint of liberty, provided that the prisoner is in custody under or by color of the authority of the United States, or is committed for trial before some court thereof, or held for an act done or omitted in pursuance of a law of the United States, or of an order, process or decree of a court or judge thereof, or is in custody in violation of the constitution, or of a law or treaty of the United States; or, being a subject or citizen of a foreign state and domiciled therein, is in custody for an act done or omitted under any alleged right, title, authority, privilege, protection or exemption claimed under the commission or order or sanction of any foreign state, or under color thereof, the validity and effect whereof depend upon the law of nations; or unless it is necessary to bring the prisoner into court to tes tify. That application for the writ of *habeas corpus* shall be made to the court or justice or judge authorized to issue the same, by complaint in writing, signed by the person for whose relief it is intended, setting forth the facts concerning the detention of the party restrained, in whose custody he is detained, and by virtue of what claim or authority, if known. That the facts set forth in the complaint shall be verified by the oath of the person making the application. That the court or justice or judge to whom such application is made shall forthwith award a writ of *habeas corpus* unless it appears from the petition itself that the party is not entitled to it. That the writ shall be directed to the person in whose custody the party is detained. That any person to whom such writ is directed shall make due return thereof in three days thereafter, unless the party be detained beyond the distance of twenty miles; and if beyond that distance and not that of a hundred miles, within ten days; and if beyond the distance of a hundred miles, within twenty days. That the person to whom the writ is directed shall certify to the court, justice or judge before whom it is returnable, the true cause of the detention of such person, and that the person making the return shall at the same time bring the body of the party before the judge who granted the writ. That when the writ is returned, a day shall be set for the hearing of the cause, not exceeding five days thereafter, unless the party petitioning requests a longer time. That the petition of the party imprisoned or restrained may deny any of the facts set forth in the return, or may allege any other facts that may be material in the case. Said denials or allegations shall be under oath. That the return and all suggestions made against it may be amended by leave of the court or justice or judge, before or after the same are filed, so that thereby the material facts may be ascertained. That the court or justice or judge shall proceed in a summary way to determine the facts of the case, by hearing the testimony and the arguments, and thereupon to dispose of the party as law and justice require. That when a writ of *habeas corpus* is issued in the case of any prisoner who, being a subject or citizen of a foreign state and domiciled therein, is committed or confined or in custody, by or under the authority or law of any one of the United States, or process founded thereon, on account of any act done or omitted under an alleged right, title, authority, privilege, protection or exemption, claimed under the commission or order or sanction of any foreign state, or under color thereof, the validity and effect whereof depend upon the law of nations, notice of the said proceedings, to be prescribed by the court or justice or judge at the time of granting said writ, shall be served on the attorney general or other officer prosecuting the pleas of said state, and due proof of such service shall be made to the court or justice or judge before the hearing. That from the final decision of any court, justice or judge inferior to the circuit court, upon an application for a writ of *habeas corpus*, or upon such writ when issued, an appeal may be taken to the circuit court for the district in which the cause is heard. 1, In the case of any person alleged to be restrained of his liberty in violation of the constitution, or of any law or treaty of the United States; and 2, In the case of any prisoner who, being a subject or citizen of a foreign state, and domiciled therein, is committed or confined or in custody by or under the authority or law of the United States, or of any state, under an alleged right, title, authority, privilege, protection or exemption, set up or claimed under the commission, order or sanction of any foreign state or sovereignty, the validity and effect whereof depend upon the law of nations, or under color thereof. That from the final decision of such circuit court an appeal may be taken to the supreme court in the cases just described, and that these appeals shall be taken on such terms, and under such regulations and orders, as well for the custody and appearance of the person alleged to be in prison or restrained of his liberty, as for sending up to the appellate tribunal a transcript of the petition, writ of *habeas corpus*, return thereto, and other proceedings, as may be prescribed by the supreme court, or, in default

thereof, by the court, justice or judge hearing the case. That pending the proceedings or appeal in the cases enumerated and until final judgment therein, and after final judgment of discharge, any proceedings against the person so imprisoned or restrained of his liberty, in any state court, or by or under the authority of any state for any matter so heard and determined, or in process of being heard and determined, under such writ of *habeas corpus*, shall be deemed null and void —The constitutions of the various states composing the federal Union, in their bills of right or otherwise, have likewise provided for the privilege of the writ of *habeas corpus* for all matters that might arise under state laws and regulations, within their several boundaries, requiring the privilege of this writ for the protection of the personal liberty of the citizen. The courts empowered to grant the writ have also been designated by the state constitutions, and a majority have conferred upon their supreme courts original jurisdiction in all cases arising under *habeas corpus*. They have likewise in most cases adopted the exact language of that part of section nine of the constitution of the United States which declares that "The privilege of the writ of *habeas corpus* shall not be suspended unless when in cases of rebellion or invasion the public safety may require it." Thus the people of the United States have enacted the same barriers against the encroachment of executive authority as did the people of England against the oppression of sovereignty, upon the personal rights of the citizen and the subject. Notable instances of its suspension, however, have occurred, in time of war, and one at least in time of peace, when the national life was not endangered by armed invasion or rebellion. It was, indeed, after the close of a long and disastrous war between the government and the seceding states of the south, and those whose legal judgment was shrouded by strict partisan feeling have claimed for it the color of right. Nevertheless the suspension of this writ was ordered by the president of the United States at a time when peace had been declared, after all the armed forces of the so-called confederate government had surrendered to the authority of the government of the United States, and its safety was no longer endangered, and after a period of several months had intervened between the day on which peace had been declared, and that on which the writ was suspended. On the morning succeeding the promulgation by the president of the order of execution of Mary E. Surratt, charged with conspiring with others in the murder of the president, in accordance with the judgment of the military commission before which they were tried, upon application by the counsel of Mary E. Surratt to Judge Wylie, of the District of Columbia, for a writ of *habeas corpus*, ordering the commandant of the military district in which she was confined to produce her body before his court to determine by what authority it was held in custody of the military authorities, the judge ordered the writ to issue, and placed it in the hands of the U. S. Marshal, who served it upon Gen. Hancock, the commandant of the said military district. The president, however, believing that Gen. Hancock would obey the writ, and having determined upon the execution of the woman, directed the attorney general of the United States to appear with Gen. Hancock in obedience to the summons, before Judge Wylie, and as the representative of the president, present to the court the following return, which was an executive order suspending the writ of *habeas corpus*, to wit:

EXECUTIVE OFFICE, July 7, 1865, 10 A. M.

To Major General W. S. Hancock, commanding, etc.

I, Andrew Johnson, President of the United States, do hereby declare that the writ of *habeas corpus* has been heretofore suspended in such cases as this, and I do hereby especially suspend this writ, and direct that you proceed to execute the order heretofore given upon the judgment of the Military Commission, and you will give this order in return to this writ.

(Signed) ANDREW JOHNSON, *President*.

Notwithstanding the affirmation in the foregoing order of the president, it does not appear that the writ was ever before, and certainly not since, suspended in any case of similar purport, and consequently stands alone, in the executive and judicial history of the country, as an example to be lamented and execrated by all men who love liberty. —With regard to the application of *habeas corpus* in exterritorial cases, it has been held that a writ of *habeas corpus* may be awarded to bring up an American subject unlawfully detained on board of a foreign ship-of-war; the commander being fully within the reach of, and amenable to, the usual jurisdiction of the state where he happens to be. (Case of an American citizen on British ship, 1 Op., 47, Bradford, 1794) —It has been again held, that a prisoner of war on board a foreign man-of-war, or of her prize, can not be released by *habeas corpus* issuing from courts either of the United States or of a particular state. But if such prisoner of war be taken on shore, he becomes subject to the local jurisdiction or not, according as it may be agreed between the political authorities of the belligerent and neutral power. (Case of the President and Prize, 7 Op., 122, Cushing, 1855)— These cases appear to establish the principle that an American citizen is entitled to the privileges of *habeas corpus*, when unlawfully detained on board of a foreign man-of-war, while lying within the jurisdiction of the United States, not having committed an offense amenable to the law of nations. But if held as a prisoner of war, on board such foreign vessel—that is, having committed a crime amenable to the law of nations—the ship-of-war possesses in the ports of the United States the rights of exterritoriality, and is not subject to the local jurisdiction, and the party held in custody, although an American citizen, can not be released by *habeas corpus*. Once removed, however, from the ship-of-war, within the land jurisdiction of

the United States, his *status* is immediately changed, and he becomes, like all others, subject to the local jurisdiction, and can not lawfully *vi et armis* be reconveyed to the exterritorial jurisdiction of the ship-of-war. JNO. W. CLAMPITT.

HABEAS CORPUS (IN U. S. HISTORY). The nature and classification of this writ are elsewhere treated (see preceding article). I. It is grantable as a matter of right, on a proper foundation being made out by proof, and was familiar in England under common law from very early times; but the judges, who were dependent on the king's pleasure for their tenure of office, evaded giving it whenever the king's pleasure was involved. The personal liberty of the subject was therefore at the king's mercy whenever the words "*per speciale mandatum regis*" (by special command of the king) were inserted in the warrant. After a long struggle the famous *habeas corpus* act of 31 Car. II, c. 2, was carried through parliament in 1679, and gave a sanction to that which before had none, by imposing heavy penalties on the refusal of a judge to grant, or of any person to obey promptly, the writ of *habeas corpus*. The bill had several times passed the house of commons, but failed in the upper house; and its final passage by the lords was by a trick, if we are to believe Burnet's story. "It was carried by an odd artifice in the house of lords. Lord Grey and Lord Norris were named to be the tellers. Lord Norris being a man subject to vapors, was not at all times attentive to what he was doing; so, a very fat lord coming in, Lord Grey counted him for ten, as a jest at first; but, seeing Lord Norris had not observed it, he went on with his misreckoning of ten. So it was reported to the house, and declared that they who were for the bill were the majority, though it indeed went on the other side." —This act, in substance, has been made a part of the law of every state in the Union, and the constitution of the United States has provided that the privilege of the writ shall not be suspended unless when, in cases of rebellion or invasion, the public safety may require it. It has been judicially decided (see CONGRESS, POWERS OF, X.) that the right to suspend the privilege of the writ rests in congress, but that congress may by act give the power to the president. Such an act bears some resemblance to the decree of the Roman senate, in civil dissensions or dangerous tumults, that the consuls "should take care that the republic should receive no harm" (*ut consules darent operam ne quid detrimenti respublica caperet*). The resemblance, however, must not be carried very far: the Roman decree gave the consuls absolute power over the life of any citizen, and power to levy and support armies; but a suspension of the privilege of the writ of *habeas corpus* by congress only allows the executive to detain in custody without interference by civil courts, or to try by military law, prisoners who are taken in battle, or are residents of hostile territory, or are in the military or naval service, or are within the actual circle of armed conflict where courts are impotent; and no power in the United States can lawfully take away the privilege of the writ from private citizens in territory not rebellious or invaded, and where the federal courts are in regular operation. (See "Milligan case" below.) Nevertheless, the suspension of the writ is in so far a suspension of the personal liberty of the citizen. In such an extraordinary emergency as that of April, 1861, when congress is not in session to pass a suspending act, the president may suspend the privilege of the writ within the theatre of actual warfare, by virtue of his powers as commander-in-chief; if he chooses to risk any more general suspension he must trust for validation of his action to a subsequent act of congress. (See REBELLION.) —II. The writ is granted by state courts as a general rule, and by federal courts only when the imprisonment is under color of federal authority, or when some federal right is involved in the case. The act of 1789 gave federal courts the power to issue the writ when necessary for the exercise of their respective jurisdictions, except that prisoners in jail under sentence or execution of a state court could only be brought to the federal court under *habeas corpus* as witnesses. The troubles in 1831-2 (see NULLIFICATION) caused the passage of another act giving the power to federal courts to issue the writ where a prisoner was committed by a state court for an act done in obedience to a federal law (such as a tariff act). In 1842 McLeod's case caused the passage of an act which gave federal courts the power to issue the writ where a prisoner was committed by a state court for an act done in obedience to a foreign state or sovereignty and acknowledged by international law. (See MCLEOD CASE.) In 1867, in order to carry out the amendment abolishing slavery, an act was passed which gave federal courts the power to issue the writ where a person was restrained of his liberty in violation of the constitution or of any law or treaty. But the supreme court has determined that in no case can a state court on *habeas corpus* release a prisoner committed by a federal court, and that in case of such a writ being issued the officer is not to obey it further than to make return of the authority by which he holds the prisoner. Nevertheless such writs are issued and obeyed, but only by acquiescence of federal officers.— III. In the United States the privilege of the writ was never suspended before 1861 by the federal government, though state governments, as in the case of the Dorr rebellion, had done so, and federal officers, as in the Burr conspiracy, and in Jackson's case at New Orleans, had refused to obey the writ. Jan. 23, 1807, the senate, moved by a message detailing Burr's progress, passed a bill suspending the writ for three months in case of arrests for treason, and requested the speedy concurrence of the house. Jan. 26, the house, by a vote of 123 to 3, decided not to keep the bill secret as the senate had done, and, by 113 to 19, voted that the bill "be rejected," a contemptuous and unusual mode of procedure.

(See BURR, AARON.)—ARBITRARY ARRESTS. On the breaking out of the rebellion President Lincoln, after calling out 75,000 men and proclaiming the blockade, authorized the commanding general, April 27, 1861, to suspend the writ of *habeas corpus* between Philadelphia and Washington, and, May 10, extended the order to Florida. May 25, on the application of John Merryman, Ch. J. Taney issued a writ of *habeas corpus* to Gen. Geo. Cadwallader, and, on his refusal to obey, attempted to have him arrested. When the attempt failed, the chief justice transferred the whole case to the president. July 5, Atty. Gen. Bates gave an opinion in favor of the president's power to declare martial law and then to suspend the writ, and the special session of congress, to avoid all question, subsequently approved and validated the president's acts in all respects as if they had been done by express authority of congress. Thereafter "arbitrary arrests" proceeded with great vigor throughout the north, by orders from the state department alone at first, and then concurrently with the war department until Feb. 14, 1862, when the latter department, under Secretary E. M. Stanton, assumed the entire power of arrest. From July to October, 1861, 175 persons were summarily imprisoned in Fort Lafayette alone, and the arrests were kept up through 1861 and 1862, including state judges, mayors of cities, members of the Maryland legislature, persons engaged in "peace meetings," editors of newspapers, and persons accused of being spies or deserters, or of resistance to the draft. Sept. 24, 1862, the suspension was made general by the president so far as it might affect persons arrested by military authority for disloyal practices. These summary arrests provoked much opposition throughout the north, and influenced the state elections of 1862 very materially; and an order of the war department, Nov. 22, 1862, released all prisoners not taken in arms or arrested for resisting the draft. — As yet the suspension had been only by executive authority, and the writs which were still persistently issued by state courts were founded on a long line of express decisions that the power to suspend the privilege of the writ lay in congress, not in the president. By act approved March 3, 1863, congress authorized the president whenever, in his judgment, the public safety might require it, to suspend the writ anywhere throughout the United States; but the power to issue the writ was reserved to federal judges wherever—the federal grand jury being in undisturbed exercise of its functions—a prisoner was detained without indictment at the grand jury's next session. The arrest, May 4, 1863, of C. L. Vallandigham, ex-member of congress from Ohio, his conviction and banishment to the rebel lines, and the arrest of other persons, renewed the excitement in the north. Sept. 15, 1863, the president by proclamation suspended the writ throughout the United States in the cases of prisoners of war, deserters, those resisting the draft, and any persons accused of offenses against the military or naval service. The arrests were thereafter continued with little interference by any authority until August, 1864, when the arrest of a congressman was made in Missouri. The house of representatives then ordered an investigation, which exposed and helped to remedy many of the abuses which were inevitable, perhaps, under a suspension of the writ. Its military committee found in the Old Capitol prison officers of rank, some of them wounded in service, who had been in close confinement for months without charges and without the trial which the act of congress of March 3, 1863, had ordered to be secured to the accused. The exposure was sufficient to prevent a recurrence of the evil for the future, but could do nothing for the past. — Oct. 21, 1864, a general court martial was held in Indiana and passed sentence of death upon several citizens of the state for treasonable designs; and the case became known as the "Milligan case," from the name of the principal prisoner, Lamdin P. Milligan. The federal circuit court in Indianapolis granted a writ of *habeas corpus* for them May 10, 1865; was divided in opinion as to releasing them; and certified the whole case to the supreme court. Its decision, given in the December term of 1866, overthrew the whole doctrine of military arrest and trial of private citizens in peaceful states. It held that congress could not give power to military commissions to try, convict or sentence in a state not invaded or engaged in rebellion and where federal courts were unobstructed, a citizen who was not a resident of a rebellious state, nor a prisoner of war, nor in the military or naval service; that such a citizen was exempt from the laws of war, and could only be subject to indictment and trial by jury, that the suspension of the *privilege* of the writ of *habeas corpus* did not suspend the writ itself; that the writ was to issue as usual, and on its return the court was to decide whether the applicant was in the military service, or a prisoner of war, and thus debarred from the privilege of the writ; and that, in short, neither the president, nor congress, nor the judiciary could lawfully disturb any one of the safeguards of civil liberty in the constitution, except so far as the right is given in certain cases to suspend the *privilege* of the writ of *habeas corpus*. All the justices agreed that Milligan was not lawfully detained, and should be discharged. Four of them, Ch. J. Chase being spokesman, dissented so far as to hold that congress *might* have provided for trial by military commission in cases like that of Milligan, without violating the constitution, but had not done so. — Dec. 1, 1865, President Johnson, by proclamation, restored the privilege of the writ, except in the late insurrectionary states, and in the District of Columbia, New Mexico and Arizona. April 2, 1866, a proclamation restored the writ everywhere, except in Texas; and another proclamation, Aug 20, 1866, restored it in Texas also. — The records of the provost marshal's office in Washington show 38,000 military prisoners reported there during the

rebellion. Among these there were undoubtedly many cases of extreme hardship, the relief of which was always grateful to President Lincoln, when his attention could be directed to them. But, under cover of the necessity of guarding against extensive conspiracies in the north, political and private hatreds were frequently gratified by irresponsible subordinates in a shocking manner, and the trial provision of the act of March 3, 1863, was too often disobeyed; and it is to be feared that the number of cases of this kind which could never be brought to the president's notice was very considerable. Nevertheless, the suspension of the privilege of the writ, in the border states at least, seems to have been unavoidable; and the consequent abuses were but the effects of the wild and blind blows struck at internal treason by a republic unused to war. (See, in general, EXECUTIVE, WAR POWERS, INSURRECTION, REBELLION.)—In the confederate states the suspension of the writ by the federal government was made the theme of severe criticism; but when it was found that in a single year 1,800 cases had been tried in Richmond alone, based on writs of *habeas corpus* for relief from conscription, the confederate congress, late in 1863, suspended the writ until ninety days after the meeting of the next session. At the next session the suspension was made permanent, May 20, 1864.—IV. After the close of the rebellion the ku-klux difficulties in the south caused the passage of the act of April 20, 1871, whose fourth section authorized the president, when unlawful combinations in any state should assume the character of rebellion, to suspend the writ of *habeas corpus* in the disturbed district; but the trial provision of the act of March 3, 1863, was retained, and the whole section was to remain in force no longer than the end of the following session. May 17, 1872, a bill to continue this section for another session was passed by the senate by a vote of 28 to 15. In the house, May 28, a motion to suspend the rules and pass the bill was lost, 94 to 108. The bill was then dropped and has not since been revived. (See also RECONSTRUCTION, JUDICIARY.)—See 3 Blackstone's *Commentaries*, 128 (original paging); Bacon's *Abridgment* ("Habeas Corpus"); 1 Howell's *State Trials*, pref. xxvi; 20 *ib.*, addenda, 1374; 6 *ib.*, 1189; 2 Kent's *Commentaries* (4th edit.), 25; Story's *Commentaries* (edit. 1833), § 1332; Burnet's *History of His Own Time* (edit. 1838), 321; Hurd *On Habeas Corpus;* a copious bibliography of the writ, its history and practice, up to 1842, is in 3 Hill's *Reports*, 647; the most interesting precedents are collected in Garfield's argument in the Milligan case, 4 Wallace's *Reports*, 44; 2 B. R. Curtis' *Works*, 317; Whiting's *War Powers* (10th edit.), 161; E. Ingersoll's *History and Law of the Writ of Habeas Corpus*, and *Personal Liberty and Martial Law;* Breck's *Habeas Corpus and Martial Law; North American Review*, October, 1861: *Habeas Corpus Pamphlets of* 1862 (particularly H. Binney's *Privilege of the Writ of Habeas Corpus*, and G. M. Wharton's *Remarks* thereon); Cooley's *Constitutional Limitations*, 344. II. 4 *Cranch*, 75; 12 *Wheat.*, 19; 1 *Stat. at Large*, 78 (the act of Sept. 24, 1789); 4 *ib.*, 634 (the act of March 2, 1833); 5 *ib.*, 539 (the act of Aug. 29, 1842); 12 *ib.*, 755 (the act of March 3, 1863); 17 *ib.*, 13 (the act of April 20, 1871). III. 2 Parton's *Life of Jackson*, 306; 5 Hildreth's *United States*, 626; 3 Benton's *Debates of Congress*, 490, 504; 21 *How.*, 506; Tyler's *Life of Taney*, 420, 461, 640; *Taney*, 246; Burnham's *Memoirs of the Secret Service;* Baker's *History of the Secret Service;* Marshall's *American Bastile;* Sangster's *Bastiles of the North;* Howard's *Fourteen Months in an American Bastile;* Mahoney's *Prisoner of State;* Thavin's *Arbitrary Arrests in the South;* Lester and Brownell's *Confederate States Military Laws* (1864); *Reports of the Provost Marshal General;* Pollard's *Life of Davis*, 327; Pittman's *Indianapolis Treason Trials* (1865); *ex parte* Milligan, 4 *Wallace*, 107 (majority opinion); 132 (dissenting opinion); *Circulars of the Provost Marshal General*, May 15, 1863 – March 27, 1865.

ALEXANDER JOHNSTON.

HALE, John Parker, was born at Rochester, N. H., March 31, 1806, and died at Dover, N. H., Nov. 18, 1873. He was graduated at Bowdoin in 1827, studied law, was a democratic congressman 1843–5, was "read out of the party" for opposing Texas annexation, became speaker of the state house of representatives, and free-soil U. S. senator 1847–53. In 1852 he was the free-soil candidate for president. (See FREE-SOIL PARTY.) He was a republican U. S. senator 1855–65, and minister to Spain 1865–9. A. J.

HALIFAX FISHERY COMMISSION. (See TREATIES, FISHERY.)

HAMILTON, Alexander, was born in the island of Nevis, W. I., Jan. 11, 1757, and died at New York, July 12, 1804. He left King's (now Columbia) college in 1776 to enter the continental army, was Washington's aide, until he returned to New York city to prepare to practice law, was in the continental congress 1782–3, and also in the convention of 1787. He was secretary of the treasury 1789–95, when he returned to New York city to resume the practice of law. He retained his liking for the army, and accepted the real command of the army in 1798, Washington being nominally commander-in-chief. (For his death at the hands of Burr in a duel, in 1804, see BURR, AARON.)—Few public men have been so bitterly attacked or so warmly defended as Hamilton, and it seems difficult at first sight to estimate correctly his character and services. There are not, however, many points of either really open to doubt. His amiability in private life is witnessed by all the testimony of the times; his wonderful ability as a political and financial writer is evidenced not only by his writings themselves, but by the unanimous testimony of his political enemies; and his exact rectitude of official life, despite some errors of private life,

has never been successfully impeached. On these points there is a singular concurrence of all trustworthy contemporary testimony. There remains but one point in which his political enemies considered him vulnerable, his alleged tendency to anti-republican thought and action. — There can be no doubt that Hamilton accepted the republican ideal of his time as a fact, but that he accepted it of necessity, not of choice. He represented the force of national law as Jefferson represented that of individual freedom, and neither of the correlative forces understood the other. To Hamilton, Jefferson's idea of liberty was only "that of a bear broke loose from his chains"; and to Jefferson, Hamilton's idea of law was only that of British law, then administered by the few and for the few, with little regard for the happiness or rights of the many. One thing is certain as to Hamilton: there is not in any of his letters or other writings a trace of desire to introduce monarchy or aristocracy into the American political system. The charge of anti-republicanism is, to that extent, unfounded, but it had, in reality, a different basis, which can best be seen by considering Hamilton's political work — When the American revolution was successfully accomplished there was but one field in which Americans had ever enjoyed republican government, the governments of their states, or "republics," as they were then often, and are still sometimes, called. In the government of the British empire they had never shared, and the government of the confederation was a shadow only of republican government. From 1781 until 1789 Hamilton was actively engaged in opening to them a new field for republican government, and from 1789 until 1800 he was as busily engaged in extending that field by establishing a broad construction of the powers of the new federal government. But in both of these endeavors he was really, so far as the experience of his opponents taught them, anti-republican in diminishing the powers of the first exponents of republican government; and here lies the real basis of the charge against him. In this respect there is great significance in the change of sentiment toward Hamilton shown by those of his opponents who remained longest in public life and in sympathy with the expansion of the country. Madison, Monroe, Giles and Gallatin grew in respect for him as they grew in experience; Jefferson alone, who remained aloof from public life after 1809, retained his opinion of him unchanged to the end. — The methods and extent of Hamilton's political work are considered elsewhere. (See CONVENTION OF 1787; FEDERALIST; CONSTRUCTION, III.; FEDERAL PARTY, I.) He was unfortunate, personally, in having a clearer view of the possibilities of the federal government than most of his contemporaries, and many of his theories were built on a scale more suited to the year 1882 than to the year 1791; but his influence upon the development of the theory of American nationality has been permanent. Even in his lifetime it was his privilege to see his opponents, when they had succeeded to the government which he had established, administer it in perfect accordance with his practice. (See JEFFERSON, THOMAS; DEMOCRATIC PARTY, III.) — Hamilton's *Works* have been collected in seven volumes. They will also be found in the *History of the Republic of the United States*, by his son, J. C. Hamilton; but this work is unfortunate in claiming too much for him. A fairer résumé of his work will be found in 1 Curtis' *History of the Constitution*, 406. See also J. A. Hamilton's *Reminiscences;* J. C. Hamilton's *Life of Hamilton* (1840); Renwick's *Life of Hamilton* (1841); Schmucker's *Life and Times of Hamilton* (1857); Riethmüller's *Hamilton and his Contemporaries* (1864); Morse's *Life of Hamilton* (1876); Shea's *Life and Epoch of Hamilton* (1879); Coleman's *Facts and Documents relative to the Death of Hamilton* (1804); 10 *New York Historical Magazine*, 5; *North American Review*, July, 1841, 70, April, 1858, 368, January, 1876, 60, and July, 1876, 113; *Atlantic Monthly*, November, 1865, 625; 24 *Nation*, 283 The favorable view of Hamilton and his work will generally be found in authorities cited under FEDERAL PARTY, I.; the unfavorable view in authorities under DEMOCRATIC PARTY, I.–III., and in 9 John Adams' *Works*, 272. Many of the almost forgotten contemporary attacks upon him, such as Callender's *Letters to Alexander Hamilton, King of the Feds*, have been republished by the Hamilton club. A history of one of the worst of them will be found in 5 Hildreth's *United States*, 108.

ALEXANDER JOHNSTON.

HAMLIN, Hannibal, vice-president of the United States 1861–5, was born at Paris, Me., Aug. 27, 1809, was admitted to the bar in 1833; was a democratic congressman 1843–7, and United States senator 1848–57, and, as a republican, 1857–61. He was again elected senator by the republicans 1869–81, and was appointed minister to Spain in 1881. A. J.

HANCOCK, Winfield Scott, was born Feb. 24, 1824, in Montgomery county, Pennsylvania, was graduated at West Point in 1844, and rose in the regular army to the rank of major general. His best known fighting was at Gettysburg. After the war he was placed in command of the 5th military district, with headquarters at New Orleans. (See RECONSTRUCTION.) Nov. 29, 1867, he issued a general order declaring that the rebellion was ended, that trial by jury, *habeas corpus*, the liberty of the press and of speech, and the natural rights of person and property would be maintained, and that crimes would be tried by the civil tribunals in his district. To republicans this seemed to be an unnecessary and officious interference with the congressional plan of reconstruction, and this feeling was not decreased by a message of President Johnson, Dec. 18, in which he suggested that congress should vote its thanks

to Gen. Hancock for his action. Gen. Hancock's order made him very popular with democrats, north and south, and he was mentioned at successive national conventions until 1880, when he was nominated June 24. In the presidential election he was defeated by Gen. Garfield. (See ELECTORAL VOTES.) — See Junkin's *Life of Hancock;* Freed's *Life of Hancock.*

ALEXANDER JOHNSTON.

HANSEATIC LEAGUE, an association of the principal cities in the north of Germany, Prussia, etc., for the better carrying on of commerce, and for their mutual safety and defense. This confederacy, so celebrated in the early history of modern Europe, contributed in no ordinary degree to introduce the blessings of civilization and good government into the north. The extension and protection of commerce was, however, its main object; and hence a short account of it may not be deemed misplaced in a work of this description. — *Origin and Progress of the Hanseatic League.* Hamburg, founded by Charlemagne in the ninth, and Lübeck, founded about the middle of the twelfth century, were the earliest members of the league. The distance between them not being very considerable, and being alike interested in the repression of those disorders to which most parts of Europe, and particularly the coast of the Baltic, were a prey in the twelfth, thirteenth and fourteenth centuries, they early formed an intimate political union, partly in the view of maintaining a safe intercourse by land with each other, and partly for the protection of navigation from the attacks of the pirates, with which every sea was at that time infested. There is no very distinct evidence as to the period when this alliance was consummated: some ascribe its origin to the year 1169, others to the year 1200, and others to the year 1241. But the most probable opinion seems to be that it would grow up by slow degrees, and be perfected according as the advantage derivable from it became more obvious. Such was the origin of the Hanseatic league, so called from the old Teutonic word *hansa,* signifying an association or confederacy. — Adam of Bremen, who flourished in the eleventh century, is the earliest writer who has given any information with respect to the commerce of the countries lying round the Baltic; and from the errors into which he has fallen in describing the northern and eastern shores of that sea, it is evident they had been very little frequented, and not at all known, in his time. But from the beginning of the twelfth century the progress of commerce and navigation in the north was exceedingly rapid. The countries which stretch along the bottom of the Baltic, from Holstein to Russia, and which had been occupied by barbarous tribes of Slavonic origin, were then subjugated by the kings of Denmark, the dukes of Saxony, and other princes. The greater part of the inhabitants being exterminated, their place was filled by German colonists, who founded the towns of Stralsund, Rostock, Wismar, etc. Prussia and Poland were afterward subjugated by the Christian princes and the knights of the Teutonic order. So that, in a comparatively short period, the foundations of civilization and the arts were laid in countries whose barbarism had ever remained impervious to the Roman power. — The cities that were established along the coast of the Baltic, and even in the interior of the countries bordering upon it, eagerly joined the Hanseatic confederation. They were indebted to the merchants of Lübeck for supplies of the commodities produced in more civilized countries, and they looked up to them for protection against the barbarians by whom they were surrounded. The progress of the league was in consequence singularly rapid. Previously to the end of the thirteenth century it embraced every considerable city in all those vast countries extending from Livonia to Holland, and was a match for the most powerful monarchs. — The Hanseatic confederacy was at its highest degree of power and splendor during the fourteenth and fifteenth centuries. It then comprised from sixty to eighty cities, which were distributed into four classes or circles. Lübeck was at the head of the first circle, and had under it Hamburg, Bremen, Rostock, Wismar, etc. Cologne was at the head of the second circle, with twenty-nine towns under it. Brunswick was at the head of the third circle, consisting of thirteen towns. Dantzic was at the head of the fourth circle, having under it eight towns in its vicinity, besides several that were more remote. The supreme authority of the league was vested in the deputies of the different towns assembled in congress. In it they discussed all their measures; decided upon the sum that each city should contribute to the common fund, and upon the questions that arose between the confederacy and other powers, as well as those that frequently arose between the different members of the confederacy. The place for the meeting of congress was not fixed, but it was most frequently held at Lübeck, which was considered as the capital of the league, and there its archives were kept. Sometimes, however, congresses were held at Hamburg, Cologne, and other towns. They met once every three years, or oftener if occasion required. The letters of convocation specified the principal subjects which would most probably be brought under discussion. Any one might be chosen for a deputy; and the congress consisted not of merchants only, but also of clergymen, lawyers, artists, etc. When the deliberations were concluded, the decrees were formally communicated to the magistrates of the cities at the head of each circle, by whom they were subsequently communicated to those below them, and the most vigorous measures were adopted for carrying them into effect. One of the burgomasters of Lübeck presided at the meetings of congress; and during the recess the magistrates of that city had the sole, or at all events the principal, direction of the affairs of

the league. — Besides the towns already mentioned, there were others that were denominated confederated cities, or allies. The latter neither contributed to the common fund of the league, nor sent deputies to congress; even the members were not all on the same footing in respect to privileges: and the internal commotions by which it was frequently agitated, partly originating in this cause and partly in the discordant interests and conflicting pretensions of the different cities, materially impaired the power of the confederacy. But in despite of these disadvantages, the league succeeded for a lengthened period, not only in controlling its own refractory members, but in making itself respected and dreaded by others. It produced able generals and admirals, skillful politicians, and some of the most enterprising, successful and wealthy merchants of modern times. — As the power of the confederated cities was increased and consolidated, they became more ambitious. Instead of limiting their efforts to the mere advancement of commerce and their own protection, they endeavored to acquire the monopoly of the trade of the north, and to exercise the same sort of dominion over the Baltic that the Venetians exercised over the Adriatic. For this purpose they succeeded in obtaining, partly in return for loans of money and partly by force, various privileges and immunities from the northern sovereigns, which secured to them almost the whole foreign commerce of Scandinavia, Denmark, Prussia, Poland, Russia, etc. They exclusively carried on the herring fishery of the Sound, at the same time that they endeavored to obstruct and hinder the navigation of foreign vessels in the Baltic. It should, however, be observed that the immunities they enjoyed were mostly indispensable to the security of their commerce, in consequence of the barbarism that then prevailed; and notwithstanding their attempts at monopoly, there can not be the shadow of a doubt that the progress of civilization in the north was prodigiously accelerated by the influence and ascendency of the Hanseatic cities. They repressed piracy by sea and robbery by land, which must have broken out again had their power been overthrown before civilization was fully established; they accustomed the inhabitants to the principles, and set before them the example, of good government and subordination; they introduced among them conveniences and enjoyments unknown by their ancestors or despised by them, and inspired them with a taste for literature and science; they did for the people round the Baltic what the Phœnicians had done in remoter ages for those round the Mediterranean, and deserve, equally with them, to be placed in the first rank among the benefactors of mankind. — "In order," as has been justly observed, "to accomplish their purpose of rendering the Baltic a large field for the prosecution of commercial and industrial pursuits, it was necessary to instruct men, still barbarous, in the rudiments of industry, and to familiarize them in the principles of civilization. These great principles were laid by the confederation, and at the close of the fifteenth century the Baltic and the neighboring seas had, by its means, become frequented routes of communication between the north and the south. The people of the former were enabled to follow the progress of the latter in knowledge and industry The forests of Sweden, Poland, etc., gave place to corn, hemp and flax; the mines were wrought, and, in return, the produce and manufactures of the south were imported. Towns and villages were erected in Scandinavia, where huts only were before seen; the skins of the bear and the wolf were exchanged for woolens, linens and silks; learning was introduced; and printing was hardly invented before it was practiced in Denmark, Sweden, etc." (Catteau, *Tableau de la Mer Baltique*, tom. ii., p. 175.) — The kings of Denmark, Sweden and Norway were frequently engaged in hostilities with the Hanse towns. They regarded, and, it must be admitted, not without pretty good reason, the privileges acquired by the league, in their kingdoms, as so many usurpations. But their efforts to abolish these privileges served, for more than two centuries, only to augment and extend them. — "On the part of the league there were union, subordination and money; whereas the half-savage Scandinavian monarchies were full of divisions, factions and troubles; revolution was immediately followed by revolution, and feudal anarchy was at its height. There was another circumstance, not less important, in favor of the Hanseatic cities. The popular governments established among them possessed the respect and confidence of the inhabitants, and were able to direct the public energies for the good of the state. The astonishing prosperity of the confederated cities was not wholly the effect of commerce. To the undisciplined armies of the princes of the north—armies composed of vassals without attachment to their lords—the cities opposed, besides the inferior nobles, whose services they liberally rewarded, citizens accustomed to danger, and resolved to defend their liberties and property. Their military operations were combined and directed by a council composed of men of tried talents and experience, devoted to their country, responsible to their fellow-citizens, and enjoying their confidence. It was chiefly, however, on their marine forces that the cities depended. They employed their ships indifferently in war or commerce, so that their naval armaments were fitted out at comparatively small expense. Exclusive, too, of these favorable circumstances, the fortifications of the principal cities were looked upon as impregnable; and as their commerce supplied them abundantly with all sorts of provisions, it need not excite our astonishment that Lübeck alone was able to carry on wars with the surrounding monarchs, and to terminate them with honor and advantage; and still less that the league should long have enjoyed a decided preponderance in the north." (*L'Art de vérifier les*

Dates, 8me partie, tom. viii., p. 204.) — As already explained, the extirpation of piracy was one of the objects which had originally led to the formation of the league, and which it never ceased to prosecute. Owing, however, to the barbarism then so universally prevalent, and the countenance openly given by many princes and nobles to those engaged in this infamous profession, it was not possible wholly to root it out. But the vigorous efforts of the league to abate the nuisance, though not entirely successful, served to render the navigation of the North sea and the Baltic comparatively secure, and were of signal advantage to commerce. Nor was this the only mode in which the power of the confederacy was directly employed to promote the common interests of mankind. Their exertions to protect shipwrecked mariners from the atrocities to which they had been subject, and to procure the restitution of shipwrecked property to its legitimate owners, though most probably, like their exertions to repress piracy, a consequence of selfish considerations, were in no ordinary degree meritorious, and contributed not less to the advancement of civilization than to the security of navigation. — A series of resolutions were unanimously agreed to by the merchants frequenting the port of Wisby, one of the principal emporiums of the league, in 1287, providing for the restoration of shipwrecked property to its original owners, and threatening to eject from the *consodalitate mercatorum* any city that did not act conformably to the regulations laid down. — *Factories belonging to the League.* In order to facilitate and extend their commercial transactions, the league established various factories in foreign countries, the principal of which were at Novogorod in Russia, London, Bruges in the Netherlands, and Bergen in Norway.—Novogorod, situated at the confluence of the Volkof with the Imler lake, was, for a lengthened period, the most renowned emporium in the northeastern parts of Europe. In the beginning of the eleventh century the inhabitants obtained considerable privileges, which laid the foundation of their liberty and prosperity. Their sovereigns were at first subordinate to the grand dukes or czars of Russia; but as the city and the contiguous territory increased in population and wealth, they gradually usurped an almost absolute independency. The power of these sovereigns over their subjects seems at the same time to have been exceedingly limited; and, in effect, Novogorod ought rather to be considered as a republic under the jurisdiction of an elective magistrate, than as a state subject to a regular line of hereditary monarchs possessed of extensive prerogatives. During the twelfth, thirteenth and fourteenth centuries, Novogorod formed the grand entrepôt between the countries to the east of Poland and the Hanseatic cities. Its fairs were frequented by an immense concourse of people from all the surrounding countries, as well as by numbers of merchants from the Hanse towns, who engrossed the greater part of its foreign commerce, and who furnished its markets with the manufactures and products of distant countries. Novogorod is said to have contained, during its most flourishing period, toward the middle of the fifteenth century, upward of 400,000 souls. This, however, is most probably an exaggeration. But its dominions were then very extensive; and its wealth and power seemed so great and well established, and the city itself so impregnable, as to give rise to a proverb, Who can resist the gods and great Novogorod? "Quis contra deos et magnam Novogordiam?" (Coxe's "Travels in the North of Europe," vol. ii., p. 80.) —But its power and prosperity were far from being so firmly established as its eulogists, and those who had only visited its fairs, appear to have supposed. In the latter part of the fifteenth century, Ivan Vassilievitch, czar of Russia, having secured his dominions against the inroads of the Tartars, and extended his empire by the conquest of some of the neighboring principalities, asserted his right to the principality of Novogorod, and supported his pretensions by a formidable army. Had the inhabitants been animated by the spirit of unanimity and patriotism, they might have defied his efforts; but their dissensions facilitated their conquest, and rendered them an easy prey. Having entered the city at the head of his troops, Ivan received from the citizens the charter of their liberties, which they either wanted courage or inclination to defend, and carried off an enormous bell to Moscow, that has been long regarded with a sort of superstitious veneration as the palladium of the city. But notwithstanding the despotism to which Novogorod was subject during the reigns of Ivan and his successors, it continued for a considerable period to be the largest as well as most commercial city in the Russian empire. The famous Richard Chancellour, who passed through Novogorod, in 1554, in his way from the court of the czar, says, that "next unto Moscow, the city of Novogorod is reputed the chiefest of Russia; for although it be in majestie inferior to it, yet in greatness it goeth beyond it. It is the chiefest and greatest mart town of all Muscovy; and albeit the emperor's seat is not there, but at Moscow, yet the commodiousness of the river falling into the gulf of Finland, whereby it is well frequented by merchants, makes it more famous than Moscow itself." — But the scourge of the destroyer soon after fell on this celebrated city. Ivan IV., having discovered, in 1570, a correspondence between some of the principal citizens and the king of Poland relative to a surrender of the city into his hands, punished them in the most inhuman manner. The slaughter by which the bloodthirsty barbarian sought to satisfy his revenge was alike extensive and indiscriminating. The crime of a few citizens was made a pretext for the massacre of 25,000 or 30,000. Novogorod never recovered from this dreadful blow. It still, however, continued to be a place of considerable trade, until the foundation of Petersburg, which immediately

became the seat of that commerce which formerly had centered at Novogorod. The degradation of this ill-fated city is now complete. It is at present an inconsiderable place, with a population of about 8,000 or 9,000, and is remarkable only for its history and antiquities. — The merchants of the Hanse towns, or Hansards, as they were then commonly termed, were established in London at a very early period, and their factory there was of considerable magnitude and importance. They enjoyed various privileges and immunities; they were permitted to govern themselves by their own laws and regulations; the custody of one of the gates of the city (Bishopsgate) was committed to their care; and the duties on various sorts of imported commodities were considerably reduced in their favor. These privileges necessarily excited the ill will and animosity of the English merchants. The Hansards were every now and then accused of acting with bad faith, of introducing commodities as their own that were really the produce of others, in order to enable them to evade the duties with which they ought to have been charged; of capriciously extending the list of towns belonging to the association; and obstructing the commerce of the English in the Baltic. Efforts were continually making to bring these disputes to a termination; but as they really grew out of the privileges granted to and claimed by the Hansards, this was found to be impossible. The latter were exposed to many indignities; and their factory, which was situated in Thames street, was not unfrequently attacked. The league exerted themselves vigorously in defense of their privileges; and having declared war against England, they succeeded in excluding her vessels from the Baltic, and acted with such energy that Edward IV. was glad to come to an accommodation with them, on terms which were anything but honorable to the English. In the treaty for this purpose, negotiated in 1474, the privileges of the merchants of the Hanse towns were renewed, and the king assigned to them, in absolute property, a large space of ground, with the buildings upon it, in Thames street, denominated the steel yard, whence the Hanse merchants have been commonly denominated the association of the steel yard; the property of their establishments at Boston and Lynn was also secured to them; the king engaged to allow no stranger to participate in their privileges; one of the articles bore that the Hanse merchants should be no longer subject to the judges of the English admiralty court, but that a particular tribunal should be formed for the easy and speedy settlement of all disputes that might arise between them and the English; and it was further agreed that the particular privileges awarded to the Hanse merchants should be published, as often as the latter judged proper, in all the seaport towns of England, and such Englishmen as infringed upon them should be punished. In return for these concessions, the English acquired the liberty of freely trading in the Baltic, and especially in the port of Dantzic and in Prussia. In 1498, all direct commerce with the Netherlands being suspended, the trade fell into the hands of the Hanse merchants, whose commerce was in consequence very greatly extended. But, according as the spirit of commercial enterprise awakened in the nation, and as the benefits resulting from the prosecution of foreign trade came to be better known, the privileges of the Hanse merchants became more and more obnoxious. They were in consequence considerably modified in the reigns of Henry VII. and Henry VIII., and were at length wholly abolished in 1597. (Anderson's *Hist. Com.*, anno 1474, etc.) — The different individuals belonging to the factory in London, as well as those belonging to the other factories of the league, lived together at a common table, and were enjoined to observe the strictest celibacy. The direction of the factory in London was intrusted to an alderman, two assessors, and nine councilors. The latter were sent by the cities forming the different classes into which the league was divided. The business of these functionaries was to devise means for extending and securing the privileges and commerce of the association; to watch over the operations of the merchants; and to adjust any disputes that might arise among the members of the confederacy, or between them and the English. The league endeavored at all times to promote, as much as possible, the employment of their own ships. In pursuance of this object, they went so far in 1447 as to forbid the importation of English merchandise into the confederated cities except by their own vessels. But a regulation of this sort could not be carried into full effect, and was enforced or modified according as circumstances were favorable or adverse to the pretensions of the league. Its very existence was, however, an insult to the English nation; and the irritation produced by the occasional attempts to act upon it contributed materially to the subversion of the privileges the Hanseatic merchants had acquired in England. — By means of their factory at Bergen, and of the privileges which had been either granted to or usurped by them, the league enjoyed for a lengthened period the monopoly of the commerce of Norway. — But the principal factory of the league was at Bruges in the Netherlands. Bruges became, at a very early period, one of the first commercial cities of Europe, and the centre of the most extensive trade carried on to the north of Italy. The art of navigation in the thirteenth and fourteenth centuries was so imperfect that a voyage from Italy to the Baltic and back again could not be performed in a single season, and hence, for the sake of their mutual convenience, the Italian and Hanseatic merchants determined on establishing a magazine or storehouse of their respective products in some intermediate situation. Bruges was fixed upon for this purpose; a distinction which it seems to have owed as much to the freedom enjoyed by the inhabitants, and the liberal-

ity of the government of the Low Countries, as to the convenience of its situation. In consequence of this preference, Bruges speedily rose to the very highest rank among commercial cities, and became a place of vast wealth. It was at once a staple for English wool, for the woolen and linen manufactures of the Netherlands, for the timber, hemp and flax, pitch and tar, tallow, corn, fish, ashes, etc., of the north; and for the spices and Indian commodities, as well as their domestic manufactures imported by the Italian merchants. The fairs of Bruges were the best frequented of any in Europe. Ludovico Guicciardini mentions, in his "Description of the Low Countries," that in the year 1318 no fewer than five Venetian galleases, vessels of very considerable burden, arrived at Bruges in order to dispose of their cargoes at the fair. The Hanseatic merchants were the principal purchasers of Indian commodities: they disposed of them in the ports of the Baltic, or carried them up the great rivers into the heart of Germany. The vivifying effects of this commerce were everywhere felt; the regular intercourse opened between the nations in the north and south of Europe made them sensible of their mutual wants, and gave a wonderful stimulus to the spirit of industry. This was particularly the case with regard to the Netherlands. Manufactures of wool and flax had been established in that country as early as the age of Charlemagne; and the resort of foreigners to their markets, and the great additional vent that was thus opened for their manufactures, made them be carried on with a vigor and success that had been hitherto unknown. These circumstances, combined with the free spirit of their institutions and the moderation of the government, so greatly promoted every elegant and useful art, that the Netherlands early became the most civilized, best cultivated, richest and most populous country of Europe. — *Decline of the Hanseatic League.* From the middle of the fifteenth century the power of the confederacy, though still very formidable, began to decline. This was not owing to any misconduct on the part of its leaders, but to the progress of the improvement which it had done so much to promote. The superiority enjoyed by the league resulted as much from the anarchy, confusion and barbarism that prevailed throughout the kingdoms of the north, as from the good government and order that distinguished the towns. But a distinction of this sort could not be permanent. The civilization which had been at first confined to the cities, gradually spread from them, as from so many centres, over the contiguous country Feudal anarchy was everywhere superseded by a system of subordination; arts and industry were diffused and cultivated; and the authority of government was at length firmly established. This change not only rendered the princes over whom the league had so frequently triumphed superior to it in power, but the inhabitants of the countries among which the confederated cities were scattered, having learned to entertain a just sense of the advantages derivable from commerce and navigation, could not brook the superiority of the association, or bear to see its members in possession of immunities of which they were deprived; and in addition to these circumstances, which must speedily have occasioned the dissolution of the league, the interests of the different cities of which it consisted became daily more and more opposed to each other. Lübeck, Hamburg, Bremen, and the towns in their vicinity, were latterly the only ones that had any interest in its maintenance. The cities in Zealand and Holland joined it, chiefly because they would otherwise have been excluded from the commerce of the Baltic; and those of Prussia, Poland and Russia did the same because, had they not belonged to it, they would have been shut out from all intercourse with strangers. When, however, the Zealanders and Hollanders became sufficiently powerful at sea to be able to vindicate their right to the free navigation of the Baltic by force of arms, they immediately seceded from the league; and no sooner had the ships of the Dutch, the English, etc., begun to trade directly with the Polish and Prussian Hanse towns than these nations also embraced the first opportunity of withdrawing from it. The fall of this great confederacy was really, therefore, a consequence of the improved state of society, and of the development of the commercial spirit in the different nations of Europe. It was most servicable so long as those for whom its merchants acted as factors and carriers were too barbarous, too much occupied with other matters, or destitute of the necessary capital and skill, to act in these capacities for themselves. When they were in a situation to do this, the functions of the Hanseatic merchants ceased as a matter of course; their confederacy fell to pieces; and at the middle of the seventeenth century the cities of Lübeck, Hamburg and Bremen were all that continued to acknowledge the authority of the league. To this day they preserve the shadow of its power; having been acknowledged in the act for the establishment of the Germanic confederation, signed at Vienna June 8, 1815, as free Hanseatic cities. But their enforced embodiment since 1866 in the North German confederation, and association with the other Germanic states in the Zollverein, will cause even this shadow to lessen very rapidly. — See Mallet, *La Ligue Hanséatique;* Schlözer's *Verfall und Untergang der Hansa;* Lappenberg's *Urkundliche Geschichte des Hansischen Stahlhofes zu London;* and *Report* for 1867 of Mr Consul General Ward of Hamburg.

J. R. M'Culloch and H. G. Reid.

HARPER'S FERRY. (See Brown, John.)

HARRISON, William Henry, president of the United States in 1841, was born in Charles county, Va., Feb. 9, 1773, and died in office at Washington, D. C., April 4, 1841. He was an officer in the regular army 1791–7, was appointed

secretary of the northwest territory in 1797, and remained identified with its history thereafter. He was governor of Indiana territory 1801–13, during which time he fought a successful battle against the British and Indians at Tippecanoe, Nov. 7, 1811; was representative from Ohio 1816–19, senator from Ohio 1825–8, and minister to Colombia 1828–9. He represented mainly the anti-masonic element of the whig party, but his general popularity made him the whig party's most available candidate for the presidency. (See WHIG PARTY, II.) — See Dawson's *Services of W. H. Harrison* (1824); Hall's *Life of Harrison* (1836); Hildreth's *People's Presidential Candidate* (1839); Jackson's *Life of Harrison* (1840); Burr's *Life and Times of Harrison* (1840); Montgomery's *Life of Harrison* (1860). A. J.

HARTFORD CONVENTION. (See CONVENTION, HARTFORD.)

HAWAII. (See SANDWICH ISLANDS.)

HAYES, Rutherford Birchard, president of the United States 1877–81, was born at Delaware, Ohio, Oct. 4, 1822. He was graduated at Kenyon college, in 1842, and was admitted to the bar in 1846. In June, 1861, he entered the army, and there reached the grade of brevet major general. He was a republican congressman 1865–7, and governor of Ohio 1868–70. In 1875 he was again chosen governor, having thus overthown the "Ohio idea" of paying in paper money that part of the national debt not specifically payable in coin (see OHIO), and the general attention which was attracted by the importance of the contest, and his hardly expected success, gave him the republican nomination for the presidency in 1876. (See DISPUTED ELECTIONS, IV.; ELECTORAL COMMISSION.) — The peculiar circumstances attending his election, and his immediate withdrawal of military support from the reconstructed governments of South Carolina and Louisiana (see INSURRECTION, II.), left his administration without any very cordial support in congress; and his embarassment was increased by the sudden rise to the surface of financial questions, on which neither party was ready to finally commit itself. Many administration measures were lost, or carried by democratic votes; the veto of the Bland silver bill, making the depreciated silver dollar a legal tender and directing its continued coinage, was overridden by heavy majorities, Feb. 28, 1878; and it was not until the extra session of 1879 (see RIDERS) that President Hayes found himself fairly supported by his own party's representatives in congress. Nevertheless, his administration was of incalculable advantage to the country, not only as a breathing spell from the almost intolerable violence of party contest, but also in its economic successes. For the final subsidence of the popular wave which for a moment seemed to threaten repudiation in its meaner forms, for the successful refunding of the public debt, for the enormous reductions in the rate and amount of the annual interest paid upon it, almost the entire credit is due to this administration; and the general want of exciting incident, which is sometimes adduced as a proof of its incompetency, is really the strongest proof of its competency and success. Even in the lower aspect of party success the result is the same. During this administration the party held its own for four years, for the first time since the close of the rebellion. From 1868 until 1876, in particular, it had been slowly but surely losing its hold on various states, and the loss was only hastened by the increased vigor of the measures taken to stop it. If the election of 1872 had not been darkened by democratic refusals to vote for Greeley, it would be evident that the republican party had entered every election since 1868 in worse condition than at the preceding election. In 1880, for the first time since 1868, the steady line of loss had been checked, and there was even a slight gain. — See Howell's *Life of Hayes;* Howard's *Life of Hayes.* A. J.

HAYTI. This island, one of the four great Antilles, is situated between 17° 43′ and 19° 58′ of north latitude, and 70°45′ and 76° 55′ of west longitude. Its length is 600 kilometres from east to west, and its width varies from 27 to 238 kilometres from north to south. Hayti was discovered by Christopher Columbus, Dec. 6, 1492, two months after the little island of Guanahani (now San Salvador) had first realized the dream of his genius. The name Hayti, in the language of the aborigines, signifies mountainous country. Columbus called it Hispaniola; the French and English called it San Domingo, from the name of the city founded in 1495 by Bartholomew Columbus, and which became the capital of the first Spanish settlement. Four great chains of mountains extend from east to west, and numerous rivers flow down from them. The peak of Cibas rises 2,400 metres above the sea, it is in the centre of the gold region which first of all excited the cupidity of the Spaniards. Copper, lead, silver, mercury, rock salt, sulphur and marble are also found. The existence of coal is indicated in several places. But it is not the working of these different minerals which at present constitutes the resources of Hayti. Its real wealth is dye and cabinet woods, and its tropical productions, coffee, sugar, cocoa and cotton, to which must be added cattle, hogs and sheep. To these advantages are added those of climate. Though very warm its climate is tempered by the trade winds, abundant rains and the almost equal length of day and night. If the climate in the valleys is a little unhealthy owing to the moisture, that of the plateaus is, on the contrary, very salubrious. Hurricanes and earthquakes sometimes produce ravages; but they are the only scourges to be feared, for there are no dangerous animals, the importunity of the musquitos being the only inconvenience to be met, or rather to be avoided. — The painful phases of the

history of San Domingo are known. In the sixteenth century the Spaniards worked the mines so actively that they sacrificed the Indians of the five states into which the country was divided at the arrival of Columbus, and according to one historian not 150 individuals were left at the end of that same century. The conquerors, themselves decimated by maladies and their own struggles, replaced them. In 1586 Drake ravaged the still feeble colony; later appeared the buccaneers, who from their little island *la Tortue*, attacked Hayti from time to time and established themselves in the west. This gave occasion to the occupation, in 1664, by France, who came to regulate the colony founded by the forlorn hope of her civilization, and who, in 1697, at the peace of Ryswick, had her right of possession sanctioned. This new colony prospered, but though less cruel than the Spaniards, the French, too, managed the country harshly by means of slavery. An insurrection of negroes, which took place in 1722, was soon repressed. At last the French national assembly, March 28, 1790, decreed that in the colonies mulattoes and free blacks were called to the rank of citizens and to equality with the whites. San Domingo was then deeply disturbed; the colonies wished to be freed from colonial dependence, and to win their administrative freedom, but they did not wish to share their advantages with men of mixed blood any more than they wished to free the blacks. The former revolted, the slaves joined their enterprise and the island was soon in a flame. — In 1793 the agents of France abolished slavery, and the following year (1794) the convention ratified this act. The colonists then called the English and Spanish to their aid, and took possession of a part of the territory. But Toussaint-Louverture, a negro chieftain, the most energetic, perhaps, but not the most intelligent, in the war of independence, repulsed the foreign troops and ended by making himself master of the part of the island which Spain had possessed up to that time and which she had just ceded to France by the treaty of Basle (April 2, 1795). He easily acquired the life title of governor general of the colony of San Domingo, as it was termed by the constitution of May 9, 1801, elaborated by a central assembly, that he himself had formed, of ten members, three mulattoes and seven whites, which constitution he submitted to the vote of deputies of the departments; but the consular government would not sanction the act. Therefore the first consul in 1801–2 sent his brother-in-law, Gen. Leclerc, with 20,000 men, to reconquer Hayti and re-establish affairs on a former footing. Leclerc seized Toussaint-Louverture by surprise and sent him to France, where he died April 27, 1803. The arrest and captivity of their chief exasperated the native population and they rose up under the command of two other leaders, Petion and Dessalines. The French then lost the advantages previously gained, and were driven back to the Cape. Rochambeau, the successor of Leclerc who had perished in the expedition, was forced to evacuate the French part of San Domingo at the end of the year 1803. The French maintained themselves only in the part ceded by Spain. The victorious insurgents then proclaimed their independence, and, as if recognizing themselves as avengers of the former population, they restored the ancient name of the island, Hayti. But these slaves who desired liberty, knew it not, and ranged themselves under the sceptre of Dessalines, proclaimed emperor under the name of James I. while Petion, in the south, founded a republican state. — After the death of Dessalines and that of a second slave, a king also, Christopher, otherwise Henry I., Boyer, successor of Petion, united the two states, and added, in 1822, the eastern part from which the French had been finally expelled. Three years later, in 1825, the French recognized the independence of Hayti, at the same time stipulating for the former colonists an indemnity of 150,000,000 francs, which the debtors themselves were the first to recognize as just, in principle at least. At the same time Hayti contracted in France a loan of 30,000,000 francs, at 6 per cent. But the amount of the indemnity was found exorbitant by the Haytians; they declared themselves unable ever to pay this sum, and lengthy discussions arose on this subject which were finally terminated in 1838 by a treaty of commerce and friendship between France and the republic of Hayti, (Feb. 12 in Hayti, and promulgated in France May 30). A consequence of this treaty was a financial arrangement by which the debt, reduced to 60,000,000 francs, and released from interest, was to be paid from 1838 to 1867 inclusive. This term of thirty years was divided into six periods of five years each, with the obligation of paying each year of the first period, 1,500,000 francs; of the second, 1,600,000; of the third, 1,700,000; of the fourth, 1,800,000; of the fifth, 2,400,000; and of the sixth, 3,000,000. Said sums to be paid in French money during the first half of each year in Paris, into the *Caisse des dépôts et consignations*. The 1,500,000 francs for the first year (1838) were brought on the ship in which the French commissioners, Baron Lascases and Capt. Baudin, arrived, as well as the two Haytian commissioners, Messrs. Séguy-Villevaleix and B. Ardouin, afterward minister resident of Hayti in France, both intrusted with making this first payment. Besides, the interest on the loan was reduced from 6 to 3 per cent.* Thus President Boyer had the honor of sealing the independence of his country by closing an affair which was the last mark of

* The first five annuities were paid; but after Boyer, President Herard was only able to pay the first annuity of the second series, and the payment of the debt was interrupted from 1844 to 1848 inclusive. These five years were added to the arrears by a convention of May 15, 1849, between Soulouque and the French consul, Levasseur. The payments have since been regularly made, and in October, 1861, Hayti owed no more than 38,909,000 francs. That year the minister resident of Hayti, in paying the stipulated annuity, paid besides 800,000 more as interest on the loan and for the redemption of 350 bonds of 1,000 francs, by drawing, as is done every year in the month of June.

the former enslavement of Hayti to the foreigner. Unfortunately for him, accused of having halted in his course, and of being incapable of all initiative, he was excluded from power and replaced in 1843 by Gen. Herard-Rivière, who was excluded in turn the following year by Guerier. In 1845 Piérrot, in 1846 Riché, and in 1847 Soulouque, succeeded to power.— Under Herard the eastern part of the island separated again and formed the Dominican republic, with Santanna as president, when the latter triumphed over the negro general, Soulouque, and a Dominican pretender, Ximenes. This new state was recognized in 1848 by France and England. But it did not last under the republican form; in 1862 it yielded to Spain, after profound misunderstandings among the citizens. This part of the country is the most extensive, comprising alone two-thirds of the former San Domingo; but it is the worst cultivated, though the soil is fertile, and the least inhabited since it does not contain 100,000 inhabitants. (See, for further details, *Etudes sur l'histoire d'Haïti* of M. B Ardouin, minister resident of Hayti, Paris, Dezobry, 1856, 11 vols. in 8vo.) — The republic of Hayti has in its turn suffered great vicissitudes. In 1849 its president, Soulouque, changed it into an empire, and was anointed April 18, 1852, under the name of Faustin I. His reign was not lasting, but still long enough to inflict much harm. He was obliged to leave Hayti Jan. 15, 1859, and Gen. Fabre Geffrard proclaimed the republic, and was chosen president. The republic has existed under nine constitutions, from that of May 28, 1790, to that which has been in force since 1867. They are not all absolutely different from each other, nor equally adapted to democratic government: the first two, those of 1790 and 1801, bear the marks of the colonial system; the last one, voted in 1863, was the same as that of 1806, developed in 1816, revised in 1846, and re-established by Geffrard, in 1859, with some essential modifications. The constitution of June 14, 1867, introduced into it more profound changes. — The territory is divided into four departments, called departments of the south, of the west, of Artibonite, and of the north. These are subdivided into districts, which in their turn are partitioned into communes. The capital is Port-au-Prince, in the north. The extent of the republic is from 25,000 to 26,000 square kilometres. The population of Hayti is estimated at 850,000, but it appears not to exceed 570,000. More than four-fifths of the population are negroes; the rest are mulattoes. Port-au-Prince has 27,000 inhabitants. — All Haytians are equal before the law, and enjoy all civil and political rights. All Africans and Indians or their descendants may become Haytians; but the constitution provides that no white man, of whatever nationality, can acquire this character or own real estate in the republic. The constitution of 1863 re-established a house of representatives, president and senate. The president was appointed for life by the senate, and had to be thirty-five years of age, a Haytian, and a property owner; he received a salary of 130,000 francs, and his powers, as well as those of the representatives and senators, are nearly the same as those granted by the democratic constitutions of modern Europe. His prerogatives are the right of pardon and amnesty of sovereigns; a body guard, governed, however, by the military laws in force; and a species of *veto* for cases in which his explained opposition to a law is not regarded by the house of representatives. The members of the house were fifty-six in number, with as many substitutes. The age required was twenty-five years. The other conditions, for them as well as the senators, were the same as for the president. Elections were to take place every five years from Feb. 1 to 10; the annual session was for three months beginning on the first Monday of April. Members received a salary of 400 francs a month during the session, and one piastre or five francs thirty-three centimes for each league from their domicile to the capital. The electoral colleges were formed, according to a rather complicated system, of citizens twenty five years old, and electors chosen by citizens from twenty-one to twenty-five years, constituted in a primary assembly. The senate was composed of thirty-six members elected for nine years by the house of representatives, from a list drawn up by the president of Hayti, and containing three candidates for each senatorial seat. Senators were to be thirty years old, and to receive a yearly salary of 5,000 francs. They were the guardians of the constitution, in session all the year, or, if they adjourned, they were obliged to delegate to a committee the power of watching in their stead, and summoning them if necessary. To the senate belonged the nomination of the president of the republic, made in secret by a majority of two-thirds of the members present.— The constitution of 1867 gave the house of representatives the title of house of commons. The representatives are elected for three years directly by the primary assemblies. The senate is appointed by the house of commons from a list of candidates furnished by the electoral colleges. The senate is renewed every two years. The meeting of both houses constitutes the national assembly. This assembly alone has the right to declare war, of which the president has merely the direction. It adopts or rejects treaties of peace, of commerce, etc., drawn up by the president. It may impeach the president and depose him. The president is elected for four years. There are five secretaries of state, one for each of the following departments: finance and commerce; foreign affairs; war and the navy; the interior and agriculture; public instruction, justice and worship. They are appointed by the president, and are responsible like all other functionaries. There is an incompatibility between the functions of the legislature and those of the state. Before 1867 the tribunals were at once civil, correctional and criminal. There was no tribunal of appeal. The

only resort was to the court of cassation established for the whole republic. The constitution of 1867 created courts of appeal. Every extraordinary commission and court martial is prohibited. The French codes, with some necessary modifications of time, place and persons, form the Haytian codes, and the magistracy of the island bears the impress of French judicial organization. Justices of the peace may be removed, but other judges can not. Both are appointed by the president.—The municipal organization began to share in the general system of liberty in Hayti only since the new constitution. The common councils appointed by the chief of the state had very restricted powers. The magistrate sanctioned marriages and had a general supervision of registry; but the management of the greater part of affairs was taken from him, he had no initiative, and it might be said that the Haytian communes were in a certain sense under the guardianship of the president. Since 1867 the common councils are elective and in possession of their natural attributes.—The army was increased to 40,000 men; but since the time of Boyer, who commenced its reduction, it is considerably diminished. It contains scarcely 7,000 men at present. Formerly men were taken from eighteen to forty approximately. At present, when a regiment has to be filled, the commander of the district summons the young men who have least to do, those without profession or occupation necessary to the country, and finally those whose families can most easily dispense with them. He thus forms the required contingent. The term of service is twelve years. The national guard is formed of the remaining citizens. There are a few epaulettes too many in Hayti.—The navy is composed of two steamers and a number of small vessels. A line of commercial steamers was established in June, 1863, along the 350 leagues of Haytian coast; it touches at fourteen ports, from Port-au-Prince to Cayes and back, and from Port-au-Prince to Cape Haytien and back.—President Geffrard turned his attention especially to agriculture and public instruction. As property is much divided there is a large number of agriculturists to whom a little more enlightenment would be of great service. Negro immigrants, profiting by grants of land voted in 1860, came from the United States in search of liberty and well-being, and in payment brought good methods of cultivating valuable grains, especially better kinds of cotton. The law on public instruction provides punishment for parents who neglect the instruction of their children. There are 235 schools, attended by 15,000 children. Higher instruction, given in several colleges, principally in that of Port-au-Prince, is very flourishing. But it is wisely intended to form institutions on the model of the college Chaptal in Paris, in order to educate men who by avoiding Greek and Latin will be the earlier and better prepared for various duties, for commerce, industry and industrial arts.—The commerce of Hayti consists of the commission business, wholesale and retail. According to article seven of the constitution foreigners can only carry on a commission business with permission of the chief of the state. The collection of customs on exports and imports produces the largest net and the largest gross revenue of the country, the other taxes being few and small. The best hopes of income are founded especially on the exportation of coffee, and as the production of this article, as well as that of sugar and cotton, increases, and finally, as the movement of exports and imports tends visibly to increase, everything promises a satisfactory financial future for Hayti. Still it is not yet out of difficulty, for, besides its debt and loan in France, it has to provide for the issue of paper money, amounting, in 1859, to only 50 million gourdes (13 gourdes equal 1 piastre), but in 1870 to 600 million gourdes, with no other guarantee than this same exportation of coffee, and the redemption of which must be continued without fail. It is very difficult to reduce these figures to European standards. The value of the piastre (5 fr. 33 cent) varied during the single year 1871, from 350 to 170 gourdes. In 1859 the receipts were 9,291,460 and the expenditures 5,180,760 francs, which leaves a surplus of 4,110,700 francs. The budget presented in 1864 by the minister of finance was composed as follows. estimated receipts of customs, 33,843,000 g.; various imposts, 1,488,500 g.; total, 35,326,500 g.; or, in francs, 14,483,864 fr. 59 c. The expenditures were estimated at 37,331,811 g. 28 c.; or, in francs, 15,206,042 fr. 20 c. The minister proposed an additional tax of 10 per cent. on the customs, and insisted on the necessity of redeeming a million of paper annually until more could be done. The expenditures are classed as follows: finances and commerce, 4,066,583 g. 06 c.; foreign affairs, 10,309,699 g.; army and navy, 8,301,664 g. 60 c.; minister of interior and agriculture, 10,301,504 g. 44 c.; public instruction, 2,689,542 g. 06 c.; justice and worship, 1,662,818 g. 12 c.—The condition of the public debt, indemnity and loans to April 1, 1870, was 24,393,264 piastres, divided as follows: arrears, capital, 9,615,445 p.; interest, 3,365,405 p.; payments to date, 4,899,770 p.; loan, payable in 1883, 4,712,790 p.; current year, 1,799,852 p.—The commercial operations of Hayti during the year 1859 are classed as follows:

COUNTRIES.	Imports.	Exports.	Total
	Francs.	Francs.	Francs
United States of America	12,720,000	9,450,000	22,170,000
France	3,391,000	7,196,000	10,587,000
England and her colonies	4,922,000	5,315,000	10,237,000
Hanseatic cities	1,123,000	2,088,000	3,211,000
Denmark and her possess'ns	383 000	121,000	504,000
Belgium	94,000	382,000	476,000
Other countries	395,000	535,000	930,000
Total	23,028,000	25,087,000	48,115,000

During 1860, 60,000,000 pounds of coffee were exported. It was an exceptional year for this prod-

uct, it is true, but the exportation is maintained near this considerable amount, for 1862 furnished 54,529,059 pounds. In 1859 the figures were 41,712,106 pounds. Cocoa appears for 1,743,853 pounds, in 1862; cotton, for 1,473,853 pounds; logwood, 167,005,650 pounds; mahogany, 2,441,887 feet. Indigo will soon be added to the list of exports. According to the *Handelsarchiv*, the value of imports in 1866 was 8,423,585 thalers, and that of exports 11,813,732 thalers. The principal articles of export are always coffee, of which 55,090,000 pounds were exported in 1866, and 43,360,000 pounds in 1871; logwood, which furnished commerce in 1870 with 124,000,000 pounds; and cocoa, 1,820,000 pounds. — Navigation is concentrated in three ports: Port-au-Prince, les Cayes, and Cape Haytien. The movement at these ports was, in 1864, 879 incoming ships, carrying 135,488 tons, and 875 outgoing ships, with 145,454 tons.*—BIBLIOGRAPHY. Ardouin, *Etudes sur l'histoire de Haïti*, 10 vols., Paris, 1853–61, Bonnèau, *Haïti, ses progrès, son avenir*, Paris, 1862; Jordan, *Geschichte der Insel Haïti*, Leipzig, 1846; Handelmann, *Geschichte von Haïti*, Kiel, 1856; Madiou, *Histoire de Haïti*, 3 vols., Port-au-Prince, 1847; Nau, *Histoire des Caziques de Haïti*, Port au-Prince, 1855; Hazard, *Santo Domingo, Past and Present, with a Glance at Hayti*, London, 1873; La Selve, *Histoire de la littérature haïtienne depuis ses origines jusqu' à nos jours*, Versailles, 1876. G. CHAMPSEIX.

HENDRICKS, Thomas Anderson, was born in Muskingum county, Ohio, Sept. 17, 1819, removed to Shelby county, Indiana, in 1822, was graduated at Hanover college in 1841, and was admitted to the bar in 1843. He was a member of the state house of representatives in 1848, and of the senate in 1850; was a democratic congressman 1851–5, commissioner of the land office 1855–9, and United States senator 1863–9. In 1859 and 1868 he was defeated as the democratic candidate for governor of Indiana; in 1872 he was elected (see INDIANA); and in 1876 he was the democratic candidate for the vice-presidency. (See DEMOCRATIC PARTY, VI.) A. J.

HENRY DOCUMENTS, (IN U. S. HISTORY), a correspondence, containing about twenty-six letters, between Sir James H. Craig, governor of British North America, H. W. Ryland, his secretary, and Lord Liverpool, of one part, and John Henry of the other. Henry had been sent by Craig's order, in January, 1809, to report upon the state of affairs and political feeling in the New England states. (See EMBARGO, II.) He remained until June, and, in order to magnify his office, painted the New England disaffection to the Union in very high colors throughout his reports to his principal. Disappointed of the reward he had expected, he returned to the United States, and, in February, 1812, sold the letters and documents to President Madison for $50,000. March 9, the president sent copies of the letters to congress, accompanied by a special message, in which he declared that they proved an attempt by Great Britain to destroy the Union and annex the eastern part of it to British America. Henry's letters contained no evidence whatever of any design at secession in New England; they were merely very unpleasant reading for the federalists of that section. (See FEDERAL PARTY, II.) — See 6 Hildreth's *United States*, 284; Carey's *Olive Branch*, 156; 1 *Statesman's Manual* (ed. 1849), 291; Dwight's *Hartford Convention*, 195; 2 *Niles' Register*, 19; 4 Jefferson's *Works* (ed. 1829), 171; 1 von Holst's *United States*, 221.

ALEXANDER JOHNSTON.

HESSE, Grand Duchy of, a state forming part of the German empire, traversed by the Rhine and the Maine, having as capital Darmstadt and as principal city the federal fortress of Mayence. It has an area of 7,676 square kilometres, with a population of 852,842 at the end of 1871; of these, 69 per cent. are Protestants, 28 per cent. Catholics, and 3 per cent. Israelites. The population numbered: in 1840, 811,503; in 1852, 854,314; in 1861, 836,808. — The constitution of Hesse dates from Dec. 7, 1820, but it has been modified more or less since then. According to this constitution the grand duke attains his majority at the age of eighteen. His civil list is 581,000 (or, according to another authority, 576,000) florins, and he governs with the assistance of *estates* which are divided into two chambers. The first (law of Nov. 8, 1872) includes princes of the blood, nobles formerly sovereigns, Baron Riedesel, the bishop of Mayence (or his representative), and a Protestant ecclesiastic appointed for life by the grand duke and bearing the title of *prelate*, the chancellor of the university of Giessen, two members of the territorial nobility elected for six years by their peers; finally, members, of which the maximum number shall be twelve, chosen by the grand duke among the most distinguished citizens. The second chamber, according to the law of 1862, amended by the law of Nov. 8, 1872, is composed of ten deputies of the eight largest cities and forty deputies of the other communes. The law of 1872 suppresses the six representatives of the nobility. The members of this chamber are chosen indirectly, but the deputies to the German Reichstag by direct election. — Members of the chambers must be twenty-five years of age at least. Deputies are elected for six years, one-half being elected every three years. No definite property

* The revenue and expenditure of Hayti are known only by estimates. The total public revenue is calculated to have amounted in recent years to about $4,500,000, and the expenditure to $7,000,000. There is a large floating debt, and also a foreign debt of $6,409,970. No interest has been paid for years on this debt. But still the government in 1875 issued with partial success a new foreign loan of $16,69.),600, in order to extinguish the old debt, home and foreign, and to employ the remainder in building two lines of railways. The total annual imports of Hayti averaged, in the years 1875 to 1877, $5,900,000, and the exports, $6,500,000.

qualification is prescribed either for primary electors or for those eligible to office; it is only necessary to be enrolled on the list of tax payers, but secondary electors must pay forty florins ($16.40). — The country is divided administratively into three provinces, but the chief division is that made by the Rhine. The part of the country situated on the left bank of this river retains the civil legislation of France, the Code Napoleon is still in force there, and until 1848 the jury system was not in existence on the right bank. By degrees, however, the legislation of both parts of the territory is becoming similar, and with the aid of legislation common to Germany uniformity will soon be established. A council of state is intrusted with the usual powers of bodies bearing this title. The communal organization resembles that of France; the government chooses the mayor from among the members of the municipal council, and administrative tutelage is not very rigorous. Town councilors are elected for nine years by all the inhabitants in the enjoyment of their rights; one-third are elected every three years. — Liberty of conscience is sanctioned by law. The ecclesiastical affairs of the Protestants are administered by the upper consistory of Darmstadt, having under its orders three superintendents, one for each province; under these superintendents are thirty-eight deacons chosen for five years from among 428 pastors. The concordat of 1830 regulates the Catholic worship, the interests of which are managed by the bishop of Mayence. There are 154 Catholic parishes, and seventeen clergymen bear the title of deacon. The Jewish religion has seven rabbis. — There are about 1,800 primary schools in the grand duchy. Instruction is obligatory (from six to fourteen years of age); there are two normal primary schools, six gymnasia, several special schools, and the university of Giessen. — In the financial period 1860–62 (three years), the receipts and expenditures were 9,000,000 florins ($3,780,000) annually, figures, which were not much exceeded in the budget of 1872, (if no account be taken of the balances of preceding years or the revenues ceded to the empire). The revenues come chiefly from the domains and forests, nearly 3,000,000 florins; direct taxes, 3,800,000; indirect taxes, 1,500,000; the rest from various sources. In 1821, when the constitution was proclaimed, the receipts were 5,996,510 florins, and the expenditures 5,995,735; direct taxes furnished 2,603,107 florins, and indirect taxes (liquors, salt, timber, and right of navigation), 1,299,903. In 1872 the expenditures of the grand duchy itself amounted to more than 9,500,000 florins, including the contingent paid into the treasury of the empire (a little more than one million). This treasury receives certain revenues in the grand duchy which belong to the German empire. On the other hand, there is nothing to pay for the army, which is maintained at the cost of the empire. The interest of the debt is less than 700,000 florins. The capital of the debt is about 4,000,000 florins, not including the 9,000,000 of railway debt. There are besides 4,000,000 florins in paper money. — The army forms part of the German army, 11th corps, 25th division, and is subject to the same laws. — The agriculture of this little country is far advanced. The soil, 3,365,671 morgens in extent, is divided into 1,656,385 morgens of arable land, 446,525 morgens of meadow and pasture land, 38,693 morgens of vineyards, and 1,059,628 morgens of forests; thus we see that but a small part of the soil is unfavorable to cultivation. There are about 40,000 horses, 295,000 horned cattle, 197,000 sheep, 128,000 hogs, and 59,000 goats. The value of cultivated lands is 226,000,000 florins; their products, 45,000,000. The circulating capital is 38,500,000 florins; the value of animals nearly 26,000,000. Industry and commerce are important. The Rhine and the railroads favor the grand duchy in regard to commerce; the Zollverein has been useful to industry, which in 1849 had 4,470 manufacturing establishments, and, in 1857, 113 steam engines. Hesse is a prosperous country, and its inhabitants are considered among the most liberal in Germany.—The population of Hesse at the last census was 882,349. The revenue for the financial period 1879–82 was estimated at 20,235,247 marks per annumn, and the expenditure at 17,142,497 marks. At the end of 1879 the public debt amounted to 25,382,000 marks, mainly incurred for the construction of state railways.—

BIBLIOGRAPHY. Landau, *Beschreibung des Hessengaues*, Kassel, 1856; Teuthorn, *Ausführliche Geschichte der Hessen*, 11 vols , Frankfort, 1777–80; Rommel, *Geschichte von Hessen*, 10 vols., Gotha, 1820–58; Türckheim, *Histoire généalogique de la Maison de Hesse*, 3 vols., Strasburg, 1819–20; Diessenbach, *Geschichte von Hessen*, Darmstadt, 1831; Heber, *Geschichte des Grossherzogthums Hessen*, Offenburg, 1837; Wippermann, *Kurhessen seit dem Freiheitskriege*, Kassel, 1850. M. B.

HISTORICAL SOCIETIES. (See ACADEMIES.)

HISTORICAL SUMS, Valuation of. It is often a matter of great interest, as much from an historical point of view as for the solution of certain economic questions, to obtain an approximately correct idea of the relative values of things at different epochs, and to ascertain as nearly as may be the importance of certain amounts given by historians in the money of their times. It is on this account that some of the best known economists have devoted several pages of their works to what they term the "valuation of historical sums," while at the same time the subject is itself possessed of sufficient interest to furnish matter for several special treatises. What examination seems necessary will be given here, without, however, intrenching on the subject of money, which will be treated of in its own place.—There are two points to be looked at in considering the subject of historical sums. It must first be determined

what they represent in gold or fine silver, that they may be reduced to moneys of the present date, metal for metal and weight for weight. This reduction made, there remains to obtain the best idea possible of the relative values of the precious metals at the dates in question. With regard to the first point we possess at the present time tolerably exact data, at least with regard to certain countries and certain periods. The medals which remain to us in great numbers from the Greeks, the Romans, and European peoples of the middle ages, medals which for the most part are simply the moneys of those dates, have given us the opportunity, although they were often greatly altered by rust, of measuring with fair precision the actual weight of those coins and the proportion of fine metal which they contained. This material testimony has in addition been corroborated by the researches of antiquarians and savants. It is, however, only fair to admit that on this very subject grave differences of opinion exist. A savant whose name is well known to every economist, Count Germain Garnier, has advocated a new system, plausible enough even if it be not correct, which would wonderfully modify the deductions claiming to be derived from the inspection of ancient medals. According to his theory all or nearly all the sums mentioned in ancient history were given in an imaginary or counting currency, entirely different from the actual currency as it appears in the medals. Hence it would follow that the estimates made formerly would be misleading. We will recur presently to this assertion, if not for the purpose of determining its value, at least to show what would result from it. Meanwhile we may assume that the calculations based on the study of ancient medals are justified, and starting with this hypothesis we may affirm that the reduction of some ancient moneys to modern coinages presents at the present time no serious difficulties.—The same can not altogether be said with respect to the relative values of those moneys at the dates when they were current. Like everything else that is bought and sold, the precious metals are liable to fluctuations in value from time to time, in accordance with their greater or lesser abundance in circulation. These variations, although but slight at any given time, may, however, become very considerable after the lapse of several centuries. We know as a fact that between the times of the ancients and our own times, nay, even since the middle ages, the values of gold and silver have fallen considerably, so much so that the sums of money mentioned in the history of those times are invariably of an importance greatly superior to what might be attributed to them, were regard to be had merely to the actual quantity of the precious metals they represent. It would be of the greatest importance to know the exact extent of this depreciation, but unfortunately it can only be estimated by valuations at best somewhat vague and constantly subject to revision.—We will inquire presently into how the resolution of this last problem, so far as it has been resolved, has been set about. But we must first state, following the statistics of the most trustworthy authors, the relation borne by money of the present date to the most interesting and best known coinages of ancient times.—In ancient Greece the money best known to us is that of the Athenians. It is also the most interesting, both on account of the importance of the republic to which it belonged, and because, according to Xenophon, it was sought after by the merchants of all countries, and was used as a common medium of exchange in the international relations of that time. Beginning with the last century, minute and profound research has been made into the subject of Athenian money, and its value has been successfully determined with almost absolute accuracy. Mention must be made in particular of the works of the Abbé Barthélemy, who, in his *Voyage du jeune Anacharsis*, leaves little to be desired with regard to this. We prefer, however, to rely on the more recent works of Boeckh, who, in his "Political Economy of the Athenians," a large work and one of high reputation, has made a happy selection from the investigations of his predecessors, to which he has added the results of his own. Besides, the data given and the values arrived at by Boeckh vary but little from those of the Abbé Barthélemy, whose point of departure he adopts.—The monetary unit of Athens was the drachma, a silver piece of slightly inferior value to the French franc. The multiples of this monetary unit were the mina, which was worth 100 drachmas, and the talent, which was worth 6,000. The mina and talent were, however, only nominal money, for no coins of those values were struck. The circulating medium was then the drachma, although any calculation of large amount was made in minas and talents. In addition to this, the Athenians occasionally coined four-drachma pieces, named, consequently, tetradrachmas; but this circumstance did not alter the system. Of lesser value than the drachma, there were used in Athens, as small change and for the necessities of everyday life, the chalchus and the obolus, which were fractions of the unit. It would appear that this simple and fairly well organized monetary system underwent but slight variation during the time of Greece; and as the Athenian money had then, as we have said, an almost world-wide circulation, it is possible with a little attention to make use of it in most of the valuations which relate to those times. According to the Abbé Barthélemy, whose valuation is adopted by Boeckh, the weight of the ancient drachma ought to be, after making allowance for what it may have lost in the passage of centuries, 82 grains, which he reduced, however, on several considerations, to 79. Its standard of fineness was very high, seeing that it only contained $\frac{1}{72}$ of alloy. On this basis it is easy to compare this money with French money. 79 grains, ancient weight, correspond to 4.197 grammes, or, in round numbers, 4.20 grammes; deduct $\frac{1}{72}$ for alloy, .06

grammes, and there remains, in fine silver, 4.14 grammes. Supposing the franc to contain 4.5 grammes of fine silver, the Attic drachma is then to the franc as 414 to 450; giving as the value of the drachma, 92 centimes, or, to be exact, 91.66 centimes.—Without entering further into the details of the comparison we will give in a short table the relation borne by the Attic money to French.

ATTIC MONEY CONVERTED INTO FRENCH MONEY.

	Francs.	Centimes.
Chalchus	0	2
Obolus	0	15
Drachma	0	92
Mina	91	66
Talent	5,500	00

The practice of computing amounts by talents, says Boeckh, was not confined to Attica; it spread over almost the whole of Greece and even beyond it. The talent was worth 60 minas; the mina, 100 drachmas; and the drachma, 6 oboli. In Athens the obolus was divided into 8 chalchi; and the chalchus into 7 lepta. It may be said in passing that this last mentioned coin has no equivalent in French money, as it is of greatly inferior value to the centime.—With the assistance of the preceding comparative tables it is generally easy enough to convert into French money the sums mentioned in the history of ancient Greece. Attention must be paid to the fact that if the use of the talent was almost universal it was not everywhere of the same value. The talent of Eubœa, which was also greatly used in Greece, differed from the Attic talent, although not to a great extent. There was a wider difference between the Attic talent and the talents of Babylon and Alexandria, although the exact amount has not been accurately established. The last named, although mentioned sometimes in history, figure there less than the first two, about which more precise knowledge is fortunately possessed. Attic money, reformed in Solon's time, has scarcely varied since, and the talent of Eubœa is referable to a still more distant date.—The Roman monetary system was reformed or modified several times. This was first done in the year 490 after the foundation of Rome. Silver money coming into use about that time, it was judged expedient to reform, in consequence, the copper coinage with which the Romans had till then been content. At a later period two other reforms were made successively in the course of the sixth century, but these latter were mainly in regard to silver coin. As some differences of opinion exist among savants as to the nature and extent of these reforms the money current in Rome previous to those dates will not be spoken of, nor has it any particular interest.—"After the establishment of silver money," correctly says M. Germain Garnier, "the sesterce was the chief coin of the Romans, and it was in sesterces that they expressed all sums small or great, from two or three even to the highest numbers; tens, hundreds, thousands or millions." It then remains to settle what the sesterce represented in fine silver. Unfortunately, although the sources of information with respect to Roman money are very abundant, they are far from being in accord on this primary question.—Although the sesterce was the numerical term generally employed in calculations, it was not, for all that, the unit employed in the Roman monetary system. The monetary unit was the denarius, of the value of four sesterces, and which was besides more frequently a sum in computation than an actual coin. It is certain, and on this point all the savants are pretty nearly agreed, that the Roman denarius approximated closely to the Attic drachma. According to M. Germain Garnier, these two monetary values were absolutely identical, the object of the Romans in reforming their money system during the sixth century being to bring it into unison with that of Greece. According to other writers, who in this respect seem to us more accurate, although the Roman denarius and the Attic drachma were so closely allied that ancient historians when not speaking with rigid exactitude used the terms indifferently, there was, nevertheless, a distinct difference, the denarius being to the drachma nearly in the ratio of 8 to 9. But it is with respect to the actual intrinsic value of the two monetary units that there is a wide divergence.—It has just been said that Boeckh, agreeing in this with the Abbé Barthélemy and almost all other savants, gives the weight of the Attic drachma as 79 grains of fine silver. Admitting the proportion given for the two coins as correct, namely, as 8 to 9, the Roman denarius ought then to contain about 70 grains weight of fine silver. This closely approaches the value as given by several savants. M. Germain Garnier, however, values the denarius at only 31½ grains of fine silver, which, according to his system, would also be the exact weight of the Attic drachma. This is a wide departure from the former estimate. The difference would be more than half, and is sufficiently great to render hopeless all efforts at adjustment which it might be proposed to effect on such a basis. It is not for us to choose a side in the controversy. Political economy has to take note of the results only when they seem to be sufficiently established, and draw from them their proper sequences. We may, however, mention briefly how this extraordinary divergence of opinion which we have just mentioned is caused. According to M. Germain Garnier, savants until his time went astray through confounding the nominal money of the ancients with the current money which was of much higher value. With the Romans, the denarius, which was during their first centuries a current coin, became after the reforms mentioned above almost entirely a nominal sum whose value remained invariable. The silver coin in actual circulation was the argenteus, which was worth 2½ denarii. "The silver coin actually current was the argenteus, which some Latin authors have called the silver sesterce, *argenti sestertia*, because it consisted of two and a half denarii and formed literally the sesterce of the denarius as the first sesterce was of the as."

Now it is this argenteus, worth 2½ denarii or 10 sesterces, which antiquarians have constantly mistaken for the denarius mentioned by the ancient historians. A similar error, on the same authority, that of M. Germain Garnier, was made with respect to Attic money, antiquarians having taken for a tetradrachma or piece of 4 drachmas, a coin which really represented 10 drachmas. In each case, therefore, the savants were in error in a ratio of 2½ to 1. By multiplying by 2½ the value given by M. Germain Garnier, *i. e.*, 31½ grains, a result of 78¾ grains is obtained, which is almost identical with that previously given as the value of the Attic drachma. — The middle ages next claim our attention. Here, although there is still great cause for uncertainty, we are treading on firmer ground, for the history of modern coinages is, after all, better known than that of ancient times. We only intend to deal with French moneys, referring the reader for those of other countries to the works which treat of them in particular, and with respect to French money our purpose is merely to point out the principal changes it has undergone, leaving all details to works specially written on the subject. — In France, from the end of the eleventh century until the revolution of 1789, which completely altered the old monetary system, silver was always weighed and uttered by the mark. There were marks of different weights; but that of Paris, to which ancient prices are referred, was of eight ounces or 4,608 grains. The mark since the same period has also always been divided into livres and the livres into sous and deniers. But on account of the successive deteriorations of the coinage, often reduced in weight by the kings, the number of livres contained in the mark has gradually increased; at the end of the thirteenth century, for example, it but slightly exceeded 2 (2 livres 18 sous), and it was more than 54 at the end of the eighteenth; a fact which gives a general idea of the alteration which money underwent during that period. To know what the livre represented at each intermediate epoch it is necessary to determine into how many livres the mark was then divided. Tables have been compiled on this subject, for the most part fairly complete and satisfactory, although here and there are met with, if not positive errors, at least gaps and omissions. We will only give here the principal results, beginning at the end of the thirteenth century:

DATE.		Livres to the Mark.		
		Livres	s	d
Thirteenth century,	end	2	18	0
Fourteenth century	first half	3	0	0
	second half	4	0	0
Fifteenth century	first half	8	0	0
	second half	11	0	0
Sixteenth century	first quarter	12	4	6
	second quarter	14	13	6
	third quarter	16	0	0
	fourth quarter	21	0	0
Seventeenth century	middle	28	14	0
	end	33	0	0
Eighteenth century	before 1718	40	0	0
	after 1726	54	10	0

— The information possessed in respect to the condition of the coinages during the tenth, eleventh and twelfth centuries is very incomplete, but more is known of it at the end of the eighth century in the time of Charlemagne. The Carlovingian livre was, according to historians, of 13½ fine silver, and was subdivided into 20 sous. It remained pretty nearly the same during the ninth century, then the traces of this Carlovingian livre disappear, and the livre is recovered at the end of the thirteenth century considerably diminished, and it continues to lessen from century to century till 1789. — The preceding observations give an idea of the comparison possible between ancient and modern money. But to follow the parallel more closely, recourse must be had to special works of which we have here only given a glimpse. Let us suppose now that it is desired to know what a sum of money mentioned by the historians (in drachmas if Greek, in denarii or sesterces if Roman, in livres, sous and deniers if French) of the middle ages represents as a commercial value. The first step, as we said at the beginning of the article, is to determine the value of the sum in current specie, weight for weight, only fine metal, of course, being taken into account. It has been shown by the foregoing remarks what means are at hand for the solution of this first problem, and what reasons for uncertainty and doubt present themselves in certain cases. Let us suppose it solved. We should then know sufficiently accurately with what weight of fine metal we had to deal. But all would not then be said on the matter. There would remain still to be considered what this weight of metal represented in commercial value at the date in question. Here then is another side of the problem, and it is certainly not the least difficult of solution. — Whatever the value adopted, in fine silver, for the Attic drachma and the Roman denarius; whether adherence is given to the views of Boeckh, the Abbé Barthélemy, and almost all the savants who have given the subject their attention, or the preference is shown to those of M. Germain Garnier, the fact remains that that denarius and that drachma represented in ancient times a greater commercial value than the same weight of silver would have at the present time. But wherein lies the difference? That is what we have to determine. — To make at least an approximately correct estimate it has been usual to take as a standard of comparison certain marketable articles in common and regular use, whose commercial value during the course of centuries is supposed to be less subject to change than that of any other commercial articles, whether because they always represent a constant force expenditure or because the need of them is the same at all times. Thus, the daily pay of a common man, a day laborer, has sometimes been taken as the measure. It has been supposed that at all times the pay of an ordinary laborer, that is, of one with no special qualification, would be measured by what was necessary for a man's support;

a value subject, it is true, to variations, but not to any of great moment. At other times a soldier's pay has been taken, when it could be ascertained, the theory being that his pay was more regular and better gauged to the ordinary needs of life than even workmen's wages. Others again have taken as their test the price of wheat, which although occasionally very variable at a given time yet seemed to them more than anything else apt to return constantly to a given level. — Let us examine shortly the merits of each of these data. It need scarcely be said that no one has thought of giving these standards as absolute. There is no possibility of attaining by their means a rigorously exact estimate of the relative values of the precious metals in ancient times; all that can be hoped for is a satisfactory approximation, and it is to this end solely that the data must be considered. Even with this limitation it seems to us that each of these standards taken by itself is far from being adequate to the purpose in view, and the economists who have taken as the sole basis of their calculation one or other of these values seem to us to be liable to grave errors in their work. — J. B. Say adopts as his basis of valuation, wheat, which he supposes to have changed its real value very little during the course of centuries, except temporarily, because it is a necessary food substance whose scarcity or abundance has a powerful effect on population. But wheat, whatever may be said to the contrary, is liable to very marked oscillations and those not merely temporary but of considerable duration, in proof of which it is not necessary to have recourse to ancient times. Is wheat, for example, at the same price in Russia or America as it is in France or England? Far from it; the difference is great, going from once to twice as much, and even beyond that. But there is no need to leave France, in different parts of which will be found notable variations. Thus the price of the hectolitre of wheat is usually from 24 to 26 francs at Marseilles, while it is only from 13 to 15 francs in other parts of France, for example, in the Haute Marne. In old times, when communication was far from being as easy or as safe as it now is, the variations in price between one locality and another must have been even more marked than now. It may perhaps be said that Marseilles is a great centre of consumption, and that these centres of consumption ought to be compared with each other. Paris is a much greater centre of consumption than Marseilles, and yet wheat is usually cheaper there than in the last named place. Why so? Simply because the position of Paris, which has in its immediate neighborhood on one side the vast plains of Picardy and on the other the plains of La Beauce, is with regard to a wheat supply much more favorable than that of Marseilles. — It is manifest that in the study of ancient affairs account may to a certain extent be taken of similar circumstances. It will be said, for example, that Athens, obliged as it was to draw part of its wheat supply from abroad, and that too from great distances, through many difficulties and perils; obliged at times even to resort to force to obtain the necessary quantity,—that Athens in this situation would have to pay greatly in excess of the average cost of wheat. Those considerations have doubtless some weight, yet who could, after the lapse of so many centuries, estimate correctly the influence of these local circumstances? Could any one determine precisely the average cost of wheat at any given time or place, a thing very unlikely to happen, it would be but a very untrustworthy, very irregular test of the relative values of the precious metals at the same time. — The average rate of wages does not seem to us a much safer standard. Whatever may have been said about it, it is not the case that the wages of ordinary laboring men are measured everywhere by their bare needs, and therefore are based with fair accuracy on the actual cost of the means of subsistence. All that can be admitted with respect to this is, that the cost of the absolute necessaries of life forms, so to speak, the extreme limit below which wages can not fall, at least for long. But nothing prevents them rising far above it. Do we not see in our own times, that the average pay in the United States (and it has been so for a long time) is at least double what it is throughout the most of Germany, and yet the cost of subsistence in the former is not greater than it is in the latter? If we refer to the figures of M. Moreau de Jonnès, even in France the pay of farm laborers, which would seem to be less subject than any other to be acted upon and altered by external influences, is shown to be at present, due regard being had to the difference in the cost of living, at least double what it was in the reigns of Louis XIV. and Louis XV. And why should these differences that we see so distinctly in modern times not have existed in ancient times? It is besides very difficult to find the real rate of wages among the ancients, as the work then was generally done by slaves. We know, it is true, on the authority of certain ancient writers, what a slave brought in certain cases to his master when the latter hired out his services to strangers. But what a slave brought back to his master formed only a part of the real remuneration of his work. It was still necessary that this slave should be lodged and fed, and however trifling may have been the expense of so doing, it certainly consumed no inconsiderable part of the value of his labor. What he brought his master was in reality only the surplus. Now who can say what proportion this surplus bore to the total pay? In every respect, then, the rate of wages, as a criterion of the relative value of money, is at least as uncertain as the price of wheat.—As to placing any reliance on the pay of a soldier, as is done notably by M. Germain Garnier, we regard it as simply folly. It is perhaps true, as this author says, that as the pay of its soldiery constituted one of the principal expenses of every state, especially when the army was numerous, it has always been necessary

through mere stress of circumstances to reduce it to no more than was absolutely necessary, giving the soldier only what was imperatively demanded by his pressing needs. But, apart from the fact that these needs themselves vary, it is not easy always to establish the exact figure to which the actual pay of the soldier amounted. There almost always enter into the calculation, several different elements. It is a very unusual thing for a government to leave its soldiers to provide out of the pay given them, for all the expenses of their keep. It almost invariably charges itself directly with a part of the expense, and that part one that varies greatly according to the times. Sometimes it is contented with furnishing them their arms; at other times it adds to that, all or part of their clothing; at others it goes so far as to furnish them, in addition, with lodging, food and fuel. How, in such a case, is their real pay to be computed, as it is evident that what is then distributed to them in hard cash can be but a small portion of it? — The more closely this subject is examined, the more we are forced to admit that if it be desired to obtain an approximately correct estimate of the relative value of the precious metals in ancient times it will not suffice to take as the standard of comparison any one object, be it what it may. Neither the price of wheat nor the rate of wages can lead to any satisfactory conclusion. Still less can it be derived from the pay of a soldier. What then remains to be done that we may obtain as nearly as possible the desired result? What seems to us to be necessary is to find out, with reference to the time under consideration, the prices of a great number of the commonest articles and those subject to great variations in value, wheat or bread, meat, fish, common wine, the daily pay of a laborer when it can be ascertained, etc. However, it is not to economists, in their capacity as economists, that it belongs to make researches of this sort. Their part is limited to pointing out the necessity for them and the direction in which they should be made, that they may be profitable when made. They must rely for the execution of the work on scholars. — Such work has been done and well done for the France of the middle ages. Dupré de Saint Maur went far on the way in 1746, and he has been followed in it by a great number of deeply-read men, who have made their inquiries more precise and more searching. Among works of this sort we may mention specially that of M. C. Leber, published in 1847. He gives in it very extensive tables, showing satisfactorily the prices of a great many of the articles in common use at different times in French history since the thirteenth century, with comparisons showing what M. Leber happily terms the *power of money* at those times, that is to say, the relative value of the precious metals. — Unfortunately nothing similar exists in regard to ancient times. No one has yet had, so far as we know, the happy idea of giving, in connected tables, the prices of common things among the Greeks and Romans. It does not, however, seem to us impossible of accomplishment. "The knowledge of antiquity," says Boeckh, at the commencement of his great work, "is still in its cradle." We willingly believe it. And yet in Boeckh's own work there is already abundance of precious material for the execution of the work of which we speak. One first question would remain, it is true, to be solved, the actual weight of the current money of the ancients. Did the Attic drachma and the Roman denarius contain 79 grains of fine silver, as is held by Boeckh, the Abbé Barthélemy and the majority of scholars, or only 31½ grains, as M. Germain Garnier maintains? Without first having solved this main question it is easily seen that all other research is futile. But once suppose it solved and it seems to us that it would not be impossible, with the assistance of carefully compiled price tables, to arrive at a fairly satisfactory determination of the power of the precious metals in ancient times. Then also, in a general way, the importance of the majority of the sums of which mention is made in history would, by means of a most simple calculation, be arrived at.

CH. COQUELIN.

HISTORY is the great school of politics, and no man can be a statesman unless he is not only acquainted with the accounts and testimony of history, but with the history of history itself, and knows how, in the course and progress of ages, history began by being merely an art and at length became a science, the most philosophic, the most elevated and the most instructive of all sciences. *Historia vero*, says Cicero in his *De Oratore* (book ii., chap. ix.), *testis temporum, lux veritatis, vita memoriæ, magistra vitæ:* history is not only the witness of ages, the judge of buried men and nations, the charm of the living spirit; it is the nurse and preceptress of generations entering the field of action. In proportion as humanity nears its appointed goal, history becomes more useful to it. We know not whether poetry in its present form will in the most distant future accompany the human race, which was and still is indebted to it for so many hours of rest and pleasure, but we are sure that history will guide it to the end; and, however beautiful the models left us by antiquity, we may hope that at no epoch will beautiful historical works be wanting. It may even be contended that antiquity did not know real history, or at least did not know all the wealth, all the resources, all the lessons of history, because it was then too early for men to measure their future destiny by the past. And does history of a lofty character exist in fact where the eternal character of man is not represented, where the feeling of solidarity (oneness) among generations and centuries is lacking? — The ancients, then, were rather accomplished artists than historians. Herodotus told his story to rest the mind and charm the ear; Thucydides mingled more thought with his art, but he only touched an episode in the life of a people, and

almost the same may be said of Polybius. Cæsar merely collected materials; Sallust gave little thought to past and still less to coming ages. The field widens before Livy, but he had not the mind of a philosopher, and he sees only Rome in the universe. Tacitus himself, the great Tacitus, was the avenger of the outraged customs and liberty of one epoch, but he did not write a book in which the soul of humanity breathes The great Christian revolution was needed to raise on the ruins of ancient religions and empires a faith in the destinies of nations yet unborn. The name of this reason or this faith is the philosophy of history; we do not find it in literature till the St. Augustines and the Salviens, in presence of transient events, preached the eternal law of God, Creator of the universe. In 410 Rome was at last violated by the barbarians of Alaric; Symmachus, in his pagan grief, exclaimed that Rome had succumbed because Rome had become Christian. St. Augustine, to convict him of ignorance, then began his "City of God," which he finished in 426, and in which, for the first time, universal history was presented entire in the same picture, prostrate, it is true, at the feet of the God of the Bible and the Gospels. Under the same inspiration Salvien wrote his beautiful treatise *De gubernatione Dei*, and Orosius, his "History." Here at last is divulged the thought which connects all the acts of men each with the other True, Lucretius had announced it, but too briefly, in the beautiful verse: *Et quasi cursores vitæ lampada tradunt*. In the middle ages everything was submerged; no enlightenment, no philosophy, no history An attempt has been made to find in the dawn of the renaissance the first sign of the resurrection of real history; the prolegomena, in which Francis Baudoin recommends historians to study law, which is the bond of nations, are pointed to; John Bodin is cited, whose *Methode facile pour la connaissance de l'histoire* in which he desires to add to the study of laws that of constitutions and customs; Bacon, in his *Instauratio magna scientiarum*, declared that there was no history, unless the historian had made a profound study of the sciences and literature of the people whose life he narrated. Here are marks, doubtless, of that awakening of thought, which in the fifth century seized upon St. Augustine; but where is the work succeeding his? It appeared when Bossuet published his "Discourse on Universal History," unfolding the annals of empires, from the creation to the time of Charlemagne, to bear witness that since the calling of Abraham, the word of God was intrusted to a single people, and that around the destiny of this single people, ignored by antiquity, were grouped the destinies of the ancient and modern world, Roman, barbarian, once more Roman, but whose sacred edifice is the basilica of St. Peter's, and no longer the capitol! — Let us hear the last father of the church: "God used the Assyrians and Babylonians to chastise this people; the Persians to restore them; Alexander and his earliest successors to protect them; Antiochus the Great and his successors to exercise them; the Romans to maintain their liberties against the Syrian kings, who thought only of their destruction. The Jews continued under the power of the Romans till the time of Christ. When they disowned and crucified Him, these same Romans lent their hands unhesitatingly to divine vengeance, and exterminated the ungrateful nation. God, who had resolved to collect a new people, from every nation, first united the lands and the seas under one empire. The intercourse of so many nations, formerly strangers to each other, and then united under Roman dominion, was one of the most powerful means employed by Providence to spread the Gospel. If during three centuries the Roman empire persecuted this new people which increased on every side within its territory, this persecution strengthened the Christian church and illustrated its glory with its faith and patience. Finally the Roman empire yielded; and having met something more invincible than itself, it received quietly into its bosom the church against which it waged so long and so cruel a warfare. The emperors employed their power to enforce obedience to the church; and Rome became the head of the spiritual empire which Jesus Christ wished to extend over the whole earth."— Perhaps so, as Voltaire said, but the greatness of the Greeks and Romans have still other causes; and Bossuet did not omit them in speaking of the spirit of nations. Indeed the majesty of the theocratic politics of Bossuet astonishes us, but it no longer satisfies our intelligence, and is more divine than human; we feel that the times have passed in which its teachings suffice to rouse public virtue. Henceforth we need citizens, and another philosophy of history is alone able to produce them. The finger of God in all the pages of our past, is a kind of fatalism, which does not give energy to our souls in times when man should no longer doubt his liberty, and when he can no longer doubt his power. What miracles has not science called up around us from all the elements of which matter is composed, since, enlightened by the Bacons, the Descartes and all the luminous minds of the eighteenth century, it has regenerated physics and created chemistry! By dominating bodies and inherent powers we know that God has left us masters to act, and to modify even his work. Even before Bossuet, a tongue as eloquent as his, a believer more ardent, a mind more severely tempered in the struggles of faith and reason, a great scholar, Pascal, said: "By a special prerogative, not only each man advances day by day in the sciences, but all men together make continual progress in proportion as the universe grows old, because the same thing happens in the succeeding generations of men as in the different periods of individual life. So that all the succession of men, during the course of so many centuries, should be considered as one man, always living and ever

learning, from which we see how incorrectly we respect antiquity in its philosophers; for, as old age is the period most remote from infancy, who does not see that the old age of this universal man must not be sought in times nearest his birth, but in those which are most remote from it? Those whom we call the ancients were really new men in all things, and constituted the infancy of mankind, properly speaking; and as we have added to their knowledge the experience of the centuries which followed them, in us is found the antiquity we revere in others."—The age of gold is before us then and not behind, with mysteries and fables, with ignorance and misery. This is a commonplace truth to-day, or at least should be, if beside the theory of St. Augustine and Bossuet is to shine one which puts not more hope but more pride into our hearts. Pascal, however, was not talking politics in this case; he simply cast into circulation one of those great ideas of which his mind was full.—In 1725 Vico published his "Principles of a New Science relative to the Common Nature of Nations." The state has at last a place therein at the side of religion, and all history is divided into three ages: the divine age, in which the priest reigns, the heroic age, in which the brute force of the soldier triumphs; and finally, the human age, the age of instructed and disarmed men, the age of morals and laws, the age of civilization. But Vico confined each people within the circle of an individual life, and whenever they rose above it, he condemned nations to fall once more into the shade and to recommence their painful ascent toward the light.—If history will draw inspiration both from philology and philosophy, it will see that in the development of their languages, as in all the series of their social and civil acts, nations have followed a single and general law, that they have reached the same end, and that everywhere the same revolutions reappear, when crumbled nations rise from their ruins. This at least is the doctrine of Vico. The conclusion of the "New Science" is, that the social world is the work of the free development of human faculties, but that this world has nevertheless issued from an intelligence which is often opposed, and always superior to the particular designs which men propose to themselves. (See an article by Michelet in *la Biographie*, Michaud, 1827, in which is the first sketch of his great work on Vico.) Providence does not force us by positive laws, but employs, in governing us, customs which we follow freely.—This doctrine does not seem to be sufficiently clear to show man the object of the liberty which is granted him and almost immediately taken away. And besides, by confining us all in circles, from which we can not escape, from which we rise and to the bottom of which we always fall again, Vico has not lighted above our heads the beacon of a future worthy of the great intellectual and material works which humanity had then accomplished, and above all was about to accomplish. But it was much to have proclaimed the uniformity or the unity of peoples, to have accepted as first principle that man is sociable, and, while seeking for the laws of universal morality, to have removed from the field of experience the epicureans as well as the stoics, and with them all the disciples of extreme sects, to rely solely on the platonists, who recognize Providence, believe in the immortality of the soul, and hold to the necessity of being virtuous with human passions.—Nevertheless, Pascal had cast a more commanding and a broader glance over the earth and the paths upon which people toil so painfully, and it was not without reason that Goethe appeared at the end of that same great eighteenth century to change Vico's isolated circles into a single spiral, ever ascending and ever widening. Do we not touch at last upon the threshold of the universal human age, or at least do we not foresee it? "Humanity, begin thy reign, thy age has come, denied in vain by the voice of ancient echoes," said the great poet Beranger. This is henceforth the cry of every one weary of the hecatombs and funerals of the divine and heroic age. But though Vico did not raise his view above the horizons of particular nations, he expressed, nevertheless, the general law of the development of all human society.—Montesquieu's "Spirit of Laws" (1748) added something to the elements which already composed the substance of history. Those were not vain ideas with which Montesquieu decorated the vestibule of his edifice. "Man," he says, "as a physical being is governed, in common with other bodies, by invariable laws; as an intelligent being he violates unceasingly the laws established by God, and changes the laws established by himself. He must guide himself, and yet he is a weak creature, he is subject to ignorance and error like every finite intelligence; having gained some feeble lights he loses them again. As a sentient creature he becomes subject to a thousand passions. Such a being might forget his Creator at any moment: God reminds him of this Creator by the laws of religion. Such a being might forget himself: philosophers have warned him by the laws of morality. Made to live in society, he might forget others: legislators have bound him to his duties by political and civil laws." And further, when tracing the programme of knowledge and studies necessary to the philosopher and the historian, he adds: "Law, in general, is human reason in so far as it governs all the peoples of the earth; and the political and civil laws of each nation should be merely the particular cases in which this human reason is applied. They should be so appropriate to the people for whom they are framed that it is only by a rare chance that the laws of one nation are fitted for another. They must relate to the nature and principle of the government established or sought to be established, whether they form it as do political laws, or maintain it as do civil laws. They should have reference to the physical nature of the country, a cold, torrid or temperate climate, the quality of its soil, situation, size, and the occupation of the inhabitants, whether laborers, hunters or shepherds; they should consider the degree

of liberty which the constitution may allow; the religion of the inhabitants, their inclinations, their wealth, their numbers, their commerce, their habits, their manners. Finally, laws have relations with each other, with their origin, with the object of the legislator, with the order of things over which they are established. They must be considered from all these points of view." — We are now far from the pure theocratic doctrine, and the modern spirit has at last become its own master. Montesquieu directs the historian to study the harmonies which connect man with the earth; Voltaire in his *Essai sur les moeurs* (1757) gave the first sketch of universal history undertaken on the plan traced by the author of *l'Esprit des lois*, and if the execution is too hasty, at least the intelligence is everywhere felt of a man who, in default of evident truth, admits into history only probability, and who, in a country still monarchic, and himself the author of *le Siècle de Louis XIV.*, understands that events in the life of a nation are not merely to be named and dated with the reigns of kings. He says himself, "In modeling our work upon that of the great masters, we have to-day a more weighty burden to bear than they had. More details are required of modern historians, better authenticated facts, precise dates, authorities, more attention to usages, laws, customs, commerce, finance, agriculture, and to the population. It is with history as with mathematics and physics, the field has increased prodigiously. It is as difficult to write history to day as it is easy to make a selection from newspapers. Daniel thought himself an historian because he transcribed dates and descriptions of battles of which we can understand nothing. He should teach me the rights of the nation, the rights of the principal bodies of the nation, its laws, customs and manners, and how they have changed. The nation has the right to say to him: I ask you for my own history rather than that of Louis the Fat and Louis Hutin." — Toward the end of the century of Voltaire and Montesquieu appeared the book which, by taking advantage of all accomplished progress, and uniting all discovered truths, was destined to become, correctly speaking, the final programme of history. Herder's "Ideas on the Philosophy of Humanity," was in fact the résumé of what St. Augustine, Bacon, Pascal, Bossuet, Vico and the great French thinkers of the eighteenth century taught in succession. All their theories meet here, are completed here, and are fused into one same whole. — Vico first laid down the universal laws of humanity. As Edward Quinet, the eloquent translator of Herder, says, "From the representation he rose to the idea of phenomena, to their essence. Struck with the principle of the identical nature of all nations, he assembled all the phenomena which are common to them all in the different periods of their existence; and, taking from them their color and their individuality, he composed of their total an abstract history, an ideal form applicable to all times, and which is repeated among all peoples, without recalling any of them specially. What appears to us as the succession of nations, their birth, development, greatness and fall, is merely the expression of the relation of the world to that one indestructible city, which bends downward, and marks the world with its stamp; hence, an indefinite sequence of ruins, nascent empires, broken thrones, changes and fragments, all of which have their representations in the absolute. Imagine a method opposed in everything to that followed by Vico, and you will have Herder's method. If the first gives, as point of support to the series of human actions, thought in its most sublime essence, the second rises from the grossest manifestations of material being. He binds in a single idea, everywhere present and everywhere modified, the space which incloses the powers of creation, and time which perfects them, by development. From the plant that grows, and the bird that builds its nest, to the loftiest phenomenon of the social body, he beholds everything advancing to the blooming of the flower of humanity, which is still in the bud, but which sometime must bloom." — Herder begins his history of philosophy by a description of the earth. He first sets the stage upon which the human drama is to be played. If Carl Ritter wrote his admirable geography, if even Humboldt composed his scientific poem, the "Cosmos," it is because Herder published his "Ideas on the Philosophy of Humanity." No book has exercised more influence. "It is," says Gervinus, "the ferment of a century." And Goethe, still young, while reading in Italy these pages so full of thought, found in his heart the lyric enthusiasm of ancient times, to express the joy which he felt. All these great ideas have since made their way, and have become almost common property; but Herder's work is the source from which they have flowed, and if for the philosopher, the historian, the statesman, the diplomat, there is one and the same humanity, still young, but of age to-morrow, and soon to be mistress of the terrestrial globe, we owe it to Herder, the successor and the heir of so many geniuses. — Almost immediately came the French revolution of 1789, which itself may claim the honor of having enlightened history and elevated the thought of man. Thus historical labors rise, as it were, on all sides, at the time in which we live. What admirable works were produced in the beginning of this century, and how consoling it is when the poetic lyre seems broken, when eloquence has been forced into silence, to see, still seated at their tasks men who are to continue the glory of their predecessors, and make themselves illustrious in turn by masterpieces which will enrich the inheritance of humanity. Tacitus has left in his writings a sentence the sadness and bitterness of which we still feel: *Rara temporum felicitate ubi sentire quæ velis et quæ sentias dicere licet.* But at least we feel also that history will soon be entirely free, and that it will not need to

wait till a century has passed before daring to paint it. — This is a famous maxim: "We owe consideration to the living; we owe nothing to the dead but truth." This is a maxim of the past. True, we owe consideration to the living, and the private life of those should not be troubled, who have nothing to settle with the justice of contemporary history; but a democratic age will authorize the historian to exercise at all times his office of accuser and public judge. Whoever rises to power, becomes that moment a man of history; and henceforth history, the avenger of the rights of all, commences its rôle, even during the lifetime of the chosen ones of destiny, of those favorites of nature who can not claim the honor and advantages of public life, if at the same time they reject its duties and its charges. It would be rather to the dead that we owe consideration, for they are no longer present to defend themselves. — To claim these rights for the history of living men, is not to desire the revival of ancient satire; it is, as we think, to give an account of the mind of our generation which, after we have finished with the theocracy of the earliest age, and when we seek to finish with the heroic age of Vico, does not wish in the civil age to create a new fetichism and protect new heroes, and no longer understands that chiefs and statesmen are to be judged only according to the portraits and the inscriptions on medals. Saint-Simon, beginning even with the time of the monarchy, disaccustomed history from servile respect. It is to be desired that no epoch will lack a Saint Simon. Let us trust to reason to discern and honor truth. — History sees, therefore, its task grow greater every day and the difficulties of its work multiply. In proportion especially as material interests develop, the variety of studies to be undertaken threatens to discourage timid minds; but it is in the destiny of man that these faculties increase with the obstacles which they have to overcome, and we can hold it as certain, that historians will not be wanting to history, and that history will not be wanting to future societies, who will expect such great services from it. PAUL BOITEAU.

HISTORY, Economic and Legal, and the Historical Method of Investigation. The object of this article is to trace the connection between the economic movement of society and the development of its positive law; and to indicate some of the relations between both and other phases of social evolution. Few persons conversant with the fundamental ideas of modern science would hesitate to admit that the present economy of every civilized country—in respect of the directions given to national energies, the occupations of different classes and sexes, the modes of production, the constituents and forms of wealth and its amount and distribution—is the result of a long evolution. Writers on political economy have indeed always had in view a development which might be termed an evolution, giving rise, for example, to division of labor and exchange, to wages, profit and rent, and to changes in their relative proportions. But they have conceived it as a special movement, impelled and directed by special economic forces. The natural laws by which it is governed, are, according to their exposition, deducible from certain general principles, such as love of wealth and aversion from toil and sacrifice; or, as expressed in a single phrase, the personal interest prompting every man to acquire as much riches with as little trouble as possible. Historical inquiry which involves an induction ranging over the widest possible field, teaches us, on the contrary, to regard the economic development of a nation, not as a distinct movement carried on by special forces, but simply as a particular phase of their whole social evolution, inseparably related to its other phases, legal, moral, intellectual and political. Each nation, from this point of view, has evolved its existing economy as the outcome of its history, character, environment, institutions and general progress. What the economist has to investigate in the case of a modern nation, is not a mere assemblage of individuals actuated by personal interest in a commercial sense, but an organized society which has had a long historical career, and of which corporate bodies, orders and castes — families, townships, boroughs, churches, traders, fraternities, priestly, noble, free and servile classes— rather than individuals, long formed the main constituent units. To ascertain the genesis of the economy of the people of England, for example, or even of the people of the United States, an old people in a new country, we must carry our researches far behind modern times, and into regions beyond the province of commerce and individual pecuniary interest. The constitution, usages and character of early Teutonic society, the ideas and traditions of ancient civilization, Oriental, Greek and Roman; the institutions of the mediæval world with its monarchy, feudal aristocracy and Catholic clergy, its chartered cities and guilds; contributed so to the evolution both of English and of American economy, that what either might have been, had any of these elements been absent, is beyond conjecture. In the earlier stages of social growth the economy of each nation was a matter wholly of common life, usage, institution and thought; of custom, law, religion, morality, tradition, social opinion and observance. Even at the present advanced stage of development in civilized countries, where individuality has acquired a considerable sphere, the nation collectively, with its polity, laws, character, opinions and environment, is the chief factor to be kept in view in the study of national economy. Two distinct conceptions are commonly confounded by writers for whom individual interest is the source and mainspring of economic movement and organization. The bulk of their system is based on the assumption that the conduct of individuals may be inferred from propensities of human nature supposed to be universal. Some-

times, however, they have in view rather the individual diligence, enterprise, energy and originality, and the variety of effort and resource developed by liberty, as opposed to state regulation or other forms of social control. But what the study of history teaches is, that individual interest and individuality themselves, owe their developments to antecedent and surrounding social conditions and national culture, attaining their ends, moreover, not only by the efforts on the part of individuals to which they prompt, but through the laws and institutions to which they lead; that individual liberty, so far as it exists, is the product of a long evolution, and is everywhere subject to much limitation, direct or indirect, on the part of the community; and that the various species of wealth which in different countries and ages have been the objects of desire and pursuit, have derived their attraction not from the propensities either of human nature in general or of personal idiosyncracy, but from national history and the atmosphere of thought and habit in which each individual lives.—One of the principal modes by which the community collectively develops its economy is through its positive law. Much that economists have been wont to regard as the result of individual exertion, has been a product of national institutions and laws. The mere existence of personal wants or desires, having wealth of some sort for their object, could not have created it or maintained it. They would have prompted rather to strife, plunder and destruction than to labor, production and accumulation. The inferior animals covet certain possessions and use whatever weapon they are armed with to seize them. Human wealth is the result not of the disposition of each man to appropriate what he likes, but of the fact that other men, with similar wants and desires, have combined to secure to him the enjoyment of certain things under certain conditions. Nor without social combination and organization could powers of disposing of or exchanging articles of wealth exist. Society collectively must insure their ownership to purchasers, donees, mortgagees, heirs, devisees, as well as to their original possessors. The evolution of these powers through the legal progress of society forms one of the main subjects of economic inquiry in its proper extension. So intimately connected are the legal and the economic movements of society that each stands in the relation of both cause and effect to the other. Thus, the only mode by which some of the main motives to industry and thrift, which have their root in the family sentiments and affections, can become effectual, is through a law of succession; and it may be said both that these motives have generated the law, and that the law has given impulse to the motives. So again every step in the industrial and commercial progress of a community gives rise to new legal rights and obligations and new branches of civil law, which are in turn the indispensable conditions of advancement in wealth. The growth of the dimensions of the law of society as it moves forward in its economic career, attracted the attention of Montesquieu. A nation, he observed, which carries on trade or navigation, must have a much larger code or body of law than one which has not proceeded beyond agriculture, and the latter again must have a larger body of law than one which has not reached the agricultural stage. The economist, we may add, who studies the law of an advanced nation respecting property, tenure, conveyance, contract, inheritance, testamentary disposition, sale, loan, partnership, agency, pledge, inland trade, maritime commerce, banking, mining, railways, navigation and other departments of modern business, will find ample proof not only that the economic and the legal phases of social progress are closely related, but that one of the chief modes by which the economic structure of a community is conditioned, and its progress in wealth determined, is by the development which its positive law receives.—The course of society, it must be borne in mind, is not always or in all directions for the better, whether in its legal or in its economic aspect; although on account of the poverty of language, the terms progress and advancement may sometimes be employed to denote merely the reverse of a stationary condition, or, in other words, an onward movement of a community in a career which is not necessarily one of improvement. Feudalism, for instance, was a phase through which society in western Europe passed, and from both an economic and a legal point of view, one which, if not wholly retrograde, reproduced some elements of barbarism. In the long struggle that has gone on ever since in England between interests, principles and ideas, commonly contradistinguished as feudal and commercial, sometimes the feudal, sometimes the commercial have prevailed. Yet in both cases society has moved on in its natural course, that is to say, in one determined not by the ideal law of nature in which the economists of the last century believed, but by the actual laws of social evolution. Legal history has two great general lessons for the economist of our own day, namely, that, on the one hand, the economic progress of society is effected largely by law in the juristic sense, and that, on the other hand, law in the juristic sense is subject to law in the scientific sense of natural sequence and development. The greater part of the civil law of a civilized nation relates to property, industry, the commercial business of life, and the production, accumulation and distribution of wealth; and its provisions respecting them are no more arbitrary or accidental than the operations of the physical world.—The oversight, by so many eminent English writers on economic science, of the cardinal truths that some of the chief natural laws of economic progress must be sought in the history of positive law, is traceable to certain dominant ideas. Adam Smith, in the first place, like his French contemporaries, following the theory of the age respecting the system of nature and natural law, restricts

the sphere of positive law within the narrowest limits. The "natural order of things," or, to use another of Adam Smith's phrases, "the natural progress of opulence," was not in their view the actual economic movement of society under the real conditions of national history and life, but an imaginary course of things deduced from principles which at best took account of only a part of human nature. Bentham and his follower Austin, on the other hand, revolting against the nebulous conceptions of natural law pervading jurisprudence as well as political economy, sought to expel the term altogether from the nomenclature of political philosophy. With them law was simply the command, direct or indirect, of the supreme government of the state; and they concerned themselves with no ulterior source. —Both economists and jurists were thus estranged from the conception of natural law, in the proper sense of the term, governing the development of positive law, and carrying on in a great measure through it the movement of society. The opening passage of Montesquieu's "Spirit of Laws" has been censoriously criticized in nearly identical terms by Bentham and Austin for describing law as embodying relations necessarily flowing from the nature of things. Montesquieu's language was infelicitous, yet he brought out and illustrated with historical and philosophical genius the truth that human nature and the circumstances in which human communities are placed, the stage of culture which they have reached, especially in the economic sphere, the affairs and business of life, give birth to relations between man and man and between man and woman, which not only form the staple subjects of civil law, but mainly determine its character and course. The most fundamental doctrine of the science of law is, that society, as it advances, continually evolves new dealings and fresh rights and obligations for legal definition, generalization, classification, sanction and regulation. A community can not develop the proprietary and other relations respecting land before the nomad stage has been passed, nor the personal relations involved in the family before marriage has been instituted, nor relations of contract between individuals while all things are tribal property and in common, or while no definite individual rights are recognized. When the agricultural stage is reached, settled life and the partition and cultivation of the soil gives rise to new social conditions and usages; and in proportion as manufactures and commerce are developed, there is a further growth of transactions, rights and obligations which it is the office of the lawgiver, the judge and the jurist to define, declare, and subject to arrangement and general rule. Glanvill, Bracton, Fleta and other early legal authorities, though some of them were influenced by Roman doctrines, observed, classified and formulated relations between husband and wife, parent and child, guardian and ward, landowner and tenant, lord and serf, buyer and seller—relations of family, tenure, status, succession and contract—which had an existence anterior to their formal recognition, and which would never have formed the subject of judicial decision, legislation or judicial exposition had not society in its career naturally evolved them. For even feudal relations, rights and duties grew naturally out of the history and condition of society, and did not start up at the command of law-givers or rulers, whose power of shaping and regulating them was limited, and so far as it existed was itself of natural growth. The so-called analytical English jurists, Hobbes, Bentham and Austin, may be said to have given a modern dress to the maxim of imperial jurisprudence, *Quod principi placuit legis habet vigorem.* They speak of positive law as though they had got to the root and end of the matter when they have traced positive law to the visible proximate source of its sanction and compulsory obligation. The historical school, on the other hand, following Sir Henry Maine, regard law as embodying rights, duties and rules of contract evolved primarily by social life and intercourse. The law of a nation with respect to property, movable and immovable, to the family, to intestate and testamentary succession, to landlords and tenants, vendors and purchasers, creditors and debtors, lenders and borrowers, owner and carrier, principal and agent, master and servant, trustee and cestui que trust, has grown up naturally like the family union itself, the tillage of the ground, the rise of handicrafts, the development of commerce, internal and foreign, and the various departments of human affairs comprehended in the division of labor. In its natural state, positive law is, it is true, the result of two distinct movements, each combining the flow of several tributary streams; a movement, first of all, of society, developing modes of life and conduct, rights and obligations, acquisitions and claims; and a movement of legislation and jurisprudence, giving strict legal form to these products of social evolution and activity. In the earlier stages of national life the first of these two movements is the only one. The customs of the community, the usages and conduct held to be obligatory on its members, embody both the substance of its institutions, and the unorganized authority by which they are maintained. As the organization of society proceeds, a legislature and a judicature are developed, and at length law reaches a stage, through a combination of the two movements, at which it answers to the definition of the analytical jurist. Much barren verbal disputation might have been dispensed with, and a more scientific conception of the nature of positive law would have been gained, had it been perceived that it has stages of growth, and can not display in its infancy all the characteristics that distinguish it in its maturity. The English constitution under the Norman kings was not so fully and distinctly developed and organized that the seat of legislative power could be certainly ascertained; and it

was and is matter of controversy how far the barons shared it with the king, in other words, where the sovereign power resided; yet it will hardly be maintained that during that long period England was without a polity and without law, though neither the political constitution nor the law possessed the definiteness and distinctness of form given by perfect development. Not only to the substantial elements of law—the relations and dealings of men and the consequent rights and obligations of which law is the authoritative expression—shrink, as it were, and by degrees disappear, as we retrace the steps of a community, and unfold and multiply as we follow its onward movement, but the organization which at length exhibits itself in a determinate legislature and regular tribunals, is of such gradual growth that the functions of legislator and judge may long be indistinguishably blended, and at a yet earlier stage the national assembly, in which the supreme legislative power comes at length to reside, may be indistinguishable from the host in arms on the one hand, and the meeting of the people for religious and festive solemnities on the other. A conflict may sometimes arise and even long continue between the two movements which have been described as concurring to develop mature positive law. The movement of society may generate transactions, usages, relations and rights, which law makers representing class interests or ancient ideas may be reluctant to recognize. The individual needs both of the owners of land and other classes may call for the free disposal of it both by conveyance and will, which an aristocratic legislature may refuse. Powers of mortgage may be urgently wanted, yet landed property, being, according to feudal ideas, inalienable from the heirs, may be slow in becoming legal security for debt. Commercial exigencies may create borrowing and lending at interest, while the law makers, following early religious or moral conception, may prohibit it as usury. Women may be tardily emancipated from disabilities at variance with the opinion of a highly civilized age. Yet if any one on this account doubts that the currents of life, business, social arrangements and wants, and ideas of expediency and justice, govern the movements of law, and that it follows a course determined not by the will of governments or legislatures, but by natural laws of society, he may be referred to its ultimate forms. Law, as Sir Henry Maine observes, often lags behind morality, or represents the morality of an earlier age. It often, too, lags behind the dictates of experience, and the needs of industry, commerce and progress. Yet in the end these natural forces prevail. The history alike of English and of Roman law is a record of their slow but sure victory.—One of the main sources of light with respect to the natural cause of economic progress is that to be found in the movement of positive law. The uniformity of some of the main features of its development over a great part of the world could not have taken place accidentally. The student of its history finds, for example, on many sides evidence of a primitive co-ownership of land by groups of kinsmen, and the evolution everywhere by similar steps of separate property. He finds land at first inalienable from the agnatic line, and by degrees becoming salable, devisable and liable for debt. In the countries of mediæval Europe he sees the forms of individual landownership, called feuds, developed with striking uniformity, and giving place in turn, however slowly, to other forms which may be distinguished as commercial. As society advances, individual contract more and more supersedes inherited states as the sources of legal rights and obligations. Slavery softens into serfdom, and serfdom is at length superseded by free labor. Sons cease to be for life under paternal power. Women acquire proprietary rights equal to those of men. Procedure, civil and criminal, passes through some nearly similar stages of evolution. The laws even of two countries could not follow the same course of development by accident; and the uniformity, were it not the result of imitation—as, according to legendary fiction, the Twelve Tables were of the Laws of Solon—must have proceeded from natural causation and sequence. A philosophical Scotch lawyer of the last century, in a work deserving greater fame than it acquired (Dalrymple on "History of Feudal Property in Great Britain") has traced the resemblance between the course followed by the laws of England and Scotland in relation to the tenure of land, its voluntary alienation *inter vivos* and involuntary alienation for debt, its devolution by intestate and testamentary succession, the forms of its conveyance, and the constitution of the tribunals exercising territorial jurisdiction. The reader of the work will find that the author amply makes good the proposition laid down in the preface that "the progress of these laws is in both countries uniform and regular, advances by the same steps, goes almost in the same direction; and where the laws separate from each other there is a degree of similarity in their very separation." The similarity of the movement in the two countries proves, it is true, only the fact of natural sequence, if imitation be excluded, without disclosing its reason and cause, or putting us in possession of the laws of social progress at work. When, however, the author proceeds to show that commercial and other exigencies and interests were on the side of the changes that took place in the positive law of the two countries, how these forces gained strength as opposed to those on the side of feudal institutions, we not only obtain proof of regular order and natural growth, but get hold of the laws of nature governing the evolution. Even in the case of a single country, were it shown that positive law had followed a path which the events of a growing society, and of advancing industry, commerce and civilization demanded, we should be justified in concluding that the movement had been determined by natural laws of social prog

ress. The history of Roman law, for example, alike under the republic and under the empire, can not be studied without a clear conviction that it followed a path of development directed by natural causes. — It belongs thus to the province of the economist as well as of the jurist to investigate the history of positive law. The movement which the latter examines on its legal side, or in reference to the legal rights and obligations, capacities and incapacities, which it evolves, has also its economic side in reference to the development of industry, commerce, and the amount and distribution of wealth. The movement which Dalrymple showed that the laws of Great Britain had undergone in relation to the tenure, inheritance and transfer of land, is the same movement which the third book of the "Wealth of Nations" has traced, though somewhat superficially, on its economic side, showing how the towns contributed to the improvement of the country. The movement "from status to contract" portrayed by Sir H. Maine in its legal aspects, has been considered by a subsequent writer in its economic phases. Every law, as the latter observes, relating to property, occupation and trade, evolved by this movement, is alike an economic and a legal phenomenon. Changes in the law of succession, the growth of the testamentary power, the liability of property for debt, are economic as well as jural facts, both causes and effects of changes in the economic structure of society.— Some general outlines of the course of development which positive law has followed in western Europe, and of the causes directing it, may be briefly indicated. The economic movement of society has been similar in some essential features in several countries, and there has been a corresponding similarity in the development of their civil laws. The stages of progress, commonly distinguished as pastoral, agricultural and commercial, have been stages of legal as well as of economic development. There could be no law of either property or contract so long as communism prevailed; such general rules of conduct as existed at that stage related chiefly to offenses against the person. Even when separate property had come into existence, so long as cattle formed almost the only possessions of individuals, there could be few subjects of civil regulation. But with agriculture, rights of property, both in land and in new movable wealth, were evolved, and a multitude of new relations and dealings between individuals called forth a considerable body of law, though in a rude and embryo form, and with but an imperfect organization to enforce it. The subsequent devel opment of trade, the growth of towns, the multiplication of handicrafts, exchanges and contracts, gave birth to a fresh body of general rules, whether resting on local authority or on that of the central government. Family relations, too, with the motives to production and accumulation which they supplied, gave rise to new institutions respecting the succession to property, and to the testamentary power. Meantime, however, another source of law was at work. The political and civil organization of society took, under peculiar conditions, what is called the feudal form; land becoming the basis of a subordination of classes, and of a body of law to maintain it, essentially obstructive in many respects to social progress. As industrial and commercial improvement nevertheless advanced, at least in the towns, interests steadily multiplied demanding legal rules respecting property, tenure, transfers and succession fundamentally opposed to those of feudalism. Thus a conflict took place between two sources of law, attended with different results under different conditions in different countries. The statute of wills in the reign of Henry VIII., partially restoring the testamentary power over land which feudalism had extinguished, and assigning as a reason that without it parents could neither provide for younger children nor meet their obligations to their creditors, furnishes one of many illustrations that might be given of the nature of the conflict. There are doubtless diversities as well as similarities in the developments of law in different countries, as in the laws of succession in England and France, but even the diversities attest the subordination of civil law to law in the sense of causation and sequence, since they can be clearly traced to differences of history and surrounding conditions. In the same country there may indeed be different systems of law emanating from different sources, representing different ideas, interests and political or social forces, and consequently embodying different legal principles, as the common law, the statute law and equity did in England in the fifteenth century, where the statute *De Donis*, which the barons would not repeal, forbade the alienation of entailed estates, while the common law, following the interests of the public as well as the policy of the barons, eluded the statute *De Donis* by a fiction; and when the common law, on the other hand, adhering to feudal doctrine, deprived landowners of the power of devising their estates, while equity met an urgent social want by enforcing trusts in favor of devisees. The statutes of fines, uses and wills represent the finally dominant forces. — The connection between the legal and the economic phases of the social evolution, it is to be observed, does not consist only in the fact that the economic movement of society is effected in a great measure by the movement of positive law. The same forces that produce changes in law are also in active and constant operation in daily life. The wants and interests, for example, which create legal rights of individual property, foster agriculture, manufactures and commerce. The causes that lead to a law of transfer, multiply the wealth which forms the interest of transfer. The conditions that lead to the development of laws of tenure, partnership, agency, sale, mortgage, insurance, etc., create innumerable dealings to which such laws apply.

The sentiments that clothe themselves in laws relating to family relations and the succession to property, are at work within the family, influencing parental and conjugal conduct and promoting the accumulation of wealth as well as affecting its distribution. The action of the community through its institutions and laws, on the one hand, and individual action, on the other hand, are inseparably connected; and it is by the impulse and direction which they give both to the collective action of the community and to personal effort, that the motives comprehended in the phrase 'individual interest' make themselves effectual Positive law is, however, only one of the modes by which society collectively develops its economic career. Both the legal and the economic phases of social progress are closely connected with its intellectual, moral and political phases. The prosperity of a community depends much more on its intellectual and moral condition than on the intensity of the desire for wealth, often a cause of loss to nations as well as individuals. The main foundation of the superiority of modern over mediæval and ancient society in productive power lies in the direction given by the course of social development to the modern intellect toward scientific discovery and practical invention; and could we obtain a key to the laws determining the employment of the intellect of nations, we should vastly augment our knowledge of the laws of industrial progress. A light is thrown both on this problem, and on the relations between the legal and the other phases of social development, by the fact that the positive law has been the principal subject engrossing the mind of all great historical nations during an important part of their career. The structure of the Athenian courts of law prevented the growth of a regular jurisprudence, but legal proceedings constituted the main occupation of the Athenian citizen's mind from the days of Hesiod to those of Demosthenes. The chief product of the Roman intellect, from the Twelve Tables to the age of the Antonines, was law. In the middle ages, Roger Bacon complained that the main obstacle to the progress of physical science as of other studies, was, that law engrossed all the energies of the educated class. "In no other country in the world," said Edmund Burke, of America, in 1775, "is the law so general a study. All who read (and most do read) endeavor to obtain a smattering in that science." It is manifest from this general predominance of law during a great stage of social evolution that the path of the human intellect is determined not by logical sequence, or the filiation of truths, but by a combination of conditions, economic, moral and political. There must, first of all, be a sufficient development of individual property and of transactions relating to it, to give importance to general rules respecting its ownership and the procedure by which disputes relating to it are determined. The mental development again of at least a part of the community must be such as to enable them to generalize concerning the affairs and relations of life, and to comprehend the application of general principles to particular cases. Political organization must have so far advanced as to supply some sort of judicature and regular legal process. The moral state of society again must be such that a majority are willing to refrain from violence and strife when differences arise, and to submit them to judicial arbitration. On the other hand, the litigious spirit which invests law and legal proceedings with much of their popularity at periods of social history, such as the last four centuries of the middle ages, involves a survival in an outwardly peaceable form of much of the combativeness, vindictiveness and cunning which at an earlier stage, when passions were fiercer and more ungovernable, led to bloody feuds and cruel stratagems and ambuscades. In some of the conditions that make law, in the juristic sense, the main intellectual occupation at one period of national progress, Mr. Herbert Spencer might find an unexpected illustration of the general proposition which his philosophic genius has brought to light, that the discovery of law, in the scientific sense, itself conforms to scientific law. It has already been pointed out that positive law embodies a generalization of natural relations and uniformities, and is itself subject accordingly to regular evolution and growth. The early legists, judges and legislators who classified and formulated uniformities in the usages and affairs of society were unconsciously making scientific inductions and discovering sequences and co-existencies resulting from natural laws of society. The relations and uniformities which engrossed them had all the characteristics which, according to Mr. Spencer's doctrine, enable them to command early attention — urgent importance as affecting personal interests, conspicuousness, frequency of occurrence, and comparative simplicity and concreteness. There is, however, a point in which, as applied to positive law, Mr. Spencer's theory of the order in which relations are generalized and laws of nature discovered is incomplete; namely, that, as already pointed out, moral and political conditions must be taken into account. This observation extends to a wider problem, of which the direction of the highest intellectual faculties forms a branch, with respect to the natural laws determining generally the occupations of national energies and powers; a problem which most eminent writers on economic science have overlooked. Adam Smith might at first sight indeed appear to have had this inquiry in view when in the introduction to the "Wealth of Nations" he says that one of two main circumstances on which the amount of national wealth depends, is the proportion of the population engaged in useful or productive labor; the causes governing which he promises to expound in his second book. But his exposition touches only the surface of the question. The quantity of productive labor, he states, depends on the amount of capital, and the modes of its

employment. Deeper and more instructive inquiries, such as that into the causes that make a state of society military or industrial, find no place in the philosopher's discussion. Whether a society is mainly industrial or military and therefore mainly productive or unproductive, does not depend on the amount of capital; the amount of capital, on the other hand, largely depends on whether military or commercial tendencies are predominant, and this depends principally on moral and political conditions. And as the combative spirit of the middle ages helped to make law the most engrossing study, so, on the other hand, the general predominance of industrial interests and pacific tendencies gives to the modern intellect its prevailing bent toward physical discovery and invention, the most productive departments of national labor. — Examples of the connection between the economic and legal, and the moral and other phases of social development, might be multiplied. It may suffice to add that although the legal enforcement of contracts is one of the principal requisites of industrial and commercial progress, it is not until a comparative and advanced moral development has been attained that a true law of contracts is evolved, or could be tolerated. In early society it was not deemed immoral to break a contract, unless such contract had been solemnized by religious ceremonies. Harold was held bound by a promise to William of Normandy, though given under duress, because he was said to have touched a coffer containing sacred relics. To have violated an engagement entered into with no such solemnity would hardly have been deemed an offense. It was again because the observance of contracts and the fulfillment of trusts were regarded as matters of religious rather than of either moral or legal obligation, that the ecclesiastical court alone concerned itself with them generally in the twelfth century. The king's court in Glanvill's time took cognizance of few contracts, not only because its interposition in such cases would rarely have been remunerative, but also because the crown would have gained little prestige or popularity by it. The economic aspect of a state of society in which so much depended on religion, and so little on morality or law, is illustrated by the statement of a chronicler that the number of monasteries built in England during the reign of Henry I. was so great that almost all the laborers in the country became masons or carpenters. Exaggerated as the statement is, it covers the substantial truth that an immense part of the wealth of England belonged to monks, and that abbeys and churches were the main products of the national capital and labor. Nor can the economy of our own day be explained without reference to mediæval religion. Whoever reflects on the number and cost of ecclesiastical buildings, the great aggregate revenue of the clergy, the prodigious sale of religious publications, and the observance of Sunday and other sacred holidays, must perceive that the present economic structure of both European and American society is explicable only as the outcome of a long evolution in which there has been continuity as well as change, and over which religion has throughout exercised a powerful influence. — Were we to look only at modern production and exchange, industry and commerce, in the narrowest sense, we could clearly trace the development of modern from mediæval English economy, even where the two systems differ most. The most essentially different features may be said to be the direction of modern trade by individual interest and enterprise, as contrasted with the mediæval regulation of law, custom, town corporations and guilds; production on a great scale by large capitals in place of the mediæval system of small capitals; the predominance of towns, manufactures and commerce over the country; the dissolution of joint husbandry, and the nearly complete disappearance of peasant properties and farms. The germs of the modern system in respect of all these features are discoverable in the later stages of the mediæval. The growth of the spirit of civil and religious liberty discernible in the age of Wycliffe, led to the idea of individual liberty in the economic sphere also. The bent of political philosophy was in the same direction under the influence of the theory of natural law which came down from the middle ages with the laws of Rome. Inequality of capital had begun in the mediæval guilds, as a necessary consequence of division of labor, some trades being necessarily more lucrative than others, having a wider market, and being carried on upon a greater scale. Even within each guild restrictive regulations could not entirely repress superior industry, enterprise and thrift, or prevent some of the members from accumulating greater wealth than others. In foreign commerce especially capital grew with the growth of navigation, and the size and tonnage of ships. The regulations of Elizabeth's statute of apprenticeship were confined, like those of the mediæval guilds and corporations, to boroughs and market towns, and to old industries, and left free ground elsewhere on which production could assume larger dimensions, so that even before the mechanical inventions of the eighteenth century—themselves the offspring of the direction given by a long social evolution to mental energy—capital was gaining the ascendant, and the small system of production declining. Again, before the sixteenth century, the superior profit of wool and corn and the unproductiveness of joint husbandry had led to extensive inclosure and the consolidation of farms. And land laws of mediæval origin completed the evolution (for evolution takes at times the shape of revolution) which drove the English rural population to the towns, and made the country the pleasure ground of the rich instead of the home of the peasant. Such is, in brief, the genesis of modern English rural, industrial and commercial economy. — But the student of economic science must banish from his mind the idea that it relates only to production or exchange in the narrow sense, or to the farm,

the factory and the market, to capitalists, laborers and landlords. It is concerned with all the employments of national faculties and energies, and with all the conditions, moral, religious, intellectual and political, affecting the nature, amount and partition of national wealth. The political constitution, for example—with the bent it gives to the energies both of society at large and of particular classes, the field of civil and military occupation it creates, the laws of property and the territorial system it maintains, the expenditure of public revenue and the fiscal system it entails—forms as essential a part of national economy as the system of husbandry and trade. And the descent of every modern polity from a mediæval parentage will not be questioned. — Were further evidence needed that modern economy owes its structure to natural history and a long evolution, and that individual interest itself, of which alone the deductive economist takes account, is moulded and fashioned by social antecedents and surroundings, political, legal, moral, religious and intellectual as well as industrial, the economic position of women must complete the chain of proof. A passage in the "Wealth of Nations" indeed makes it plain that Adam Smith did not attempt to apply to women the fundamental principle of his system, that "the natural effort of every individual to better his own condition, when suffered to exert itself with freedom and security" is the source of national wealth and prosperity. In the only passage in which the philosopher alludes to women, he says: "They are taught what their parents or guardians judge it may be necessary or useful for them to learn, and they are taught nothing else. Every part of their education tends evidently either to improve the natural attractions of their person, or to form their minds to modesty, to chastity and to economy, to render them likely to become the mistresses of a family and to behave properly when they have become such." It has been justly said that when Adam Smith spoke of "the desire of every individual to better his own condition," he had only the half of society denoted by the masculine pronoun in view, he meant only what he elsewhere says, "the natural effort of every man." Yet he has in the single passage in which women are alluded to, pointed to a class of interests on which both the form and the stability of the economic structure of every society chiefly rest, the family affections and motives. It is these interests, not those which have personal gain for their object, that have everywhere done most to foster accumulation and to create durable wealth. The corner stone of the market itself is the old historical institution, the family. In the very country in which pecuniary interest is supposed to be strongest, and commercial principles to actuate human conduct most commerce would shrink into insignificant proportions were every man—to say nothing of woman—to seek only to better his own condition, and not to concern himself about that of his family. In the United States, the country in question, the national economy is, throughout, the result of a long history, though its later stages have been developed in a new country. The township, for example, which has played and still plays no insignificant part in the economic structure, is the old Germanic *vicus*. Had the leading colonies been founded by Frenchmen instead of by Englishmen, or by cavaliers and high churchmen instead of by republicans and puritans, American economy would to-day be materially different from what it is. Let it not be forgotten, too, that the discovery of America was the achievement of mediæval society, and that powers of navigation, the maritime enterprise and the process of thought that led to it, were of mediæval development.*

T. E. CLIFFE LESLIE.

HOLLAND. (See NETHERLANDS.)

HOLY ALLIANCE. (See ALLIANCE, THE HOLY.)

HOMESTEAD AND EXEMPTION LAWS. The homestead may be defined as the house and land connected therewith, which forms the immediate residence of a family. The provisions of law by which homesteads are secured beyond reach of creditors or legal liabilities on the part of their owners, are wholly of modern growth. Fifty years ago no such exemption existed in any state. By the common law of England, frequently held judicially to govern this country, not only could all the property, real and personal, of a debtor be seized to satisfy creditors, but the legal monstrosity which merged the wife in the husband, seized the homestead belonging to the wife, though bought by her own money, and sold the roof from over her head to satisfy claims caused by the folly or improvidence of her husband. The distress and hardship widely consequent upon this stripping of families of all their possessions for debt, and reducing to penury wives innocent of any wrong, together with the steady growth of principles of legal reform, led to the enactment of the first homestead laws. These laws enacted by some states antedated by more than twenty years the homestead law of the United States (May 20, 1862), securing to actual settlers on the public lands 160 acres each. — This free homestead law of the United States has proved one of the most beneficent as well as successful measures ever adopted in any country. It has opened to immediate settlement millions of acres of the public domain which would otherwise have remained a wilderness for years. It has drawn to America millions of wealth-producing citizens, who without the attraction of free land would never have emigrated, and it has greatly enhanced the value of the remaining pub-

* This was, we believe, the last literary production of its rarely gifted, highly distinguished and widely lamented author. It was received about three or four weeks before his too early death. J. J. L., ED.

lic lands, thus directly enriching the treasury of the government. The free homestead law, though long agitated and several times passed by the house of representatives, was not finally enacted till the second year of the civil war. (Rev. Stat., secs. 2289–2317.) By its provisions any citizen, or applicant for citizenship, over twenty-one years of age, may enter upon 160 acres of any unappropriated public lands graded at $1.25 per acre, or 80 acres of such lands valued at $2.50 per acre by the government, on payment of the nominal fee of $5 to $10. After five years' actual residence on the land, a patent therefor is issued to the settler by the general land office at Washington. This patent is a valid title from the United States. If the settler wishes to complete his title before the five years, with a view to sell or remove, he can do so only by payment to the United States of the valuation price of the land. No individual is permitted to acquire more than 160 acres under the homestead act, but there is no limit to the quantity which may be purchased by individuals. There is a proviso in the law (modeled upon the exemption laws of the states), that no lands acquired under the provisions of the homestead act shall be liable for any debts of the settler contracted before the issuing of the patent for his homestead — The principle upon which homestead exemption laws rest, is claimed to be the dictate of enlightened public policy. Their intent is to secure to every householder the possession of a permanent home. Although in most of the states their immunities are limited to the heads of families, there is no uniform provision to that effect. The spirit of most of the laws aims at guarding the home from alienation through the improvidence or misfortune of the head of the family, and it is held to be the interest of the state, as a matter of public policy, to secure to each citizen so much of independence as is involved in the possession of a homestead. Said Senator Benton: "The freeholder is the natural supporter of a free government. Tenantry is unfavorable to freedom. The tenant has in fact no country, no hearth, no domestic altar, no household god. It should be the policy of republics to multiply their freeholders." The republic of Texas, in 1839, enacted the first American homestead law. In 1849 Vermont passed a homestead act, and thereafter this provision rapidly became the policy of nearly all the states. In fifteen states homestead exemption is a part of the constitution; in others it is provided for by legal enactment. The only states which have no exemption of the homestead from execution for debt, are Connecticut, Delaware, Maryland, Oregon, and Rhode Island. In Pennsylvania, however, the only exemption from liability is of property, either real or personal, to the value of $300. In states which have homestead exemptions, the variations are very great as to the value of the real estate exempted, running from a minimum of $500 in Maine, New Hampshire and Vermont up to $5,000 in California and Nevada. In other states, again, there is no limit fixed to the value of the homestead, which may embrace 40 to 200 acres in the country (the former in Michigan, the latter in Texas), or from one-fourth of an acre to one acre, with improvements thereon, in a city or village. — In the thirty-three states which protect the homestead from forced sale for payment of debts, there is usually a proviso excepting contracts made for the purchase of the homestead, or mechanics' liens thereon, or taxes, or debts due for the personal property itself which is the subject of exemption. These minor exemptions of personal property from sale or execution for debt are found in the statute book of every state and territory in the Union. They also vary greatly in the amount and value of property exempted, from $100 to $1,000 money value, while some states protect the means of living of the debtor's family by exempting from seizure not only clothing and necessary furniture, but tools, farming utensils, sewing machines, domestic animals, professional libraries and instruments, provisions, and even stock in trade. — The beneficent object of homestead exemption laws, like that of many other liberal social or legal provisions, has been much perverted in some states by loose legislation and by still looser judicial construction. It results that in some cases not only the needful shelter and immediate provision for family wants have been exempted, but nearly all the property of the debtor has been sequestered from liability for his debts. In Iowa or Wisconsin a rich debtor might legally reserve a private palace worth hundreds of thousands of dollars, if located in a city, claiming it to be exempt from forced sale as his homestead. Some state laws go the length even of prohibiting the alienation or mortgage of the homestead by the head of the family, unless the wife joins in the deed. These restraints upon alienation have produced a plentiful crop of frauds, and have led to much litigation. In Illinois the legislature enacted that no release of the homestead should be valid unless subscribed by the householder and his wife, if he had one. After this much money was loaned on homesteads upon mortgages, in the ordinary form, signed by husband and wife, with the usual full covenant of warranty. But the supreme court of Illinois decided that these mortgages were invalid, because the right of homestead had not been expressly mentioned in them, although conveying in terms every claim, interest and estate, whether at law or in equity. Thus the fraudulent debtor was allowed to keep both the money and the homestead upon which it was borrowed; and the same doctrine has been judicially declared in Massachusetts and in Tennessee. In several states the courts have held that a widow takes a homestead in addition to her dower. The supreme court of Louisiana has held that a mortgage upon a homestead can not be enforced because the law declares it exempt from seizure and sale. It results that the owner of such property may sell it free from the mortgage he has imposed upon it. This judicial construction goes on the

principle which has led some courts to hold that the engagement of a debtor, in contracting a debt, not to avail himself of the benefit of the exemption laws, is void as against public policy, upon the same principle which avoids a usurious con'ract. — Among the many discordant decisions of judicial tribunals, it is evident that those dealing with property interests can not be too careful in guarding against contingencies which may arise to affect their rights. The table below summarizes the legal or constitutional provisions in force in 1882, exempting real and personal property from liability for debt, in all the states and territories.

A. R. SPOFFORD.

HOMESTEAD AND OTHER PROPERTY EXEMPTIONS.

(Compiled from the Revised Statutes and Session Laws of the several States and Territories.)

STATES.	Real Estate Exemption.	Personal Property Exemption.
Alabama	160 acres with house in country, or lot and dwelling to value of $2,000 in city.	To amount of $1,000.
Arkansas	160 acres in country, or city lot with improvements to value of $2,500.	To amount of $200 and clothing, if unmarried; or $500 and clothing, to heads of families.
California	Homestead to value of $5,000, to heads of families, or $1,000 to single persons.	$200 worth of furniture, and a multitude of special articles.
Colorado	Homestead not over $2,000 in value.	Furniture $100, stock in trade to amount of $200, and various articles.
Connecticut	No real estate exemption.	Furniture and clothing to amount of $200; library $500, and many specific articles.
Delaware	No real estate exemption.	Household goods $200 in Newcastle Co.; $150 in Kent Co; wearing apparel, tools, and library in whole state worth $50 to $75.
Florida	160 acres of land in country, or ¼ acre and residence in town.	To amount of $1,000.
Georgia	Real estate or personalty to the value of $1,600.	Real estate or personalty to the value of $1,600.
Illinois	Residence worth $1,000 to a householder with family.	Clothing, and $100 worth of other property; $300 more when debtor is head of a family.
Indiana	To each householder $600 real or personal, or both.	Property real or personal to the amount of $600.
Iowa	40 acres in country, or ½ acre with house in town: value not limited.	$200 furniture, also clothing, tools, farm animals, etc. $1,200 printing press and type for printer.
Kansas	160 acres in country, or 1 acre with improvements in town: value not limited.	$500 furniture, library, clothing, tools, farm animals, $300 farming utensils, $400 stock in trade.
Kentucky	Land with dwelling to value of $1,000, to a householder.	$100 furniture, clothing and domestic animals.
Louisiana	Homestead and personal property limited to $2,000.	Homestead and personal property limited to $2,000.
Maine	Land and dwelling, value of $500, to a householder.	$50 furniture, $150 library, $300 farm animals, clothing, tools, etc.
Maryland	No real estate exempted.	Necessary tools, apparel, books, etc., and $100 other property.
Massachusetts	Homestead to value of $800 to households having families.	$100 furniture, $50 library, clothing, farm animals, stock and materials, $100.
Michigan	40 acres in country, or city lot and residence to value of $1,500.	$250 furniture, $250 stock in trade, $150 books, farm animals and minor articles.
Minnesota	80 acres and dwelling in country, or lot and house in town.	$500 furniture, $400 tools or stock in trade, $300 farming utensils, library, clothing.
Mississippi	80 acres in country, or $2,000 town property, including homestead.	Furniture $100; to residents of cities and towns $250.
Missouri	160 acres, worth $1,500 in country, or buildings in city to value of $1,500 to $3,000.	Furniture $100, provisions $100, domestic animals $150; or, in lieu of all specified, $300 net exemptions.
Nebraska	Homestead not exceeding $2,000 in value	$500 exempted when no real estate is owned.
Nevada	A homestead not exceeding $5,000 in value.	Furniture $100; farmers' utensils $200; mining outfit $50; domestic animals, etc.
New Hampshire	Homestead worth $500, or so much thereof as does not exceed in value $500.	$100 furniture, $200 in library, $100 in tools, $50 fuel and provisions, clothing, domestic animals.
New Jersey	Homestead to amount of $1,000 to householder.	To amount of $200, and clothing.
New York	Homestead to value of $1,000 to householders.	$250 in furniture, mechanics' tools, instruments, library, etc.
North Carolina	Homestead to value of $1,000 to occupant of an estate.	To value of $500.
Ohio	To amount of $1,000 to heads of families only.	Clothing, furniture, tools, etc., and $500 additional exemption if no real estate is owned.
Oregon	No real estate exemption.	$300 furniture, $100 clothing, or $50 for each member of family, $400 tools, etc., farm animals.
Pennsylvania	Property, either real or personal, to the value of $300.	$300 value of property, either real or personal, besides wearing apparel.
Rhode Island	No real estate exemption.	Clothing $300, furniture $200, tools, etc.

STATES.	Real Estate Exemption.	Personal Property Exemption
South Carolina	Homestead worth $1,000.	Furniture, etc., value of $500.
Tennessee	Homestead worth $1,000.	Clothing, furniture, and a long catalogue of miscellaneous articles.
Texas	200 acres with house in country, or lot worth $5,000, and residence in town, to a family	$500 furniture, clothing, tools, domestic animals, and one year's provisions.
Vermont	Homestead worth $500, to any housekeeper.	Clothing, furniture, farm animals, and sundry stores, $250 in teams, $200 professional library.
Virginia	$2,000 in real or personal property to head of a family.	Clothing, furniture, library, domestic animals, besides $2,000, real or personal.
West Virginia	Homestead worth $1,000 to head of a family.	Personal estate not exceeding $200 in value.
Wisconsin	40 acres with house in country, or house and ¼ acre in town.	$200 furniture, farm animals, $50 farm tools, $200 mechanics' tools, $200 professional library
TERRITORIES.		
Arizona	Homestead to value of $5,000	$600 furniture, and many specific articles.
Dakota	Homestead in country, 160 acres; in town, 1 acre; no limit as to value.	Any goods or money to amount of $1,500.
District of Columbia	No real estate exemption.	Clothing, furniture, etc., to value of $300; merchants' stock or mechanics tools $200, family library $400, and other articles.
Idaho	Homestead not exceeding $500 in value.	Furniture $200, farm utensils $300; mechanics' tools $500, and many specific articles.
Montana	In country, 160 acres; in town, ¼ acre, value limited to $2,500.	Clothing, furniture $100, domestic animals, farm utensils $600, etc.
New Mexico	Real estate to value of $1,000.	Clothing, tools, and a few necessary articles.
Utah	Homestead to value of $1,000 to head of family, with $250 additional for each member.	Furniture $100, clothing, tools, domestic animals, etc.
Washington	Homestead to value of $1,000 to head of family.	$150 furniture, clothing, domestic animals, $500 tools and materials etc
Wyoming	Homestead to value of $1,500 to each head of family.	Clothing, $500 furniture, $300 tools or professional library.

HONDURAS is one of the five republics of Central America. Its area is calculated to embrace 39,600 English square miles, with a population of 250,000 souls, consisting principally of Indians and half-breeds. Both area and population are only estimated. The state of Honduras, which, after its separation from Spain, at once became part of the confederation of Central America, together with Guatemala, San Salvador, Nicaragua and Costa Rica, is bounded on the north and east by the Caribbean sea, on the west and south by Guatemala and San Salvador, and on the southwest by San Salvador. Its political organization is the same as that of most of the American republics. The executive power is vested in a president, elected for four years (constitution of 1865), aided by a council of state composed of two ministers, appointed by the president, one senator, elected by both houses of congress, and the judge of the supreme court. The legislative power is divided between a chamber of deputies composed of fourteen members, and a senate consisting of seven members. — The public revenue of Honduras in recent years is valued at about $388,000, about one-third derived from customs duties, and another third from the government monopoly of the sale of aguardiente, or native rum. At the end of 1876 the foreign debt of Honduras amounted to a total of $29,950,540. It consists of three loans. The interest in arrear in 1875 was $6,150,820. If paid, the interest and sinking fund of the three loans would amount to an annual charge of $3,478,500 on the public revenue, or more than eight times the estimated total receipts of the government. The state of perpetual agitation in which these little republics exist is due to the imperfect condition of their military force. Public instruction is entirely in the hands of the clergy. The lower classes are almost utterly devoid of education. The total value of the exports of Honduras, which consist chiefly of mahogany, hides, tobacco, cattle and indigo, is estimated at about $1,000,000. The imports comprise cotton goods, silk and hardware. The resources of the country are at present wholly undeveloped. Comayagua, the capital of the state, has a population of 10,000, but most of the import trade is carried on in the seaport towns of Omoa and Trujillo on the Atlantic coast, and Amapala on the Pacific. Here, as in the other parts of Central America, the commerce is almost entirely in the hands of the English. — British Honduras has an area of 13,500 English square miles. Its population, according to the latest census returns, is 24,710. In 1869 the public revenue was $183,150, and the expenditures amounted to $152,020. In the same year its imports were valued at $755,945, and its exports at $875,165. These figures are lower than those of the fifteen years previous. The value of the colony's commerce seems to be steadily diminishing, although the tonnage of the vessels entering and leaving its ports remains almost the same. In 1869 the total capacity of all the vessels entering and departing from its ports amounted to 58,116 tons. — BIBLIOGRAPHY.

Fröbel, *Seven Years' Travel in Central America*, London, 1853; Marr, *Reise nach Central America*, Hamburg, 1863; Pelletier, *Honduras et ses ports. Documents officiels sur le chemin de fer interocéanique*, Paris, 1869; Reichardt, *Centro-America*, Brunswick, 1851; Scherzer, *Wanderungen durch die mittelamerikanischen Freistaaten Nicaragua, Honduras und San Salvador*, Brunswick, 1857; Squier, *Honduras, descriptive, historical and statistical*, London, 1870. A. D. H.

HOSTAGE. We consider the practice of taking or offering hostages as barbarous, unworthy of civilized nations. This practice is established only because little faith can be placed in the promises of rude men, who do not think themselves bound to conquer their passions, in order to keep their promises. Therefore the necessity of legitimate defense may excuse, in a certain degree, the demand for hostages in savage countries, especially if the hostage is chief of a tribe, or one of his relatives, and even in this case the hostage will be rather an incumbrance than a guaranty. It is nevertheless to be feared that this practice will not be easily suppressed in time of war, and that it will be the more frequently applied, the more enraged the combatants. Passion is the counselor of bad faith on one side, causes the demand for hostages on the other, and unfortunately makes the innocent frequently suffer for the guilty. (See Vattel, book ii., chap. xvi., § 245.) M. B.

HOURS OF LABOR, Regulation of, by the State. Early in August, 1871, the engineers of Newcastle, England, formally put forward the demand that a day's work should consist of nine hours. The masters refused to yield. The workmen thereupon carried out their threat to desist from work; and a general strike ensued. Although efforts at conciliation were repeatedly made, the dispute continued to rage fiercely for many weeks. Various persons offered themselves as mediators, in the hope of suggesting some compromise. But compromise after compromise was unceremoniously rejected by the masters. Many circumstances combined to arouse strong and angry feelings. At the outset a bitter personal enmity had been excited by the workmen being told that the masters would not hold interviews with them, but that they must have their views represented by some legal adviser. Still more angry passions were aroused when the manufacturers attempted to replace the labor of which they had been deprived, by the importation of foreign workmen. Agents were dispatched to Belgium, Germany and other places to engage at remunerative wages artisans who had been accustomed to engineering work. The English workmen, on their side, put forth equally strenuous efforts to check this importation of labor. Strong appeals, based on international principles, were addressed to the continental workmen; they were entreated to be loyal to the cause of labor, and they were told that the employed would be always vanquished unless the laborers of different countries were not only ready to unite, but were also prepared to make some sacrifices for the common cause. In spite, however, of all these efforts the manufacturers obtained a considerable number of continental workmen. After their arrival, however, not a single moment was lost in bringing every possible kind of pressure to bear upon them to induce them to return. Occasionally the pressure assumed the form of threats of violence to any who might continue to work. Such threats, however, were exceptional; it was generally found that after the exact position of affairs had been explained to these foreign workmen, there was little difficulty in inducing them to return to their own countries if they were provided with the requisite funds. The funds required for this purpose were promptly procured by subscriptions raised among the artisans in every important centre of English industry. In consequence of these exertions the manufacturers gradually became convinced that it was hopeless for them to expect to keep their works open by substituting foreign for English labor. The alternative, therefore, which was presented to them was, either to suspend business or to grant the demands of those whom they employed. The adoption of the former course involved many formidable difficulties. It has been often remarked, that workmen, in the disputes which they have had with their em ployers, have very generally shown themselves to be extremely bad tacticians. They have generally struck work in order to resist a decline in wages consequent upon dull trade. But when trade is dull the victory of the employer is almost insured, for at such a period it costs him little—in fact, it is often a positive advantage to him—temporarily to suspend his business. But, whether from accident or design, the Newcastle workmen commenced the nine hours movement at the very time above all others when they were most likely to obtain success. The engineering trade was in a state of unprecedented activity and prosperity; unusually large profits were being realized, and the order book of every manufacturer was filled with lucrative contracts. Victory, therefore, was virtually insured to the employed when they deprived the employer of an adequate supply of labor; for he had the strongest possible inducement not to curtail, much less to suspend, his business at a time when it was exceptionally profitable, and when the non-fulfill ment of extensive contracts would render him liable to extremely onerous fines. After a struggle, which was prolonged for fourteen weeks, the masters were compelled to succumb; and the demands put forward by the workmen were fully conceded to them. No sooner was the nine hours movement successful in the engineering trade at Newcastle, than similar demands were immediately put forward by workmen engaged in a great variety of trades in different parts of the country.

The battle having been once fairly fought out, employers very generally adopted the wise and prudent conclusion that it was far better not to renew the contest. It therefore came to pass that in a few weeks, throughout no inconsiderable portion of the industry of England, the principle obtained practical recognition that nine hours was to be considered a day's work. — I have thought it important to give this description of the nine hours movement in order to show that in the course of a few weeks the workmen, entirely relying on their own efforts, and without any resort to state intervention, secured a valuable concession for themselves, and introduced a most important social and economic reform. Having thus seen what was done without resorting to the state, let us proceed to inquire whether the workmen would have secured that which they desired more promptly and more efficiently if, instead of relying on their own efforts, and their own powers of organization, they had rested their hopes on state intervention. If the latter course had been adopted, I think there would be no difficulty in showing that the shortening of the hours of labor might have been either indefinitely postponed or might have been so prematurely and inconsiderately introduced that confusion would have been created, and more evil than good resulted. If the workmen throughout the country should have united they would at once have secured a predominance of power in the legislature. Let it be supposed that having gained this predominance they at once passed a law applying the nine hours principle to every employment throughout England. Such legislative interference constituted a part of the programme of the international; and as there is reason to believe that many who are generally opposed to the doctrines of socialism would support such a demand, the subject is evidently one of great practical importance. — It will scarcely be denied by any one who has practical knowledge of trade, that various employments differ so greatly in the circumstances and conditions upon which they are carried on, that the general application of a rigid rule as to the length of a day's work would produce the most inconvenient and incongruous results. Some kinds of labor are, for instance, far more exhausting and injurious to health than others. Six hours spent in an imperfectly ventilated mine probably involve a greater amount of fatigue, and cause a greater strain upon the constitution, than ten hours passed in some out-door occupation, or in some delicate and skilled handicraft. Then again, in an industry such as agriculture, a day's work can not exceed a certain number of hours during the winter, whereas during a few weeks in the summer or autumn, when the harvest is gathered in, a considerable portion of the crop would often be lost if men were legally prohibited from working more than nine hours a day. In answer to these objections, it will probably be urged that the legislature might provide for the different circumstances of various employments; and that it is not proposed to fix an absolute limit of nine hours to the day's work, but simply to enact that all work done beyond this shall count as over-time, and be liberally paid for accordingly. With regard to the first of these pleas it is sufficient to remark that it would be necessary for legislatures to acquire an amount of administrative skill which they have never before shown any signs of possessing, in order to frame a measure which, while making proper allowance for the varying circumstances of different trades, would fix an appropriate limit to the day's work in each particular branch of industry. The second plea, however, is that upon which the advocates of a law for shortening the hours of labor chiefly rest their case. During the agitation that then took place throughout the country in favor of the nine hours movement, it was made perfectly clear that those who advocated the shortening of the day's work did not contemplate the passing of any enactment to forbid a man working beyond a specified time. It was evident that such a law would have been strongly resisted by the workmen who favored the nine hours movement. At Newcastle and other places they always showed great anxiety to secure a recognition of the principle that over-time was to be paid for upon a liberal scale. It certainly, however, seems to me that in thus sanctioning over-time, every argument which might be advanced in favor of regulating the hours of labor by state intervention falls to the ground. The law might be so easily evaded and ignored, that it would soon be regarded as a useless and ridiculous farce. Suppose, for instance, the legislature should say that in a certain trade, such as building, a day's work should consist of only nine hours. Employers and operatives who desired to continue work for a longer time would not have the slightest difficulty in doing so. They would simply have to consider each hour beyond the specified period as over-time, and the law would consequently be as completely inoperative as if it had never been passed. — It may, however, be said, that the argument just advanced rests on the assumption that the employed are willing to work over-time, whereas it may be maintained that a law is needed for the protection of those who are coerced to work for an excessive number of hours. In the first place, there are many reasons which may make us feel incredulous about such coercion being resorted to; in the second place, it may be maintained that if workmen are thus coerced it is their own fault, because it has been frequently shown that they are perfectly well able to offer successful resistance if they choose to do so. It is impossible to have a more striking illustration of the power possessed by the workmen than is afforded by the completeness of the triumph which they obtained at Newcastle. Sometimes, however, it is urged that although workmen can not be forced to labor for an excessive number of hours, if they are resolutely resolved not to do so, yet it is main-

tained that there are some workmen who do not know what is good for themselves and their class; and that there are others who, if they do know it, have not the courage to act in a manner which is right. Consequently, state intervention is needed for those who are thus weak and erring. This is the old story; this is, in fact, what state interference generally comes to. Certain persons arrogate to themselves infallibility of judgment—assume that they know the precise course which ought to be adopted, and the exact thing which ought to be done by every human being; they consequently appeal to the state to give them the power to make each individual conform his life to the pattern which has been chosen by their faultless judgment. If these doctrines are sanctioned, and if these demands are conceded, individual liberty and freedom of action will cease to exist, and we shall have to submit to a thralldom more galling and more degrading than the worst form of political despotism. It will be impossible to foresee from day to day what we shall each one of us in private life be permitted to do and what we shall not be permitted to do. The state is not unfrequently spoken of as if it were a receptacle of the most perfect justice, the noblest benevolence, the most far-seeing sagacity, and the highest wisdom. The state, however, even in a country which possesses representative institutions, instead of being endowed with all these qualities of superhuman excellence, embodies nothing more than the fluctuating and shifting opinions which are held by the majority of a majority of the constituencies. The legislature can not have any claim to the possession of an amount of collective wisdom which enables it to form an unerring judgment as to the mode of life which ought to be followed by each individual. It can, in fact, scarcely be denied that law-making is carried on by persons who have not a greater amount of virtue, sagacity and wisdom than ordinarily falls to the lot of the average of their fellow-countrymen. Those, therefore, who are constantly appealing to the state to meddle in the affairs of private life, seem to forget that the carrying out of this policy virtually obliges people to surrender their freedom of action to a predominant majority, which can not be expected to possess higher qualities than the units of which it is made up.—It is necessary to consider the subject from this point of view, in order adequately to appreciate the injustice which would be sanctioned if a law were passed fixing the length of the day's work, and if many other demands for state interference were conceded which are now being pressed with such frequency and urgency. Those who thus propose to enlarge the scope of state intervention are no doubt very confident in the belief that they know what is right, and they wish to call in the power of the law to coerce people into right doing. A teetotaller finds that he has derived great advantage from abstaining from all alcoholic drinks; and in order that others may participate in the advantage, he would like to see every one forced to do as he has done. It never seems to strike him that there can be any tyranny in resorting to state intervention; he, on the contrary, would think it was the most exalted kind of benevolence to force people to do that which he believes is certain to prove beneficial to them. Ideas exactly analogous to these prompted the most cruel religious persecutions of the middle ages. Those who persecuted were very confident that they knew which was the road that led to heaven. If they observed people persistently straying away, it seemed that it was justifiable to resort to any means to force them back into the right path Bodily torments were not worth considering when it was a question between eternal happiness and eternal perdition. Such sentiments as these are not extinct; they have, in fact, lost little of their former vitality; they are constantly coming into activity in other forms and other aspects. As it has been in the past, so will it probably be in the future. Individual liberty will be constantly subject to attacks from various phases of fanaticism. We have not only to be on our guard against extreme socialists, but similar dangers may any day be brought upon us by well-intentioned philanthropists and mistaken enthusiasts. If it is urged that a man who is willing to work for ten or eleven hours a day should be permitted to do so, it will be thought sufficient to say in reply that it is evident such a man does not know what is good for himself, and that others who do know are performing an act of kindness if they debar him from pursuing a course which will prove injurious to him. If private life is to be thus interfered with, where is such interference to end? Analogous reasoning would lead to the conclusion that the state should decree the quantity of food and drink which a man should consume, the number of hours that he should be permitted to study, and the amount of exercise he should be allowed to take. Other forms of excess may be as injurious as over-work, and if it is right for the state to protect people against an undue amount of labor, might it not be legitimate to protect them against the evils resulting from undue eating and drinking, from over-fatigue and over study.—It is, however, probable that motives very different from these actuate many who most earnestly appeal to the state to impose a legal limit upon the day's work. This particular movement may be, to a great extent, regarded as a revival of the old fallacy that the wages of labor can be regulated by law. Signs are not wanting to show that the opinion widely prevails, although it is rarely distinctly avowed, that if a law were passed reducing the day's work from ten hours to nine hours, as much would ultimately be paid for nine as for ten hours' labor. If, however, this should prove to be the case, then it would appear that the state has the power to regulate the remuneration of labor; it would consequently follow that wages depend upon legal enactments, and are not regulated by the recognized principles of economic science. I shall not attempt to argue the case by

referring to such well known facts as that the English parliament for centuries tried to control the wages of labor, and that all the numberless statutes that were passed to effect this object signally failed. Neither shall I refer to the general principles of political economy to establish the conclusion that the wages of labor can not be controlled by the state. Such reasoning would not, in any way, affect the opinions of those who are most strongly in favor of the hours of labor being regulated by the state. According to their views the interposition of the state in this matter involves very different consequences, and is to be defended by very different arguments from any attempt which may be made to fix the rate of wages by act of parliament. The following may be considered a correct description of the opinions which are widely held on this subject. It is maintained that in many employments the day's work is a great deal too long, the strain upon the constitution is too severe, and physical strength is so much exhausted that a man is unable to labor hard during the whole time he is at work. It is therefore urged, that if the day's labor were shortened, as much or even more work would be done in the shorter as in the longer period; employers would, consequently, be able to pay at least as much for a day's work after its length had been thus shortened. Many facts can, no doubt, be adduced in support of this opinion. It can scarcely be denied that in some employments the hours of labor are habitually too long. Some very striking examples can be quoted to show that the shortening of the hours of labor confers a most important advantage both upon employers and employed. More work is done in less time, and the greater productiveness which is thus given to labor enables not only the wages of the workman but also the profits of the employer to be increased. — Among many remarkable examples of the truth of this statement, it will be sufficient to refer to one case which is mentioned by Mr. Macdonnell, in his "Survey of Political Economy." He states, on the authority of M. Chevalier, that a manufacturer employing 4,000 hands reduced his spinners' time half an hour per day, and that this reduction, contrary to all expectation, was accompanied by an increase in production of one-twenty-fourth. An admission that this fact is typical of what would generally take place if the hours of labor were shortened, would undoubtedly afford a powerful inducement and strong justification to the workmen to extend throughout the country the movement which was commenced at Newcastle. Such an admission, however, does not, to my mind, supply any argument in favor of a resort being had to state intervention. It has been proved that the workmen can succeed when they have as good a case to urge as they had at Newcastle; and the masters would, in every instance, be compelled to yield, even were it not their interest to do so, when facts can be adduced to warrant the conclusion that the hours of labor prevalent in any particular trade are too long to secure the maximum of industrial efficiency. But the point on which I particularly desire to insist is this: Are not the circumstances peculiar to each trade best known to those who are engaged in it, and are they not, consequently, in a far better position to judge of the number of hours of labor appropriate to it than the heterogeneous assembly called the state?—It must be also borne in mind that a grave risk is always associated with legislative interference with trade; it is simply a question of taking something from the pockets of the employer and adding it to the wages of the employed; unwise and misdirected meddling on the part of the state may so much impede industrial development as to bring ruin upon a trade, and thus masters and men will be involved in a common disaster. Formerly each country was, in its industrial position, far more isolated from its neighbors than at the present time. Inferior means of communication and prohibitory tariffs powerfully impeded commercial intercourse. As commercial relations between different countries have extended, a keen and closely contested competition has arisen between them in various branches of industry. The competition is, in fact, frequently so close that a country may often lose a trade if it is hampered with legislative restrictions which are not imposed upon it in other countries. At the present time it is difficult in many branches of industry for the English manufacturer to compete with the foreigner even in English markets. England can now scarcely hold her own in some trades in which she once had almost undisputed supremacy. When railways were first introduced, nearly every locomotive engine throughout Europe was of English manufacture. Not only do many continental countries now make their own engines, but it occasionally happens that foreign engines are to be found on English railways. There are, no doubt, many trades in the position just described; but when this is the case, it is obvious that a country may not only be driven from a foreign market, but may also find it impossible to retain a satisfactory position in the home market if restrictions are imposed upon her which either interfere with industrial efficiency, or artificially increase the cost of production. It must be perfectly obvious that the length of the day's work may be unduly reduced; in fact, the reduction may be carried so far as most seriously to impede industry. Encouraged by the success of the nine hours movement, it was said in certain quarters that there should be an agitation in favor of the day's work consisting of only eight hours. This was, in fact, one part of the programme of the international. If successful in an eight hours agitation, an agitation might commence in favor of fixing the day's work at seven or even at six hours. If, however, such restrictions were imposed in England, it can scarcely be doubted that industry would be placed in so unfavorable a position that it would be hopeless for England to attempt to compete with foreign countries. It might thus

happen that not only her foreign trade would be sacrificed, but she would be undersold in her own markets (and so of other countries). It is not too much to say that her commercial prosperity would cease, and that a fatal blight would be thrown upon her industry. Employers would not continue business under such unfavorable conditions. If men were only permitted to work six or seven hours a day, machinery would be lying idle for so long a period that the returns yielded to its owner would be greatly reduced. The diminution in profits might be so serious that employers might think it to their interest to take their capital out of business, and either invest it in some other security or apply it to the carrying on of some industrial undertaking in a country which was not subjected to such legislative interference. The workmen might thus find that an undue limitation in the number of hours of labor had ruined many branches of industry, and had thus brought upon them the greatest disasters. — In making these remarks I should much regret if it were thought that I did not most entirely sympathize with those who desire to see a great diminution in the excessive toil of so many workmen. There is nothing perhaps more to be regretted than the fact that extraordinary commercial prosperity and an unprecedented accumulation of wealth have hitherto done so little to shorten the workmen's hours of labor. As previously remarked, the undue length of time which men have been accustomed to work represents, so far as many branches of industry are concerned, a thoroughly mistaken policy. In many instances it is undeniable that men would not only get through more work, but would do it more efficiently, if they had more opportunity for mental cultivation and for healthful recreation. No small part of the intemperance which is laid to the charge of laborers is directly to be traced to excessive toil. When strength becomes exhausted, and the body is over-fatigued, there often arises an almost uncontrollable desire to resort to stimulants. Again, it is unreasonable to expect that the moral qualities in man's nature can be duly developed if life is passed in one unvarying round of monotonous work. We are constantly being reminded of the ennobling and elevating influence produced by contemplating the beauties of nature, by reflecting on the marvels which science unfolds, and by studying the triumphs of art and literature. Yet no inconsiderable portion of the toiling masses are reared in such ignorance, and surrounded from early childhood to old age by so much squalor and misery, that life could be to them scarcely more dreary or depressing if there were no literature, no science and no art, and if nature had no beauties to unfold. At a meeting held at Newcastle by some of the prominent advocates of the nine hours movement, artisans were encouraged to look forward to a time when the condition of laborers generally throughout England would be so much improved that they would have time for mental cultivation and various kinds of recreation; a hope was even expressed that the day might come when they and their families would be able to enjoy an annual holiday, gaining health and vigor either from the sea breeze or the mountain air. It is, however, particularly to be remarked, that those who shadowed forth these bright anticipations showed no tendency whatever to seek state intervention The leaders of the nine hours movement at Newcastle, having won a great triumph, have just confidence in their own powers; they truly felt that what they had done might also be done by others, and they therefore objected to the demands for state interference, which were constantly put forward by the members of the international, and by many other workmen. The speeches, to which I have just referred, were delivered at a meeting of the members of a co-operative engineering company. This society had grown out of the nine hours dispute. The leaders of the movement having once learned the invaluable lesson of self-help, had the practical wisdom to see that the best way to emancipate themselves from what the international called the tyranny of capital, is not to indulge in idle declamation, nor to embark in schemes which are either impracticable or mischievous. They, on the contrary, came to the conclusion that if they wished to render themselves independent of capitalists they might do so by supplying the capital which their own industry requires. They had little difficulty in gathering together a sufficient amount of money to commence business on their own account. There is no reason why an establishment thus founded should not gain as great a commercial success as that which has been achieved by any private firm. Even if it should fail, there would be no grounds to feel discouraged. The experience which is obtained from failure often enables the road to be discovered which leads to future success. HENRY FAWCETT

HOUSE OF COMMONS, the supreme governing body in the British empire; otherwise, and nominally, the "lower house" in the British parliament. The house of commons was founded in 1265 by Simon de Montfort, earl of Leicester, after his glorious victory over the royal forces at Lewes. Down to this time, the king had summoned only the great barons to attend his council, and it had become customary to continue summoning every baron who had once been summoned, so that there grew up a "right of summons," which became hereditary. Persons who possessed a right of summons to the king's great council were regarded as peers or lords; and thus the English peerage was established. Thus, down to 1265, the only parliament was the king's great council, which was simply the house of lords. But in 1265, when the barons had conducted, against Henry III., a struggle somewhat similar to that which the parliament conducted four centuries afterward against Charles I., the barons, in order henceforth to guard more effect-

ually against the encroachments of the crown, sought the aid of the commons, that is, of the wealthy landed gentry and powerful citizens who did not belong to the peerage. In accordance with this policy, Simon de Montfort, one of the most glorious names in the history of English liberty, summoned to the parliament of 1265 two landholders from each county, known as "knights of the shire," two citizens from each city, and two burgesses from each borough. These were to be representative members, elected by their constituents in town or county; and this was the beginning of a national representative government in England. And from the fortunate union of rural and urban representatives, including even the children and younger brothers of peers, in a single legislative body, the house of commons became at once the representation of the entire nation, and not of any separate class or order in the nation. The work of creating the house of commons, which was begun by Simon de Montfort, was fully completed thirty years later by Edward I. From 1295 onward it was a thoroughly recognized principle that every parliament should consist of a house of commons in addition to a house of lords, and that the members of the lower house should be elected by the people. As it had always been recognized, with more or less clearness, that the fundamental element in an Englishman's liberty was that no one could take away his money without his consent, the right of the house of commons to vote all taxes became almost immediately established; and this point having been once gained, the gradual acquirement of supreme legislative power by the lower house was only a question of time. Three times during the reigns of Edward II. and Edward III. it was enacted that a parliament should be held at least once a year, and that in some convenient place, for the redress of grievances and the maintenance of the statutes. The necessity of repeating this enactment shows that the unwillingness to assemble a parliament, which had become so flagrant in Stuart times, had begun to show itself already on the part of the Plantagenets. The old English sovereigns always preferred to reign without the assistance of parliament, so far as possible; but sooner or later the need of money compelled them to summon it. Until the middle of the seventeenth century there was no legal limit to the duration of a parliament, except that it was always regarded as dissolved by the death of the sovereign. But after Charles I. had suffered twelve years (1629–40) to pass by without assembling a parliament, one of the first measures passed by the long parliament in 1641 was the triennial act, whereby every parliament was to expire at the end of three years from the first day of its session (or, if then sitting, at its first subsequent adjournment), and a new parliament must be elected within three years from the expiration of the preceding one. This act, however, was disregarded by the very parliament which passed it, which did not terminate its existence until 1661. In 1694 the duration of parliament was again limited to three years; in 1715 the period was extended to seven years by the septennial act, and this arrangement has continued in force ever since. Since the revolution of 1688 no year has elapsed without at least one session of parliament. This annual session has been secured partly through the necessity of passing the annual mutiny act, whereby alone it is possible to maintain the legal existence of the army. It is partly due also to the great increase in public expenditure, making an annual appropriation of money an absolute necessity. Within the limits imposed by these necessities and by the septennial act, the crown can summon, prorogue and dissolve parliament at its pleasure; but the practical employment of this, as of nearly all the prerogatives of the sovereign, has now passed entirely into the hands of the prime minister. — At the accession of Henry VIII. the whole number of constituencies in England and Wales was 147; but in this new reign several new seats were added for Wales; and considerable additions to the borough franchises were made in all the following reigns, down to the restoration. A large proportion of these newly added boroughs were "rotten boroughs," and the purpose of granting them the franchise was to increase surreptitiously the royal influence of the house of commons. From Edward IV. to Charles I. the new additions consisted almost exclusively of borough members. In the later Stuart reigns the house of commons contained about 500 members. The union with Scotland in 1707 added 45 new members; and the union with Ireland in 1801 added 100 more. Since that time the number of the house has remained at about 650, with a slight tendency to increase through the extension of the suffrage, and the formation of new constituencies, chiefly among the universities. The number of members at present is 658. These 658 members are returned as follows by the three divisions of the United Kingdom:

England and Wales:		
52 counties and Isle of Wight	187	
200 cities and boroughs	295	
3 universities	5	
		487
Scotland:		
33 counties	32	
22 cities and burgh districts	26	
4 universities	2	
		60
Ireland:		
32 counties	64	
33 cities and boroughs	39	
1 university	2	
		105
Seats vacant by disfranchisement		6
Total		658

In a parliamentary paper of 1876 it was stated that if the distribution of representation were determined solely by population, the number of members would be 476 for England, 70 for Scotland, and 112 for Ireland; if determined solely by contributions to revenue, the numbers would be 514 for England, 79 for Scotland, and 65 for Ireland; if determined by these two circumstances taken

together, the result would be the mean between these two sets of numbers, that is, 494 for England, 75 for Scotland, 89 for Ireland; in all, 658. So that at present, while the proportional representation of England is strictly equitable, it appears that Scotland has a much smaller and Ireland a much larger share than that to which these countries are equitably entitled. — By the reform bill of 1832 the county constituencies in England were increased from 52 to 82, by dividing several counties into electoral districts, and the number of county members was raised from 94 to 159. No change was made in the county representation of Scotland and Ireland. In England, 56 boroughs, containing a population of less than 2,000 each, and returning altogether 111 members, were disfranchised; 30 other boroughs, with a population of less than 4,000 each, were deprived each of one of its representatives. On the other hand, 22 new boroughs, each containing 25,000 inhabitants and upward, were endowed with the full franchise of returning two members; and 21 new boroughs, each with a population of more than 12,000 and less than 25,000, were empowered to return one member. This wholesale disfranchisement and enfranchisement marks the extent to which—partly through the corrupt creation of rotten boroughs already noticed, partly through the natural growth of great industrial centres and relative decline of other places—the house of commons had, previous to 1832, fallen short of truly and accurately representing the country. This change also increased the independence of the house of commons, as a very large proportion of the disfranchised boroughs were virtually at the disposal of members of the house of lords. In Scotland the reform bill increased the town members from 15 to 23, and this number has since been increased to 26. — After 1832 no change worthy of mention was made in the constituency of the house of commons until the reform bills of 1867 and 1868, which considerably extended the electoral franchise. By these acts the borough franchise was given in England and Scotland to every adult male, after a residence of one year within the borough, either as a householder paying the poor-rate, or as a lodger in lodgings that would let unfurnished for at least £10 per year. In Ireland, instead of the household franchise, votes were given to persons occupying houses or land within the borough of not less than £4 net annual value. In England and Scotland the county franchise was extended to all persons possessing land within the county of the clear yearly value of £5 or more, and to all tenants paying poor-rates, and occupying land within the county of the ratable value of at least £12 in England and £14 in Scotland. No change was made in the county franchise of Ireland, as it stood already at about these same figures. At the same time several changes were made in England in the distribution of members among the boroughs, and the number of members was fixed at 493 for England and Wales, 60 for Scotland, and 105 for Ireland.— The only qualification necessary for a member of parliament is to have attained the age of twenty-one. Naturalized foreigners were formerly ineligible, but were made eligible in 1870 by an act which abolished all distinctions whatever, political and civil, between British-born subjects and naturalized aliens. But all clergymen of the established church are ineligible; and all government contractors, as well as all sheriffs and other "returning" officers, are disqualified, not only from sitting in parliament, but even from voting at elections. Irish peers may be elected to the house of commons, as was the case, for example, with the late Lord Palmerston; but English and Scotch peers are ineligible. No member of the house of commons is allowed to accept any office of profit from the crown. It was enacted in 1872 that all parliamentary elections must be conducted by ballot, except in the universities; one of the chief reasons adduced for this measure was the existence of bribery and intimidation. By an act of 1812 bankruptcy was made a disqualification for sitting in the house of commons. Members of the house are, during the sessions, exempt from liability to arrest or imprisonment, but civil actions may be brought against them at any time. — The reform bill of 1867, among its other provisions, completed the formal independence of the house of commons by decreeing that the parliament "in being at any future demise of the crown shall not be determined by such demise, but shall continue as long as it would otherwise have continued unless dissolved by the crown." If at the time of the sovereign's death, parliament be adjourned or prorogued, it must immediately be assembled; and in case the death of the sovereign should occur after the dissolution of a parliament, but before the day appointed for the meeting of a new one, the old parliament must be assembled again, but in such case its duration is limited to six months.—For information regarding the supreme legislative authority of the house of commons, and its relations to the house of lords and to the crown, see the article GREAT BRITAIN, section "Constitution." Practically the house of commons is omnipotent throughout the whole extent of the British empire; its authority extends to all matters whatever, ecclesiastical or temporal, civil or military. JOHN FISKE.

HOUSE OF LORDS. The house of lords is the lineal descendant of the witenagemot, or "meeting of wise men," of the times preceding the Norman conquest. Its prototype was the county assembly of early Saxon times. The difference between a *tungemot* or "town meeting" and a *witenagemot* or "meeting of wise men," answered exactly to the difference between a primary and a representative assembly as now understood. The little town meetings were, as a rule, attended by all freemen of the township, but in the case of the shire assemblies distance and difficulty of travel made such universal attendance impracticable, and so each township

sent a delegation of "wise or discreet men" to represent it. Hence the county assembly came to be known as a meeting of the wise men of the shire. And as the shires gradually became consolidated into the little kingdoms formerly known as the "heptarchy," and at last into the single great kingdom of England, a great assembly of wise men grew up after the model of the little county assemblies, and was known as the witenagemot of the kingdom. It was attended by the heads of the principal families of the kingdom, including such local sovereigns as the great earls. When it was desirable to discuss some question of public policy, the king summoned by writ his most powerful subjects to talk it over with him. Such was the origin of the English parliament; the house of commons being a later addition, as I have explained under that head. In early times the summons of the great nobles or landholders to attend parliament seems to have depended in great measure on the royal will. But by the time of Edward I. it had become customary to summon the same persons again and again until through prescription there grew up the "right of summons," which, like most rights and franchises in that feudal age, forthwith became hereditary. The modern peerage of England consists, therefore, simply of those persons who have inherited a right of summons to attend parliament; and in this respect it differs essentially from the nobility of any other country in Europe, or indeed, in the world. For as this right of summons is a right to a legislative and judicial office which can be filled by only one person at a time, it is only the head of a noble family who is a peer, and this dignity can be inherited only by that one of the children who becomes in turn the head of the family. The rest of the noble family are all commoners. This, as elsewhere pointed out, has prevented anything like a severance between the interests of the higher and of the lower classes in England, and has had a great deal to do with the peaceful and healthy political development by which that country has been above all others distinguished. — As at present organized, the house of lords consists of peers who occupy their seats: 1. By hereditary prescription; 2. By direct creation of the sovereign; 3. By virtue of office, as the English bishops; 4. By election for life, as the Irish peers; 5. By election for duration of parliament, as the Scottish peers. As regards the second class, it may be said that the crown has an unrestricted power of creating English peers. This power, which, like most of the royal prerogatives, has come in modern times to be wielded by the prime minister, is in the last resort an effectual safeguard against a deadlock between the two houses of parliament. If the house of lords is obdurate in its antagonism to a strong majority in the house of commons, the prime minister has it in his power to create enough new peers, from his own political party, to reverse the majority in the house of lords. In point of fact it is seldom necessary to resort to this somewhat violent remedy, since the mere knowledge that such a power exists is ordinarily sufficient to prevent the lords from too obstinately withstanding a policy which is clearly favored by public opinion. In the reign of George I. an attempt was made to restrict the royal prerogative of creating peers; but this attempt, which if successful would have gone far toward converting the English peerage into a rigid and obstructive aristocracy, most fortunately failed. In the case of Scottish and Irish peerages, however, the royal prerogative is restricted by statute. The sovereign can not create a new Scottish peerage, except in the case of younger branches of the royal family, though he may revive an extinct or forfeited peerage. A new Irish peerage can be created only when three existing peerages have become extinct; and this rule is to be maintained until the number of Irish peers is reduced to one hundred, after which a new peerage may be created as often as an old one becomes extinct. But these restrictions in the case of the Scottish and Irish peerages do not affect the constitutional character of the house of lords, so long as the prerogative of creating peers of Great Britain is left free. — The house of lords at present consists of 502 members, of whom there are 6 peers of the blood royal, 2 archbishops, 21 dukes, 19 marquises, 118 earls, 26 viscounts, 24 bishops, 253 barons, 16 Scottish representative peers, and 28 Irish representative peers. Of the hereditary peerages, 3 date from the thirteenth century, 4 from the fourteenth, 7 from the fifteenth, 12 from the sixteenth, 35 from the seventeenth, and 95 from the eighteenth, while 341, or more than two-thirds of the whole number, have been created during the nineteenth century. — The only British subject who is born a peer is the prince of Wales, the other children of the sovereign being commoners unless raised to the peerage by letters patent like any other commoners. The highest rank in the peerage is that of *duke*, the title of "prince" being merely a courtesy-title applied indiscriminately to members of the royal family without regard to their rank. The eldest sons of dukes take, by courtesy, their father's second title; the younger sons and the daughters are styled Lord Arthur, Lady Alice, etc. Thus William Cavendish, duke of Devonshire, is also marquis of Hartington; his eldest son, John Cavendish, though a commoner, is called marquis of Hartington by courtesy; his younger sons are called Lord Frederick, Lord Edward, etc. Americans often erroneously omit the Christian name in speaking of such persons, saying simply "Lord Cavendish," but this is a gross blunder. The second rank in the peerage is that of *marquis*. The eldest sons of marquises take their father's second title, while the younger sons and the daughters are called Lord Arthur, Lady Alice, etc. The third rank is that of *earl*. The eldest sons of earls take their father's second title; the younger sons are styled the Hon Charles,

etc.; the daughters, however, are styled Lady Mary, etc., like the daughters of dukes and marquises. The fourth rank is that of *viscount*, and the fifth is that of *baron*. The eldest sons of viscounts and barons have no distinctive title; the sons and daughters are styled indiscriminately the Hon. Charles, the Hon. Mary, etc. The archbishops of Canterbury and York take rank immediately after the royal family and above dukes. Bishops rank between viscounts and barons. An archbishop is addressed as "My Lord Archbishop," or "Your Grace." A duke is addressed as "My Lord Duke," or "Your Grace." A marquis is addressed as "My Lord Marquis." Earls, viscounts, bishops and barons are addressed as "My Lord." — The lord chancellor is the speaker of the house of lords. He may speak and vote like the other peers, and he has no casting vote. By the custom of the house a tie vote is equivalent to a negative. Since the middle of the sixteenth century peers have been allowed to record, in the journals of the house, their dissent from measures which they may have unsuccessfully opposed; and about a century later it was further provided that they might put on record the grounds of their dissent. Peers formerly possessed the privilege of voting by proxy, but, as this practice was found to diminish the personal attendance of peers in parliament, it was formally discontinued in 1868 by a resolution of the house. — The crown has the prerogative of creating peerages for life, but it was decided in 1855 that a life-peerage does not confer upon its possessor the right to a seat in the house of lords. — The house of lords, in its judicial capacity, is the highest court in the kingdom, though it has no original jurisdiction, except in cases of political impeachment. It receives appeals from the common law courts and also from the court of chancery. But as regards courts in which civil law is administered, such as the ecclesiastical and admiralty courts, it was decided in 1678 that an appeal should lie, not to the lords, but to a special court of delegates appointed by the crown. In the trial of cases brought on appeal from lower courts, only those peers take part who have held or are holding at the time judicial offices — The house of lords approves or rejects bills sent up from the commons, exercising a veto power that is sometimes very useful, though sometimes obstructive; and it can originate bills, which can not become law, however, without the concurrence of the commons. The house of lords has no control whatever over taxation, but simply accepts the bills as passed in the commons. — The following table shows the composition of the house of lords at different times, from 1295 to the present day.

JOHN FISKE.

PERIODS.	Dukes.	Marquises.	Earls.	Viscounts.	Barons.	Peers representing Scotland.	Peers representing Ireland	Total Lay Peers.	Archbishops and Bishops.	Abbots and Priors.	Masters of Orders	Total Spiritual Peers.	Grand Total
1295	----	----	8	----	41	----	----	49	20	67	3	90	139
1st year of Edward II.	----	----	9	----	71	----	----	80	19	55	2	76	156
" Edward III	----	----	6	----	80	----	----	86	21	23	1	45	131
" Richard II.	1	----	12	----	47	----	----	60	21	25	----	46	106
" Henry IV.	5	1	10	----	34	----	----	50	20	26	1	47	97
" Henry V.	----	----	6	----	32	----	----	38	20	26	1	47	85
" Henry VI.	2	----	5	----	16	----	----	23	21	25	----	46	69
31st year of Henry VI	5	----	12	3	36	----	----	56	21	26	1	48	104
1st year of Edward IV.	1	----	4	1	31	----	----	37	21	26	1	48	85
" Richard III.	3	----	7	2	26	----	----	38	21	26	1	48	86
" Henry VII.	2	----	9	2	16	----	----	29	21	26	1	48	77
" Henry VIII.	1	1	8	----	26	----	----	36	21	26	1	48	84
" Edward VI.	1	2	12	----	32	----	----	47	27	----	----	27	74
" Mary	1	1	14	1	32	----	----	49	26	----	----	26	75
" Elizabeth	1	1	12	2	27	----	----	43	26	----	----	26	69
" James I.	----	----	25	2	54	----	----	81	26	----	----	26	107
" Charles I.	1	1	37	11	47	----	----	97	26	----	----	26	123
Long Parliament	----	1	59	5	54	----	----	119	26	----	----	26	145
Restoration Parliament	4	4	56	8	68	----	----	140	26	----	----	26	166
1st year of James II.	14	3	66	8	67	----	----	158	26	----	----	26	184
" William III.	13	4	71	9	69	----	----	166	26	----	----	26	192
" Anne	21	1	65	9	66	----	----	162	26	----	----	26	188
" George I.	23	2	74	11	67	16	----	193	26	----	----	26	219
" George II.	31	1	71	15	62	16	----	196	26	----	----	26	222
" George III.	25	1	81	12	63	16	----	198	26	----	----	26	224
" George IV.	25	17	100	22	134	16	28	342	30	----	----	30	372
" William IV.	23	18	103	22	160	16	28	370	30	----	----	30	400
" Victoria	24	19	111	19	192	16	28	409	30	----	----	30	439
1881, August	26	19	117	25	254	16	28	485	26	----	----	26	511

HOUSE OF REPRESENTATIVES (IN U. S HISTORY), the name of the lower house of many of the state legislatures (see ASSEMBLY); but more specifically applied to the lower house of congress. (See CONGRESS.) — The formation of the house of representatives, in which membership was assigned to the states in proportion to their population, was directly due to the dissatisfaction of the large states. Massachusetts, Pennsylvania, and Virginia, with the equal vote

enjoyed by all the states, large or small, in the congress of the confederation. (See CONVENTION OF 1787; CONGRESS, CONTINENTAL; SENATE) The small states insisted on a single house of congress, with an equal state vote, as under the confederation; the large states on two houses, with a proportionate vote in each. As a compromise, the large state plan was followed so far as to erect two houses, but with a proportionate vote in the lower only; and the smaller states were placated by an equality of representation in the senate, but with permission to the senators to vote separately, not by states. (See COMPROMISES, I.) — The structure of the American congress is, upon the surface, so strikingly similar to that of the British parliament, that there is a strong temptation to force a parallel between the house of representatives and the house of commons, by calling the former the "popular house," or the "lower house"; terms which, though convenient in practice, are false and misleading if used in their full import. 1. The house of representatives is certainly *a* popular house, but not *the* popular house in contradistinction to the senate, as the house of commons is in contradistinction to the house of lords. Both the house of representatives and the senate represent the people, each in a different aspect. The former represents the people in their numerical aspect; the latter in their aspect of commonwealths; what Brownson would call the "territorial democracy": both together make up the *national* legislature. Nevertheless a superior sanctity for the house, as the "popular branch of the legislative," has always been asserted by the party in control of the house, but has as regularly been forgotten when the control which produced it has been lost. 2. On the other hand, it is not true that the house of representatives is a "lower house," as the house of commons once was. In some respects, as in the powers to originate bills for raising revenue, to impeach delinquent officers, and to elect a president in default of a choice by the electors, the house is superior to the senate; in others, the senate is superior to the house; but neither is really the "upper" or the "lower" house in power or dignity: the two are co-ordinate parts of the governmental machinery. Nevertheless, the greater number of members in the house, their comparative brevity of service (two years, as compared with six in the senate), and the consequent consciousness of inexperience in many of the members, has always put the house at somewhat of a disadvantage when it has undertaken to run counter to the senate. The house, in short, has considerable deference for the parliamentary training of the senate—a feeling fairly indicated, in counting the electoral votes in 1873, by a remark of Mr. Garfield on a proposition to modify a house resolution: "I hope that will be done. The senate resolutions are short and crisp." For much the same reason, the committees of conference, which follow a disagreement between the house and the senate, generally result in verbal concessions by the senate and very material concessions by the house. There is no other warrant for the term "lower house." — MEMBERSHIP. The constitution provides that members of the house must be twenty five years of age, citizens of the United States for seven years, and inhabitants of the states in which they are chosen. There is nothing, therefore, in the constitution to prevent the choice by a district of an inhabitant of some other district in the same state; and any further restriction by a state legislature in this direction would seem plainly illegal and extra-constitutional. It has, therefore, often been suggested that able men outside of the district should be chosen as representatives, somewhat as in Great Britain; but the only approach to this has been the system of electing all the congressmen of a state by "general ticket," voted on throughout the state. The apportionment act of June 25, 1842, whose second section for the first time directed that representatives should be chosen by districts "formed of contiguous territory, no one district electing more than one representative," broke up this general ticket system. — The admission of delegates from the territories, with the power to debate (but not to vote), to make motions (except to reconsider), and to act on committees, was begun in the case of the northwest territory by the congress of the confederation (see ORDINANCE OF 1787), and has been continued by law in the case of other territories since. It has no constitutional sanction, and rests only on the control by the house of its own floor. Jan. 7, 1802, the first rule to admit to the floor others than members was adopted; it admitted "senators, officers of the general and state governments, foreign ministers, and such persons as members might introduce." It was gradually enlarged until it was fixed in its present form, March 19, 1860; it now includes the president and vice-president, their private secretaries, supreme court judges, members of congress and members elect, contestants, the secretary and sergeant-at-arms of the senate, heads of departments, foreign ministers, governors of states, the architect of the capitol, the librarian of congress and his assistant, persons who have received the thanks of congress, ex-members, and clerks of committees. — The number of members is fixed by law after each census. (See APPORTIONMENT.) A quorum is a majority of the members chosen, and not of those apportioned. Their pay is $5,000 per annum, with twenty cents per mile going and returning. That of the speaker is fixed at $8,000. — ORGANIZATION. The list of members of a new house is, by law, made up by the clerk of the last house, who calls the members elect to order at noon of the day on which they are to meet. If a quorum answers the roll, the house proceeds to elect a speaker as the clerk calls his roll. The speaker is then sworn in, usually by the oldest member of the house; he administers the oath to the members and delegates; and the house is organized. From a box con-

taining marble balls, consecutively numbered, a page then draws one at a time, and as each is drawn, and its number called, the member whose name is opposite the number chooses his seat. There are very many changes, however, by mutual agreement.—OFFICERS. The principal officers of the house are the speaker, the clerk, the sergeant-at-arms, the doorkeeper, the postmaster, and the chaplain. The speaker's power is enormous. He is usually a skilled parliamentarian, and, backed by skill, prestige, and the party majority which elected him, his decision is generally final. He appoints the committees, except when otherwise ordered by the house, and almost all the work of the house depends on the committees. By law he is next to the president of the senate in the succession on the decease or disability of the president and vice-president; but in practice he is, next to the president, the most important officer of the government. The clerk is the secretary of the house, the doorkeeper its janitor, and the sergeant-at-arms its treasurer and keeper of the peace; but their functions are much more complicated and difficult than these general terms would indicate. In any unusual disorder the sergeant-at-arms carries his "mace" among the members to recall them to order. This symbol of his office was first ordered by a house resolution, April 14, 1789. It consisted of the *fasces*, in ebony, bound with silver bands in the middle and at the ends, each rod ending in a spear head; at the end a globe of silver, and on the globe a silver eagle, ready for flight. The whole mace was three feet in length. It was destroyed in the fire of Aug. 24, 1814 (see CAPITAL, NATIONAL), and a substitute of common pine, painted, took its place until 1842. The present mace, after the original design, was then procured. — RULES. (See PARLIAMENTARY LAW.) The house is governed by the rules of parliamentary practice comprised in Jefferson's Manual, as modified by the standing rules and orders of the house and joint rules of the senate and house. The rules of the house are so contrived as to be one factor in throwing the control of the house into the hands of a few so-called "leaders," whose chief title to that position is their knowledge of these "house rules." The other factors are the power of the committees, and the general practice of writing during sessions by the members. The power of the committees comes very largely from the fact that so much of the business which the house tolerates is not properly public business at all, but private business, which interferes with and throws back the legitimate business of the house, and makes the activity and favor of the committee more important to a claimant than the hurried vote of the house itself. Many efforts have been made to exclude writing desks from the hall, and provide writing accommodations for the members near at hand. This was actually ordered by the house at the end of the session of 1858–9, but at the next session the house returned to the old arrangement. (See CONGRESS, SESSIONS OF.) — The *Rules of the House*, and its *Parliamentary Practice*, have been digested and published by H. H. Smith, the journal clerk, under the act of March 3, 1877 Further authorities will be found under articles referred to; the act of June 25, 1842, is in 5 *Stat. at Large*, 491. ALEXANDER JOHNSTON.

HOUSTON, Samuel, was born near Lexington, Va., March 2, 1793, and died at Huntersville, Texas, July 25, 1863. He removed to Tennessee in 1807, was adopted into the Cherokee tribe of Indians, but left them and studied law at Nashville. He was a democratic congressman 1823–7 and governor 1827–9, but rejoined the Cherokees in Arkansas before his term was ended. He emigrated to Texas in 1833, and as commander-in-chief defeated Santa Anna at San Jacinto, April 2, 1836. He was president of the republic of Texas 1836–8 and 1842–4, United States senator 1846–59, and governor 1859–61. (See TEXAS.) A. J.

HUNGARY. (See AUSTRIA-HUNGARY.)

HUNKERS (IN U. S. HISTORY), a name taken originally by conservative democrats in New York state, but used occasionally also in other states. — Although the name was not used until about 1844, the faction to which it was applied may be traced through New York history from 1835 until 1860, in opposition successively to the "loco-foco" faction, the radicals and the barnburners; and finally divided into the "hards" and the "softs." In all these divisions the hunkers represented merely the inertia of the state democratic party, and its dislike to the introduction of new questions. From 1835 until 1840 the hunkers, though not yet named, were opposed to the loco-foco war on bank charters (see Loco-Foco), but yielded so far as to pass a satisfactory state banking law in 1838. From 1840 until 1846 they opposed, with the same final want of success, the demand of the radicals for a revision of the state constitution, an elective judiciary, and a cessation of unprofitable canal enterprises. From 1846 until 1852 they were finally successful, though at first defeated, in opposing the maintenance of the state branch of the democratic party in antagonism to the national party. (See BARNBURNERS, FREE-SOIL PARTY.) After 1852 the Marcy portion of the hunkers, commonly called "softs," supported the Pierce administration, while the Dickinson wing, the "hards," opposed it. During the civil war the latter were generally "war democrats." During the last eight years of the period 1835–60, the division line was fainter, but in general the hunker leaders were Daniel S. Dickinson, Edwin Croswell, Wm. C. Bouck, Wm. L. Marcy, Horatio Seymour, and Samuel Beardsley; and their leading opponents were Martin Van Buren, Silas Wright, A. C. Flagg, John A. Dix, Reuben E. Fenton, Samuel Young, and Michael Hoffman. (See also ALBANY REGENCY.) ALEXANDER JOHNSTON.

I

IDAHO, a territory of the United States, part of the Louisiana cession. (See ANNEXATIONS, I) It was originally a part of the territory of Oregon, was then transferred to the territory of Washington, and was organized as a separate territory, March 3, 1863. As first organized it covered 326,373 square miles; but, since then, the whole territory of Montana, and nearly the whole territory of Wyoming, have been taken from it. It now comprises 86,294 square miles, lying between Washington territory and Oregon on the west, Montana and Wyoming on the east, British Columbia on the north, and Utah and Nevada on the south. Its population in 1880 was 32,610. The capital is Boise City, and the governor John B. Neil.—The act of March 3, 1863, is in 12 *Stat. at Large*, 808. ALEXANDER JOHNSTON.

ILLINOIS, a state of the American Union, formed mainly from territory ceded by Virginia, March 1, 1784. The extreme northern part of the state formed part of the territory ceded to the United States by Massachusetts and Connecticut in 1785–6. From Indiana territory, comprising all of these cessions outside of the modern state of Ohio, the territory of Illinois was erected by act of Feb. 3, 1809, comprising the modern states of Illinois, Wisconsin and part of upper Michigan. (See TERRITORIES, ORDINANCE OF 1787, INDIANA.) —April 18, 1818, an enabling act was passed by congress authorizing the formation of a state government by the inhabitants of that part of Illinois territory included within the following boundaries: "Beginning at the mouth of the Wabash river, thence up the same, and with the line of Indiana, to the northwest corner of said state; thence east, with the line of the same state, to the middle of Lake Michigan; thence north, along the middle of said lake, to north latitude forty-two degrees thirty minutes; thence west to the middle of the Mississippi river, and thence down, along the middle of that river, to the confluence with the Ohio river; and thence up the latter river, along its northwestern shore, to the beginning." —In accordance with the enabling act, a convention was held at Kaskaskia, Aug. 26, 1818, and adopted the first constitution of the state of Illinois. It gave the right of suffrage to all white males over twenty-one years old on six months residence; fixed the governor's term of office at four years, but prohibited his immediate re-election; prohibited slavery; and fixed the seat of government at Kaskaskia (since changed to Springfield by the legislature). Under this constitution the state was admitted by joint resolution, Dec. 3, 1818. A more symmetrical constitution was adopted in convention at Springfield, Aug. 31, 1848, and ratified by popular vote March 5, 1849. It prolonged the residence necessary for electors to one year, and prohibited the immigration of free negroes into the state or the bringing of slaves into the state to be emancipated. The present constitution was adopted in convention at Springfield, May 13, 1870, and ratified by popular vote, July 2, 1870. Its leading objects were to limit the powers of the legislature and to establish the powers of the state over railroads and other corporations. It forbade special legislation by the legislature in a number of specified cases, the contraction of indebtedness by municipal corporations to an amount in excess of 5 per cent. of their taxable valuation, municipal subscriptions or loans of credit to private corporations, the bringing of suits against the state in its own courts, or the consolidation of parallel or competing railroads; and it declared all railroads hereafter constructed to be public highways, authorized the passage of laws limiting railroad rates, and placed warehouses under state control. It also provided for minority representation as follows: "In all elections of representatives, each qualified voter may cast as many votes for one candidate as there are representatives [three in each senatorial district] to be elected, or may distribute the same or equal parts thereof, among the candidates, as he shall see fit; and the candidates highest in votes shall be declared elected" (See CONSTITUTIONS, STATE.) —The political history of Illinois was for a long time very much influenced by its southern vote. So late as 1850, 16 per cent. of the population of the state was born in southern states, and over half of this fraction was from Kentucky and Tennessee. Geographical names still show the influence of this immigration, particularly in the southern part of the state, commonly called "Egypt"; but soon after 1850 the current of immigration began to come more rapidly from the east. In 1870 this proportion had decreased to 9 per cent. The general rule, however, has been that the southern part of the state has been democratic, and the northern part anti-democratic. —In national politics the electoral votes of Illinois were invariably democratic until 1860, and have been as invariably republican including and since that year. (See DEMOCRATIC PARTY, V.) In 1848 and 1856 the democratic electoral ticket was successful only by a plurality; in all other years the successful ticket has had a clear majority. —The congressional elections have followed the course of the presidential elections quite closely. Until 1834 they were regularly democratic. After that year two of the three districts were usually democratic, and one (the northern district) whig by a small majority. The census of 1840 gave the state seven representatives; until 1852, six of these were democratic and one whig. The whig district lay along the Sangamon river. It was represented in 1847–9 by Abraham Lincoln, in 1849–51 by E. D. Baker, and in 1851–5 by Richard Yates. Douglas' district lay west and southwest

of it. In 1852, under the new apportionment, the first break was made in the democratic districts by the increase of the free-soil vote. Of the nine representatives, four were so-called northern whigs, afterward anti-Nebraska men and republicans. Their districts embraced the old Sangamon district and thence all the northern and northeastern part of the state, except the Chicago district, which was narrowly carried by John Wentworth, then a democrat. In 1854 the republicans really gained a district farther south by the election of Lyman Trumbull, an anti-Nebraska democrat. The legislature, which was anti-Nebraska, sent Trumbull, who was now a republican, to the senate, the first anti-democratic senator from Illinois. The southern part of the state still remained democratic, and until 1864 congressional elections regularly resulted in heavy democratic majorities in the south, heavy republican majorities in the north, and very small democratic majorities in the centre of the state. In 1858 the election of the state legislature, which was to choose a senator to succeed Douglas, assumed a national importance. Douglas and Lincoln spoke throughout the state in joint debate, and, though Lincoln was beaten, the ability, clearness and simplicity of his speeches gave him a national prominence and the republican nomination for the presidency in 1860. In that year Illinois was called upon to choose between two of her own citizens, Lincoln and Douglas, for the presidency; her electoral vote, after a close contest, was given to Lincoln, but the congressional districts remained as before. The census of 1860 gave the state fourteen representatives; of these the republicans elected those from the five northern districts in 1862, and the democrats the rest, including the congressman at large. In 1864 the republicans carried ten districts and elected the congressman at large. This result was largely due to the accession of war democrats, several of whom carried southern districts hitherto democratic. The congressional proportions then remained almost unchanged until 1874, when eight of the nineteen districts became democratic, seven republican and four independent, two of the democratic districts being in the north. In 1878 the congressional proportion became thirteen republican representatives to six democratic, as it has since remained (to 1883), the democratic districts being still in the southern part of the state. — In state politics every governor until 1857 was a democrat, and every governor since that year has been a republican. Until 1854, when an anti-Nebraska legislature was chosen, the legislatures were democratic; since that year they have been quite steadily republican, and have elected republican United States senators with three exceptions. In 1858, as above stated, Douglas was elected to the senate. In 1863 Wm. A. Richardson, a democrat, was chosen to serve out Douglas' unexpired term. In 1877 David Davis, an independent, was sent to the senate by a combination of democrats and independents. The system of minority representation in the lower house of the legislature, above referred to, went into operation in 1872, and worked so exactly as to give each party within four-tenths of one per cent. of its legitimate representation, according to its vote for governor. Since 1872 the only important movement in strictly state politics has related to the attempts to control and limit the rates of the railroads of the state, in accordance with the provision of the constitution of 1870 under that head. Several state judges gave decisions unfavorable to the constitutionality of the railroad laws, and efforts were successfully made to prevent the re-election of the offending judges. The case of Chief Justice C. B. Lawrence was the most notable. — Three of the most distinguished leaders in American politics, Abraham Lincoln, Stephen A. Douglas and Ulysses S. Grant, have been citizens of Illinois. (See those names.) The names of others, prominent in state and national politics, will be found in the list of governors of the state. In addition to these, brief reference should be made to Edward D. Baker, whig representative in 1845–6, and 1849–51, senator from Oregon 1860–61, killed at Ball's Bluff; Sidney Breese, democratic senator, 1843–9, state circuit judge 1855, and chief justice 1873; Orville H. Browning, republican United States senator 1861–3, afterward secretary of the interior (see ADMINISTRATIONS); John F. Farnsworth, republican representative 1857–61 and 1863–73; Ebon C. Ingersoll, republican representative 1864–71; Robert J. Ingersoll, noted as a republican orator; John A. Logan, democratic representative 1859–61, republican congressman at large 1867–71, and United States senator 1871–7 and 1879–85; John A. McClernand, democratic representative 1843–51 and 1859–61; James Shields, democratic United States senator 1849–55; Lyman Trumbull, republican United States senator 1855–73; Elihu B. Washburne, whig and republican representative 1853–69, and minister to France 1869–77; and John Wentworth, democratic representative 1843–51 and 1853–5, and republican representative 1865–7. — The name of the state was given from that of its principal river, the Illinois, which is said to have been named from the Illini, an Indian tribe formerly living near it. The popular name for the state is the "prairie state," and for the people "suckers." The latter term, of doubtful derivation, is accepted without demur by the people of Illinois. — GOVERNORS: Shadrach Bond (1818–22), Edward Coles (1822–6), Ninian Edwards (1826–30), John Reynolds (1830–34), Joseph Duncan (1834–8), Thomas Carlin (1838–42), Thomas Ford (1842–6), Augustus C. French (1846–53), Joel A. Matteson (1853–7), William H. Bissell (1857–61), Richard Yates (1861–5), Richard J. Oglesby (1865–9), John M. Palmer (1869–73), Richard J. Oglesby (1873, resigned), John L. Beveridge (1873–7), Shelby M. Cullom (1877–85). — See Poore's *Federal and State Constitutions*, and *Political Register;* Reynolds' *Pioneer History of Illinois* (to 1818); Birkbeck's *Letters from Illinois* (1818); Ford's *History of Putnam* [and other] *Counties*

(1860); Beck's *Gazetteer of Illinois* (1823); Edwards' *History of Illinois* (to 1833); Mitchell's *Illinois in* 1837; Brown's *History of Illinois* (to 1844); Ford's *History of Illinois* (to 1847); Carpenter's *History of Illinois* (to 1854); Gerhard's *Illinois as it is* (1857); Eddy's *Patriotism of Illinois;* Wright's *Chicago* (1870); Davidson and Stuvé's *History of Illinois* (to 1873); Matson's *French and Indians of the Illinois River* (1875); the act of Feb. 3, 1809, is in 2 *Stat. at Large,* 514; the act of April 18, and the resolution of Dec. 3, 1818, are in 3 *Stat. at Large,* 428, 536; Porter's *West in* 1880, 157.

ALEXANDER JOHNSTON.

IMMATERIAL PRODUCTS. To "produce," in the economic sense of the word, is not to create matter, which is beyond human power, but a *valid* utility, that is to say, one that may be exchanged for other utilities. Now utility in itself has nothing material in it; it is a quality, a property which only exists by its relation to our wants. From this point of view all products without exception are immaterial; but it has been thought desirable to distinguish, among the utilities produced, those directly connected with man, and these have been called "immaterial products." — Adam Smith, Malthus, and other economists, did not admit this last class of products. Smith, while recognizing the utility and even the necessity of the services of functionaries, magistrates, the army, etc., did not admit that these services were productive. "Their service," he says, "how honorable, how useful or how necessary soever, produces nothing for which an equal quantity of service can afterward be procured. The protection, security and defense of the commonwealth, the effect of their labor this year, will not purchase its protection, security and defense for the year to come. In the same class must be ranked, some both of the gravest and most important, and some of the most frivolous professions: churchmen, lawyers, physicians, men of letters of all kinds; players, buffoons, musicians, opera singers, opera dancers, etc. The labor of the meanest of these has a certain value, regulated by the very same principles which regulate that of every other sort of labor; and the labor of the noblest and most useful of these professions produces nothing which could afterward purchase or cause an equal quantity of labor to be performed. Like the declamation of the actor, the harangue of the orator, or the tune of the musician, the work of all of them perishes at the very instant of its production." — Malthus thought that "from the moment the line of demarcation between material and immaterial objects is taken away, the explanation of the causes which determine the wealth of nations and every means of appraising it become extremely difficult, if not impossible." — J. B. Say thus sums up the characteristics which seem to him to distinguish the products in question: "An immaterial product," he says, "is any sort of utility which is unconnected with any material body, and which consequently is consumed as soon as produced. Certain immaterial products, although consumed as soon as produced, are susceptible of accumulation, and consequently of forming capital when their consumed value is met with and fixed on a durable basis (*fonds*). It is thus that the oral lesson of a teacher of the art of healing is reproduced in the industrial faculties of those of his pupils who have profited by it. This value is then attached to a durable subject, the pupil." M. Dunoyer seems to us to have considerably elucidated and perfected the idea of immaterial products; he does not admit that they are consumed as soon as produced, and he thinks that this statement has only been made on account of a want of distinction between work and its results. M. Dunoyer has himself recalled in his article headed "Production," the theory evolved by him on this subject in his great work on "Freedom of Labor." His observations seem to us completely justified; but great care must be taken, in considerations relative to the class of products which we are dealing with, never to forget the distinction between labor and its results, a point on which in some respects, perhaps, M. Dunoyer has not sufficiently insisted. It is certain that all useful labor is productive, and that everything which can satisfy our various wants or assist in perfecting our intellectual or moral nature is useful; but the labor performed on man or his faculties, which, to use M. Dunoyer's expression, has man for its subject, is far from being always useful and productive. Too often, on the contrary, this labor is not only useless and unproductive, but to the last degree hurtful and destructive. It is then absolutely necessary, before deciding if labor having man for its subject is or is not productive, to examine its object and its results.— An armed force, used exclusively, according to the need there may be of it, in preserving national independence, in assuring internal tranquillity and respect of persons and property, performs an unquestionably productive labor; for, on the one hand, it represses collective or individual violence with all its accompanying evils; while, on the other hand, it gives to all that feeling of security which is indispensable to activity and productiveness in labor. But an army which should become the tool of the ambition, pride or vanity of certain personages; which should serve to maintain at home an oppressive and grasping rule, and to carry abroad war and its devastations, would no longer be a productive force, but a scourge.— Magistrates who conscientiously fulfill their duty, who administer with rigid impartiality the laws of justice as the general condition of enlightenment has established them, are eminently producers; for they contribute to insure to the nation security and at the same time to perfect the morality of the people. But a magistracy which should make itself the accomplice of a destructive and tyrannical power, would by so doing only contribute to produce evils of every description.— A civil administra-

tion which applied itself to attending to, by efficacious means, but as simple and as little costly as possible, collective interests of such a nature that they could not be left with advantage to the care of individual activity; to collecting the taxes which the public service might render indispensable; to protecting without harassing the regular growth of general activity; to preventing dangers or hurtful acts in the few cases where the evil resulting from preventive measures would not equal or exceed that which the action is taken to prevent, would fulfill a mission whose usefulness and consequently whose productiveness could not be contested. But an administration, which, instead of confining its efforts to protecting, in the best way possible, the free and legitimate application of general activity, should pretend to direct and regulate it on all points; which supposed itself authorized in many cases to take from some to give to others; which, in order to extend its action everywhere, should complicate more and more the public service, and should without stay or limit increase the personnel of the administration, would only succeed by such a course in trammeling all useful works, in producing a forced and unjust distribution of part of the values produced, a more and more energetic and general desire for public employment, a progressive increase in the parasite population, the weakening and discouragement of productive activity in proportion to the development given to destructive activity, and finally, the insecurity and disorders inseparable from all these causes of disturbance. Such an administration, taken as a whole, would little merit to be considered productive of utility.— Ministers of a religion, who, to propagate their faith or their beliefs, used no other arm than persuasion, the only one for that matter of any avail; who made themselves the teachers of ethics and the consolers of their adherents; who, by the help of religious sentiments, strove to elevate and purify more and more their intelligence and their habits, to develop and enlighten their better feelings, to resist and diminish their evil and mischievous propensities—in a word, to direct their desires, their tendencies and their activity into the path most beneficial for all, would undoubtedly be the most valuable of all producers, the most worthy of respect and veneration; for they would contribute more than all others to the perfecting of human life, to raising men to the highest level it is given them to attain. But a clergy who, to establish their influence, counted less on persuasion than on authority; who lacked the necessary enlightenment to enable them to act on the affective faculties of their followers in such a way as to improve them and wisely guide their natural tendencies; who, besides, ignored the importance of this part of their mission and devoted themselves mainly to obtaining a submission, a passive obedience, voluntary or forced, to all the tenets or forms prescribed by them, and should be contented with such a result as sufficient to assure their power and serve their temporal interests—could a clergy, we ask, who employed such means for such an object, be fitly classed among producers? — The same may be said about the labor of the teacher, the professor, the man of letters, or the artist. We might ask if secondary education, as it exists in France for example, is in accordance with the needs or the real interests of the population; if the study and praise bestowed on the manners, the institutions, the opinions and the actions of the ancient peoples of Greece and Rome, are well fitted to make honorable and useful citizens; if the ideas drawn from such teaching are really utilities; if there might not be something better to teach, etc. We might ask if all authors, poets and artists have a good effect in improving the mind, elevating the soul, or refining the taste; but the reader can easily supply for himself what is here omitted. What has been said seems to us sufficient to establish our statement that all labor which has man as its object is not productive. And that to distinguish such as is from such as is not, it is necessary to examine its results.— It is of importance, however, to explain that utility "can not be estimated in political economy as it is in ethics, and that we must recognize here as useful everything which has an exchangeable value. There must in consequence be admitted as veritable products, all the results of the labors of the author, the artist, the doctor, etc., to which the public attaches a price freely agreed upon, even when to the eyes of reason some of these results are worth nothing or less than nothing, but it is quite otherwise with the labor whose wages are not freely determined, and the results of which men are forced to accept, whatever they may be, such as those regulated by authority; the effects of this labor have no price current which the economist is obliged to accept, whether reasonable or not, and their appraisement is entirely a matter for the decision of enlightened reason.

A. CLÉMENT.

IMMIGRATION. (See EMIGRATION.)

IMPEACHMENTS (IN U. S. HISTORY). The constitution only provides that the house of representatives shall have the sole power of impeachment of the president, vice-president, and "all civil officers of the United States"; that the senate shall have the sole power to try impeachments; that judgment, to be given by two-thirds of the senators present, shall only involve removal from, and disqualification to hold, office under the United States; that a person convicted shall not be pardoned by the president, and shall still be liable to indictment and punishment at law. When the president of the United States is tried, the chief justice presides over the senate.—The constitution has not attempted to ascertain and classify the offenses which are impeachable. It has only stated (Art. I., § 3, ¶ 7) that "the party convicted shall, nevertheless, be liable and sub-

ject to indictment, trial, judgment, and punishment according to law;" and (Art. II., § 4) that "the president, vice-president, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors." From this omission of specification two antagonistic opinions have arisen. 1. It is held that the power of impeachment extends only to such offenders as may afterward be indicted and punished according to law; that is, that the house can only impeach, and the senate remove, for indictable offenses. This would make the power of impeachment defined and circumscribed. 2. On the contrary, it is held that the phrase "high crimes and misdemeanors" was intentionally left undefined in order that the power of impeachment might embrace not only indictable offenses, but also that wider and vaguer class of political offenses which the ordinary courts of law can not reach. This would make the power of impeachment under the American constitution closely similar to that which has been exercised under the British constitution. It would then include all misdemeanors which might seem to a majority of the house, and to two-thirds of the senate, so heinous or so disgraceful as to make the offender's exclusion from office necessary to the well-being of the country; and the punitive effect of the popular vote would be relied upon to deter a dominant party from abusing the power for selfish ends. The best results have probably been reached by leaving the question open to individual judgment. — Many minor questions are still unsettled, and will probably long remain so. 1. It can not be considered settled that an office-holder may escape impeachment for acts done while in office, by resignation, expulsion, or the close of his term of office. The point was made, but not decided, in Blount's case (see I.), and although it prevented a two-thirds majority in Belknap's case (see VII.), the power of impeachment was there maintained by a very decided majority of the senators, including nearly all the ablest lawyers of the senate. On the one hand is the provision that only "civil officers" are liable to impeachment; and the conjunction of "removal from office *and* disqualification" would seem to imply that the removal was the first essential to punishment, and that disqualification could not be inflicted where removal had for any reason become impossible. On the other hand is the obvious objection, on the score of public policy, to allowing a suddenly discovered criminal in office to escape impeachment by an aptly timed resignation. 2. Blount's case has apparently settled that senators and representatives are not impeachable; but the decision in that case was made against strong opposition at the time, and has been repeatedly objected to since. In favor of the decision is the language of the constitution; it limits the power of impeachment to "the president, vice-president, and all civil officers," but in other places mentions members of congress and "civil officers" in distinct categories. Against it is the decision by the senate, in January, 1864, that an oath prescribed for "civil officers," by the act of July 2, 1862, must be taken by senators also. 3. The power of the senate to arrest the accused, or "sequester" or suspend him from office, pending judgment on the impeachment, is very doubtful, and is defended mainly by parallel with the practice in English impeachments. The language of some of the framers of the constitution and their contemporaries, however, goes to show that they considered the power of suspension to be in the senate; and Senator Sumner, on Johnson's trial, argued that the selection of the chief justice to preside over the trial of a president was not because the vice-president was supposed to be an interested party, but because he was presumed to be engaged in performing the duties of the president during the necessary suspension of the latter from office. The power of arrest was exercised by the senate, though under peculiar circumstances, in Blount's case. It is, however, usually a power not necessary to secure attendance, since the only judgment in case of conviction is the stigma of inability to hold office, and punishment does not extend to death or deprivation of property; nor, in any event, is the attendance of the accused necessary; since he may be tried and condemned in his absence, as in Blount's, Pickering's and Humphreys' cases. (See I., II., V.) 4 Can an unjust conviction on impeachment ever be reversed by a subsequent congress? This is a question which has never been raised, and the now acknowledged equity of the whole line of senatorial decisions in impeachment cases gives strong reason for hope that it will never be necessary to raise it. — The impeachment cases in our national history are given below. It has not been considered necessary to go into impeachments by state legislatures, but reference is made among the authorities to several important cases of this kind. — I. WILLIAM BLOUNT. July 3, 1797, the president sent to congress a number of papers on the relations of the United States and Spain. Among them was a letter from United States Senator Blount, of Tennessee, to an Indian agent among the Cherokees, from which it appeared that Blount was engaged in a conspiracy to transfer New Orleans and the neighboring territory from Spain to Great Britain, by means of a British fleet and a land force to be furnished by Blount. On receipt of notice that the house intended to impeach him, the senate at first put him under $50,000 bonds to appear for trial, but afterward expelled him, July 9. His sureties then surrendered him to the senate, but he was again released on decreased bail. The whole of the next session, Nov. 13, 1797 – July 16, 1798, hardly sufficed for the preparation of the five articles of impeachment, which were finally brought to trial, Dec. 24, 1798. Blount, who had in the meantime been elected to the senate of his state, did not appear, but his counsel plead, 1, that, as senator, he was

not a "civil officer" liable to impeachment, and, 2, that, since his expulsion he was no longer a senator. The senate sustained the first plea, and Blount was acquitted for want of jurisdiction. — II. JOHN PICKERING. March 3, 1803, the house impeached Judge Pickering, of the federal district court for the district of New Hampshire. The four articles against him charged him with decisions contrary to law, and with drunkenness and profanity on the bench, and were tried by the senate at once. Judge Pickering did not appear, but his son attempted to prove his father's insanity. The managers on the part of the house, in reply, maintained that the insanity was a consequence of his habitual drunkenness. He was convicted March 12, by a party vote, the federalists voting in the negative, and removed; the further disqualification to hold office was not inflicted. — III. SAMUEL CHASE. One of the ablest of the federal justices of the supreme court was Chase, of Maryland, appointed Jan. 27, 1796. The practice of adding disquisitions on current politics to charges to grand juries was then common with American judges, as it had long been in Great Britain; and after the downfall of the federal party in 1801 Chase kept up the practice with a bitterness and ability equally displeasing to the dominant party. In the house, Jan. 5, 1804, Randolph obtained a committee to investigate Chase's official conduct; and on their report Chase was impeached, Nov. 30, 1804, and Randolph was appointed chief manager. The articles of impeachment were presented to the senate, Dec. 7, 1804, and the trial was begun Jan. 2, 1805 There were eight articles. 1, for arbitrary and unjust conduct in the trial of John Fries for high treason, in April, 1800, in refusing to allow the prisoner's counsel to argue various law points, and in announcing his opinion as already formed, so that the prisoner's counsel threw up the case; 2, for refusing to excuse a juror who had prejudged the guilt of J. T. Callender, in a trial under the sedition law, in May, 1800, at Richmond; 3, for refusing to allow one of Callender's witnesses to testify; 4, for interrupting and annoying Callender's counsel, so that they abandoned his case; 5, for arresting, instead of summoning, Callender in a case not capital; 6, for refusing to allow Callender a postponement of his trial; 7, for urging an unwilling Delaware grand jury to find indictments under the sedition law; and 8, for "highly indecent and extra-judicial" reflections upon the government of the United States before a Maryland grand jury. The eighth article covered his real offense; the others were the fruits of the committee's zealous research into his past official life. — The defense disproved very much of the matter alleged, and as to the remainder Chase's counsel argued successfully that his conduct had been "rather a violation of the principles of politeness than of the principles of law; rather the want of decorum than the commission of a high crime and misdemeanor." On the 3d, 4th and 8th articles Chase was pronounced guilty by a small majority, the largest, 19 to 15, on the 8th; on the other articles a majority found him not guilty; and as a two-thirds majority was not given for any article, he was pronounced not guilty on all, March 1, 1805. The result of the trial led to some efforts on the part of the democratic leaders to change the tenure of federal judges. (See JUDICIARY, VII.) Judge Chase held his seat on the bench until his death, June 19, 1811. — IV. JAMES H. PECK. Dec. 13, 1830, Judge Peck, of the federal district court for the district of Missouri, was tried on an impeachment passed by the house at the previous session. The article against him alleged arbitrary conduct, in 1827, in punishing for contempt of court an attorney who had published a criticism of Judge Peck's opinion in a land case. In this case the vote of the senate was 21 guilty, 24 not guilty, and Judge Peck was acquitted. — V. WEST H. HUMPHREYS. At the outbreak of the rebellion the district judges of the federal courts in the seceding states, and one of the justices of the supreme court (James A. Campbell, of Alabama), resigned. Justices Catron, of Tennessee, and Wayne, of Georgia, notwithstanding the secession of their states, retained their positions as justices of the supreme court, and their loyalty was never questioned. On the other hand, Judge Humphreys, of the federal district court of Tennessee, while actively engaged in the rebellion, had not resigned, and impeachment became necessary in order to vacate his position. Recourse was had to a secession speech made by him in Nashville, Dec. 29, 1860, and this, and his acceptance of the office of confederate judge, were made the basis of seven articles of impeachment by the house, on which he was convicted by a unanimous vote of the senate, June 26, 1862 —VI. ANDREW JOHNSON. Jan. 7, 1867, Jas. M. Ashley, of Ohio, submitted a resolution in the house directing the judiciary committee to investigate his charge that President Johnson had corruptly used the appointing power, the pardoning power, the veto power, and the public property, and had corruptly interfered in elections. The house adopted the resolution, and five of the nine members of the committee reported, Nov. 25, 1867, in favor of impeachment. Their resolution to that effect was lost, Dec. 7, by a vote of 56 to 109. — In March, 1867, congress had enacted (see TENURE OF OFFICE) that civil officers "holding or hereafter to be appointed" to any office by confirmation of the senate, should retain office until a successor should be confirmed by the senate, except that cabinet officers, unless removed by consent of the senate, should "hold their offices for and during the term of the president by whom they may have been appointed, and for one month thereafter." At the same time congress had practically taken the command of the army from the president (see RECONSTRUCTION), and had made the secretary of war really independent of, as well as irremovable by, the executive.—All the cabinet, except the secretary of war, E. M. Stanton,

seem to have been in sympathy with the president in March, but the estrangement between Stanton and Johnson increased so rapidly that the president suspended the secretary of war, Aug. 12, 1867, as he was allowed to do, by the tenure of office act, while the senate was not in session, and appointed the general of the army, U. S. Grant, secretary *ad interim*. Within twenty days after the senate should meet, the president was required by the tenure of office act to lay before the senate his reasons for any suspension during its intermission; in Stanton's case he did so, and the senate, Jan. 13, 1868, by a party vote of 35 to 6, nonconcurred in Stanton's suspension. Gen. Grant at once notified the president that his functions as secretary *ad interim* had ceased. Secretary Stanton immediately resumed his place, and kept it throughout the subsequent proceedings until May 26, when he finally relinquished it. — The suspension of Stanton was a mistake, in so far as it recognized the mode of procedure laid down in the tenure of office act, since the vital point in Johnson's case was the applicability of that act to Secretary Stanton. The president, indeed, asserted that Gen. Grant had promised to hold the office in spite of the senate's non-concurrence, and thus force Secretary Stanton, by an appeal to the courts, to test the constitutionality of the act; and the assertion was sustained by all the cabinet officers except Stanton, but was denied by Gen. Grant. The plan, which had been baulked by Grant's surrender of the office to Stanton in January, was resumed in February with a more reliable instrument, and apparently with better legal advice. Feb. 13, the president desired Gen. Grant to appoint Gen. L. Thomas adjutant general, and the appointment was made. Feb. 21, the president removed Stanton, as if the tenure of office act did not apply to his case, and appointed Thomas secretary of war *ad interim*, under the law of Feb. 13, 1795, which allowed the appointment of such officers, in emergencies, for not more than six months, without confirmation by the senate. Stanton refused to vacate the office, and notified the speaker of the house of his attempted removal. Feb. 24, the house adopted a resolution of impeachment by a vote of 126 to 42, and on the following day a committee impeached the president at the bar of the senate. By tacit consent, all attempts to obtain possession of the war department were dropped to abide the result of the impeachment. — The house managers of the impeachment were John A. Bingham of Ohio, Geo. S. Boutwell and Benj. F. Butler of Massachusetts, Jas. F. Wilson of Iowa, Thomas Williams and Thaddeus Stevens of Pennsylvania, and John A. Logan of Illinois. — The president's counsel were Henry Stanbery and W. S. Groesbeck of Ohio, Wm. M. Evarts of New York, Thos. A. R. Nelson of Tennessee, and Benj. R. Curtis of Massachusetts. March 4, the managers presented eleven articles, impeaching the president of the following high crimes and misdemeanors: 1. The issuance of an order removing Stanton, with intent to violate the tenure of office act, after the senate had refused to concur in his suspension; 2, the issuance of an order to Thomas to act as secretary of war *ad interim* while the senate was in session, no "vacancy existing" in the war department, with intent to violate the tenure of office act and the constitution, and 3, without authority of law; 4, conspiracy with Thomas and other persons with intent, by intimidation and threats, to prevent Stanton from acting as secretary; 5, to prevent the execution of the tenure of office act; 6, to seize the war department's property by force, and, 7, to violate the tenure of office act; 8, the appointment of Thomas with intent to control unlawfully the disbursement of the war department's moneys; 9, an attempt to induce Gen. Emory, commanding the department of Washington, to disobey the act above referred to, regulating the issuance of orders to the army; 10, the use, in regard to congress, of "utterances, declarations, threats and harangues, highly censurable in any, and peculiarly indecent and unbecoming in the chief magistrate of the United States, by means whereof said Andrew Johnson has brought the high office of president into contempt, ridicule and disgrace, to the great scandal of all good citizens"; and 11, his public declaration that the 39th congress was no constitutional congress, but a congress of part of the states, "thereby denying and intending to deny that its legislation was obligatory upon him, and that it had any power to propose amendments to the constitution," and designing to prevent the execution of the tenure of office act, the act for the government of the army, and the reconstruction acts. The last two articles were additions to the original nine articles, based upon certain speeches made by the president during a tour to St. Louis in August and September, 1866. — The answer of the president, through his counsel, may be reduced to four heads. 1. As to articles 1–3, he averred that Stanton, having been appointed by President Lincoln, Jan. 15, 1862, having served out "the term of the president by whom he had been appointed," and never having been reappointed, was not embraced in the terms or the intention of the tenure of office act, of March 2, 1867; that Stanton had taken office and kept it "during the pleasure of the president," according to the terms of the act of Aug. 7, 1789, organizing the war department, and according to the practice of all presidents and congresses down to March, 1867; that Stanton's removal was not in violation of the tenure of office act; and that the appointment of Thomas was to fill an existing vacancy. 2. As to articles 4–7, he denied any conspiracy, any intimidation, or any authority to use force given by him to Thomas, and asserted that the only connection between him and Thomas was an order from him as superior and obedience to it by Thomas. 3. He denied the truth of article 8. 4. As to articles 9–11, he claimed the right of freedom of opinion and of freedom of speech; he asserted that his declarations to Emory

and to public meetings were identical with his messages to congress; and called attention to the fact that the allegations in these articles did not "touch or relate to any official act or doing" of the president.— The trial, beginning with the organization of the senate as a court to try the impeachment, March 5, ended March 26. Excluding the twenty senators from southern states not yet admitted, the total number of senators was fifty-four; the two-thirds vote, needed for conviction, would, therefore, have been 36 to 18. There were twelve democratic senators, all of whom were quite certain to vote not guilty, so that it was necessary that at least seven republican senators should vote against conviction on all the articles in order to secure an acquittal. Before a vote was reached it was very apparent that there were but three articles (2, 3 and 11) on which a conviction was possible. On the "conspiracy" articles (4–7), and the "Emory" article (9), the proof had failed to convince many republican senators. The "Butler" article (10) consisted of unofficial utterances of the president. On the "Stanton" articles (1, 8) several republican senators asserted that the tenure of office act was admitted at the time of its passage not to apply to President Lincoln's secretaries, Sherman, of Ohio, one of the senate conferees on the act, says in his opinion, "Can I, who still believe it to be the true and legal interpretation of those words, can I pronounce the president guilty of crime, and by that vote aid to remove him from his high office, for doing what I declared and still believe he had a legal right to do? God forbid." May 16, by order of the senate, the vote was taken on the eleventh article first, and was found to be 35 for conviction and 19 for acquittal, seven republican senators voting in the minority. The senate adjourned at once until May 26, when a vote was taken on the second and third articles, with exactly the same result as on the eleventh. The senate then adjourned *sine die*, without voting upon the other articles, and the chief justice directed a verdict of acquittal to be entered upon the record. — The strength of the eleventh article lay in its charge that the president had not faithfully executed the tenure of office act or the reconstruction acts, his declarations that congress was "not a congress" being apparently intended to show his *mala fides*. Its weakness lay in its vagueness, and in the fact that it charged the president with "designing and contriving" means to avoid the execution of the law, rather than with any overt acts. As to this article, then, the difference of opinion went mainly to the meaning of the language. The second and third articles, particularly the former, seem to have been lost because of their complication with Stanton's removal, and their statement that "no vacancy existed" when Thomas was appointed. If Stanton's removal were legal, the tenure of office act would then seem to apply to his office for the first time *after* he had been removed; and the absolute prohibition, in the second section of the act, of *ad interim* appointments, except in cases of suspension, would seem to hit the case of Thomas' appointment exactly, though even then there would have been a fair question whether the appointment were a high crime and misdemeanor. Those of the seven acquitting republican senators who filed opinions seem to have voted not guilty on these articles because of the "no vacancy" clause, and because a vote for conviction would have stultified their opinions on the first and eighth articles (Stanton's removal); but, even without the objectionable clause, it is extremely probable that they would still have voted not guilty on the general ground of want of evil intent in the president's action. The only conclusion to be drawn from the conduct of the whole case is that the house was too hasty in impeaching; if it had waited patiently for some overt act to complete the eleventh article, that article would have been impregnable, and it is difficult to see how conviction could have been avoided honestly. — VII. WILLIAM W. BELKNAP. In February and March, 1876, the house committee on expenditures in the war department, discovered that Secretary Belknap, of that department, had for six years been receiving money for the appointment and retention in office of the post-trader at Fort Sill, Indian Territory. The total amount received was about $24,450. The house voted unanimously to impeach him, March 2, 1876, but a few hours before the impeachment resolution was passed, Belknap resigned, and his resignation was accepted by President Grant. April 4, the managers of the impeachment on the part of the house appeared at the bar of the senate, and exhibited five articles of impeachment, covering the various receipts of money charged against Belknap. In his reply the defendant claimed to be a private citizen of Iowa, and denied the power of the house to impeach any one who, by resignation or otherwise, had ceased to be a "civil officer of the United States." May 4–29, the question whether Belknap was, under all the circumstances, amenable to trial by impeachment was argued and decided in the affirmative by a vote of 37 to 29; but the vote proved the hopelessness of conviction, since the minority was too large to allow a two-thirds vote of guilty. The evidence and argument on both sides continued from July 6 until August 1, when the vote stood 36 guilty to 25 not guilty on the second, third and fourth articles, 35 to 25 on the first, and 37 to 25 on the fifth article. The majority for conviction not being two-thirds, a verdict of acquittal was entered. The vote of the minority was given on the ground of want of jurisdiction. (See TENURE OF OFFICE, RECONSTRUCTION.)— See, in general, 2 Woodeson's *Lectures*, 602; 2 Bancroft's *History of the Constitution*, 193; Tucker's *Blackstone, App.* 335; *The Federalist*, lxv.; Story's *Commentaries*, §§ 686, 740, Rawle's *Commentaries*, 200; 2 Wilson's *Law Lectures*, 165, 2 Curtis' *History of the Constitution*, 171, 397; *American Law Register*, March, 1867, (Dwight's *Trial by Impeachment*); Wharton's

State Trials; Trial of Alexander Addison; 1 *Dall.*, 329; Pickering and Gardner's *Trial of Judge Prescott;* 5 Webster's *Works*, 502. (I.) 5 Hildreth's *United States*, 88, 201; 9 Cobbett's *Works; Trial of William Blount;* Wharton's *State Trials*, 200; 3 *Sen. Leg. Jour., App.* (II.) 5 Hildreth's *United States*, 510; 3 Spencer's *United States*, 53; 3 *Sen. Leg. Jour., App.; Annals of Congress*, 8*th Cong.*, 1*st Sess.*, 315–368. (III.) 5 Hildreth's *United States*, 543; 3 Spencer's *United States*, 53; 1 Garland's *Life of Randolph*, 196; Evans' *Trial of Judge Chase;* Smith and Lloyd's *Trial of Judge Chase;* 3 *Sen. Leg. Jour., App.;* 3 Benton's *Debates of Congress*, 88, 173. (IV.) Stansbury's *Trial of Judge Peck;* 10 Benton's *Debates of Congress*, 546, 556; 11 *ib.*, 24, 124. (V.) 47–49 *Congressional Globe;* 44 *Rep. House Comm.*, 37*th Cong.*, 2*d Sess.* (VI.) *Impeachment of President Johnson, published by order of the Senate;* Schuckers' *Life of S. P. Chase*, 547. (VII.) *Impeachment of Secretary Belknap, published by order of the Senate;* Appleton's *Annual Cyclopedia*, 1876, 686. For the acts of May 8, 1792, Feb 13, 1795, Feb 20, 1863, and March 2, 1867, see TENURE OF OFFICE.

ALEXANDER JOHNSTON.

IMPRESSMENT. (See EMBARGO, in U. S. History.)

IMPRISONMENT FOR DEBT. (See DEBT.)

INCOME TAX. A tax upon income has many qualities which recommend it to the economist. It accords perfectly with the first maxim of taxation as laid down by Adam Smith: "The subjects of every state ought to contribute toward the support of government as nearly as possible in proportion to their respective abilities; that is, in proportion to the revenue which they respectively enjoy under the protection of the state." It would fall upon that portion of the community which is best able to contribute to the expenses of government, for it presupposes an income, and justice demands that it shall be levied only upon income that is not essential to the existence of the payer. Moreover as a direct tax it falls more upon the richer classes than upon the poorer, for this is the general tendency of direct taxes, and this tendency is further increased by an exemption from taxation of incomes below a certain amount. An income tax may then be regarded as a compensatory tax, as a tax which is complementary to a system of indirect taxes; because indirect taxes, falling upon consumption, require a relatively greater sacrifice from the poorer classes, and as the expenditure of people upon taxed commodities bears no regular proportion to their wealth, these indirect taxes touch but slightly the rich. While an indirect tax upon consumption will reach every class in the community, an income tax will, as has already been noted, fall upon that class which is in the enjoyment of an income over and above a certain sum. But the crowning merit of a tax upon income is that, if justly assessed, it would not act upon prices, like a tax upon a commodity; nor would it affect the normal distribution and employment of capital, or interfere with the free action of labor; nor finally, would it favor any particular class or classes of the community at the expense of any other class, or of the great body of the people, the consumers—effects which are apt to be produced by indirect taxation. All this supposes that the tax is equitably levied, and were this condition possible no tax would be more in accordance with correct economic principles. It is moreover an elastic tax, for as the wealth of a people increases, the proceeds of the tax must increase, and at the present time (1882) there is no surer index of England's advance in material prosperity than the slow increase in the returns of the income tax. No objection, based upon general principles, could be raised against the assessment and collection of a moderate tax on incomes above what is necessary to existence, if it could be assessed equitably and without causing injustice to any one, and if it could be collected with facility. — But such a tax can exist only in theory, and when an attempt is made to put it in practice it becomes one of the most unequal taxes that can be imposed, the difficulties being almost wholly in the assessment. Such a tax can not, under any of the methods that have been suggested, be made an equal tax without raising up such a complex system of assessment and collection as to create insuperable obstacles to its collection. We can only approximate to an equal assessment. The first difficulty lies in the determining of what is the income to be taxed. Either the personal statement of the tax payer of the income he enjoys must be depended on, or there must be a body of trained officials for determining the income of each contributor; or the two methods must be combined. The weakness of depending upon the statement of the tax payer is at once apparent, and unless there is an open and honest declaration on the part of the individual, the tax either becomes nugatory, or arbitrary and oppressive. The interest of the tax payer will induce him to evade his share of the burden by concealing a part of or underrating his true income, and the higher the rate of the tax the greater is the inducement offered to evasion. Moreover, while the conscientious tax payer makes a full and honest return of his income, the dishonest one will seek to escape his burden, and in this way the tax will be an unequal tax. For this reason the tax has been called "a tax upon honesty and a bounty on perjury and fraud." This is illustrated by the manner of collecting this tax as now practiced in England. The bank of England when it pays the dividends on the funds deducts the income tax and credits it to the government; the salaries of those employed in the government offices and in the army and navy are definitely known to the officials, and not one of these fund holders and government employés, can escape the payment of

his full tax. The income of farmers is roughly estimated to be one-half the rental of the farm, and the tax is levied on that basis. But for the incomes of all engaged in manufacturing or other industrial enterprises, and of those engaged in professions, the statement of the interested parties must be depended upon, and undoubtedly evasion of taxation is practiced to a great extent among these classes. So that there are certain classes of the community taxed either upon their full incomes or upon a portion of them fixed on a well-defined principle, from which there can be no escape, side by side with others who may wholly escape taxation. The result is, that such a system is a discriminating and therefore unjust system, and the difficulty thus raised has never been successfully overcome. So long as the income tax rests mainly upon voluntary assessment it will be an unjust tax, and on that ground stands condemned. Yet there is one very curious instance in which this principle of voluntary assessment was carried to its fullest extent. "At Hamburg every inhabitant is obliged to pay to the state ½ per cent. of all that he possesses, and as the wealth of the people of Hamburg consists principally in stock, this tax may be considered as a tax upon stock. Every man assesses himself, and, in the presence of the magistrate, puts annually into the public coffer a certain sum of money, which he declares upon oath to be ½ per cent. of all that he possesses, but without declaring what it amounts to, or being liable to any examination upon that subject. This tax is generally supposed to be paid with great fidelity." And, Adam Smith adds, it is not peculiar to the people of Hamburg. To attempt to put into practice any such tax at the present day would be absurd, and it could never be said of it that it was paid with great fidelity. — A system of government officials to decide on a person's ability to pay, has become a necessary appendage to an income tax, and unless the rate of taxation is very low there should be some means of establishing the correctness of the individual return, and of making such corrections as may be deemed necessary. But if voluntary assessment causes inequality of taxation, an official assessment only increases this inequality, though at the same time it may serve to remedy some evils incident to such a system. Thus, in their report for 1861–2, the inland revenue commissioners gave some instances where official interference had remedied some glaring abuses of voluntary assessments. "We have already reported to your lordships one remarkable case of recent occurrence, where a trading firm having returned 'nil' as their profits for the year 1861–2, the surveyor induced the district commissioners to assess them at £12,000, and upon appeal obtained a close confirmation of his estimate by proof from their own books that the correct charge was rather more than £12,000 as the average of the three preceding years. To take another example from a different part of the kingdom: A. B. some years ago returned £15,000 as his assessable income, but the amount was raised by the commissioners to £20,000, which he paid. The following year he made no return, and the assessment of the commissioners was again £20,000, but the surveyor charged him on £45,000, the duty on which was paid without appeal. Again, the next year he made no return, and again the charge was raised by the surveyor, who raised him to £60,000, with the same result as in the former instance."— Yet official assessment is an arbitrary assessment. All income is not derived from the same source, but from many; and some of these are of an intangible nature, and will escape the closest official scrutiny, while others are not easily appreciated. So that such assessment is at best guesswork. Nor is the situation improved by introducing any artificial measure of income, such as the size of the house, the number of horses, or of servants, the rental paid for a farm, etc., etc. Expenditure is no true gauge of income, for a man may be induced to spend more than he can reasonably afford, to maintain appearances. But the greatest objection to official assessments is that they require inquisitorial proceedings which are more suited to a despotic than to a liberal and enlightened government; they require a constant interference with the affairs of individuals, and while they often fail to discover what it is their object to learn, they serve to keep up a feeling of irritation and discontent. The tax is regarded as obnoxious chiefly on the ground that it is inquisitorial. — An objection that is urged against the English income tax, by which all incomes above a certain limit are taxed at the same rate without regard to the sources from which they are derived, is, that no distinction is made between transient and permanent incomes. It is urged that professional incomes, which are in their nature precarious, depending upon the continuance of the life, health, or other physical or mental quality of the receiver, should be taxed at a lower rate than permanent incomes, such as are derived from land or from investments in the public funds. This objection is a just one, but in order to remedy it such a complex and cumbrous scale of duties and exemptions must be introduced as to create obstacles as great, if not greater, than those now existing. A uniform rate is easily collected, and this question of administration is an important one. The inequality caused by taxing both classes of income alike would be somewhat diminished were the income tax made permanent. Thus, to take the example of Mr. Fawcett, the sum of £10,000 will purchase a life annuity of £600 or an annuity of £300 forever, supposing the rate of interest to be 3 per cent. "But if the income tax were permanently fixed at the uniform rate of 5 per cent., A's £10,000 would have to pay an income tax of £15 a year forever, because he is supposed to invest it in the form of a permanent annuity. B's £10,000, however, would only have to pay £30 a year during his lifetime, because his annuity of £600 will

cease at his death. If A and B wished to redeem the income tax on the £10,000 they respectively possess, they would each have to pay exactly the same sum to the government; for the present value of an annuity of £30 to be continued during B's lifetime must be equivalent in value to a permanent annuity of £15, because it has been assumed that the present value of these annuities is equal." And he goes on to show that if the tax was not permanent an injustice would be done to A were temporary incomes taxed at a lower rate than permanent incomes. But these conditions are not fulfilled. The English income tax is not a permanent one, but is renewed from time to time, although it might, for all practical purposes, be regarded as a permanent tax; because while it has ever been considered a temporary tax, to be maintained only so long as it is necessary, yet the state of the British revenues is such as to preclude the possibility of its suppression for some time yet to come. — The justice of exempting small incomes from the income tax can not be questioned, for, as has been said, this tax is in modern systems of finance intended to supplement indirect taxation, which falls most heavily on small incomes, and this object would be defeated were additional burdens imposed through its agency on the incomes of the lower classes. But at what point to limit the exemption is a difficult and important question to decide, because on the correct solution of this question depend the incidence of the tax and its productiveness. A sum sufficient to obtain the necessaries of life should be exempted, for otherwise the condition of the people would deteriorate, a recourse to a lower standard of living being enforced. But any further exemption must be decided by the amount of taxes to be levied, the state of public opinion respecting taxation, and, above all, the economical condition of the people. Thus, in England the limit of taxable income may be fixed higher than in France; for in the former country the wealth is massed chiefly in a comparatively few hands, and the incomes of a large portion of the people average much higher than in France, where wealth is more evenly distributed among the population and the average income is comparatively small. The exemption of all incomes below £150 is estimated to exempt from taxation one-half of the taxable income in England; under a like exemption three-fourths of the taxable income of France would escape taxation. On the other hand, when the limit is fixed too high the tax becomes a farce. Thus, in the United States in 1868 when incomes below $1,000 were exempt, the number of persons who paid the tax was 259,385; but when the amount of exemption was raised to $2,000, the number of taxable persons was reduced to 116,000, and subsequently fell to 71,000 out of a total population of about 40,000,000. Experience, therefore, demonstrates that an exemption in the United States of $2,000 of income will exempt more than nine-tenths of the entire property of the country, and more than ninety-nine-hundredths of the property owners from the tax. The results proved that the limit was absurdly high. — In England not only are all incomes below £150 exempt, but a deduction of £120 is made on all incomes between £150 and £400, so that an income of £400 is taxed only on £280. But if some inequalities are abolished by this generous allowance, others as glaring and unjust are created. Thus, an income of £150 will pay the full tax, but an income of a few shillings less will be exempt. Again, an income of £400 is taxed on £280 only, but one of £401 is taxed at its full value. To correct this manifest injustice Mr. Mill proposed to determine the limit of exemption, fixing it at as low an amount as possible, to be determined as nearly as may be by the bare cost of subsistence, and to deduct this sum from all incomes whatever, only taxing the remainder. Thus, if £100 was selected as the limit, then an income of £350 would be taxed on £250; one of £500 on £400, etc., etc. This plan, which was actually in operation in this country, does away with whatever injustice is incident to the system of allowing a deduction from certain incomes as just described. — An income tax can be levied with profit only in a country where capital is abundant, manufactures and commerce well developed and progressive, and where there is a marked tendency for the national wealth to increase. The distribution of wealth in a country affects the rate of the tax and the limit of exemption, both being lower in countries where wealth is evenly distributed and the average income is small. But the lower a nation stands in material wealth and commercial and industrial activity, the less is it fitted for an income tax. Thus, in India there is an immense population, but very little wealth, and an attempt to introduce an income tax in that country signally failed. In the Chittagong district of Bengal, which may be taken to illustrate the operation of this tax, the population numbered 1,127,402 souls. Yet in the whole district only 876 incomes were assessed in 1870–71, as exceeding £50 per annum. The total amount of these 876 incomes was about £100,000, and the amount of income tax realized was £3,161. In the following year the rate was reduced from an average of $3\frac{1}{8}$ per cent. to $1\frac{1}{24}$ per cent., and the minimum of income liable to assessment was raised to £75 per annum; the amount of the tax then realized for 1871–2 was only £809, which probably did not cover the cost of administration. The impossibility of continuing such a tax was soon recognized, and it was abolished. — To return again to the maxim of Adam Smith: "The subjects of every state ought to contribute toward the support of the government as nearly as possible in proportion to their respective abilities; that is, in proportion to the revenue which they respectively enjoy under the protection of the state." Many economists and financiers have believed that to carry out this maxim it is necessary to tax income in proportion to its amount; to frame a scale of rates increasing with

the amount of the income, so that the higher the income the greater in proportion is the tax paid. If, they say, a man with $1,000 income pays a tax of $50, one with $10,000 income should pay, not $500—not at the same rate—but at a higher, say $1,000. But this, apart from the difficulty of framing a scale of rates, would be an extremely vicious method of imposing a tax. For no two persons are circumstanced alike, although both may receive the same income as measured in dollars; for the one may be able to spend all in his personal enjoyments, while the income of the other may be already burdened by necessary charges, which consume a large part of it. To tax these incomes at the same rate would cause hardship and gross injustice; for what is to one a comparatively small contribution, to the other amounts to confiscation. Suppose the amount of tax is tripled every time the income is doubled—a progression that does not appear to be rapid—a point is soon reached where the whole income is absorbed by the tax. Thus:

INCOME.	Tax.	Rate per cent
$ 500	$ 5	1 0
1,000	15	1.50
2,000	45	2 25
4,000	135	3.375
8,000	405	5 0625
16,000	1.215	7 6
32,000	3,645	11 4
64,000	10.935	17.0
128,000	32.805	25 6
256,000	98.415	38 4
512,000	295,245	57.6
1,024,000	885,735	86 5
2,048,000	2,657,205	129 7

Such a tax would discourage all saving and end by driving from the country those with large fortunes unless by fraud they could escape the tax. It is moreover a communistic tax, because it seeks to equalize fortunes by discrediting saving, and in so doing aims at a more general distribution of the wealth of a country. In a country with democratic institutions there is danger that the income tax even when levied as in England at the present time, may be used by the poorer classes as a means of oppressing the richer classes on whom the tax falls, and this tendency has been noted in England by Prof. Fawcett, and in this country by Mr. David A Wells. A graduated or progressive income tax is but a logical sequence of the theory that the state may properly interfere with the distribution of wealth, a theory that rests on purely sentimental grounds, and has no basis in fact or reason. In many of the cantons of Switzerland the tax upon income is made a progressive tax, only a certain portion of the income being taxed, or a graduated scale of rates is framed. Thus, in Zurich incomes of 20,000 francs pay on only one-half of this amount, or on 10,000 francs; incomes of 30,000 francs pay on six-tenths; of 50,000 francs on seven-tenths; of 100,000 francs on eight-tenths, and of 200,000 francs on nine-tenths. But the tax is not levied on a like method in other cantons in which a progressive tax is imposed. (See *Traité de la Science des Finances*, Leroy Beaulieu, vol. i., p. 151.) — HISTORY. In the United States but one tax upon income has been imposed by the federal government, and it arose from the necessities of the government incident to the rebellion. An act of congress of Aug. 5, 1861, authorized an income tax of 3 per cent. on all incomes over $800 per annum, but this law was in the following year superseded by that of July, 1862. Under this act incomes under $5,000 were taxed 5 per cent., with an exemption of $600 and house rent actually paid. Incomes in excess of $5,000 and not in excess of $10,000 were taxed 2½ per cent. in addition, and incomes over $10,000 5 per cent. additional, without any exemptions whatever. Further taxes of 5 per cent. on incomes accruing to Americans residing abroad, and 1½ per cent. on incomes from interest on securities of the United States were imposed, but these expired after 1865 In estimating the income, all other taxes, national, state and local, were first deducted, as well as the $600 exempted as above. In 1864 a special tax of 5 per cent. was imposed on all incomes above $600, as well from banks, railroads and salaries, as from other sources, and produced to the treasury $28,929,312.02. In the same year the income tax was readjusted, and all incomes between $600 and $5,000 were taxed at the rate of 5 per cent.; and incomes above $5,000 at 10 per cent. The revenue obtained from this source reached its highest point in 1866 under these rates. Mr. Fessenden, at that time secretary of the treasury, in his annual report for 1864, suggested that "the income tax should be collected upon all, without exemption. As the law is, it opens the door to innumerable frauds, and in a young and growing country the vast majority of incomes are small, while all participate alike in the blessings of good government. The adoption of a scale, augmenting the rate of taxation upon incomes as they rise in amount, though unequal in one sense, can not be considered oppressive or unjust, inasmuch as the ability to pay increases in much more than arithmetical proportion as the amount of income exceeds the limit of reasonable necessity." Fortunately for the country, at that time burdened with one of the most oppressive systems of taxation ever imposed, neither of the secretary's recommendations were acted upon, and the nation escaped adding to the already long list of its financial and commercial blunders, those of a universal and a graduated or progressive income tax. Although when incomes below $5,000 were taxed at one rate, 5 per cent., those between $5,000 and $10,000 at a somewhat higher rate, 7½ per cent., and finally incomes above $10,000 at 10 per cent., there was a moderate progression, it was not such as is recommended by Say, or like the tax we have described in a previous paragraph.— In 1865 the limit of exemption was raised from $600 to $1,000, being rendered necessary by the great rise in prices consequent upon the onerous

internal and customs duties on commodities and the great depreciation of the currency, and the differential taxes on incomes in excess of $5,000 were repealed. — In 1866 the whole number of persons assessed on the annual list was 460,170. In the following year the full effect of the changes in the amount of exemption and in the rate of the tax began to be felt; and as showing these changes and at the same time as giving a rough indication of the distribution of the wealth in this country, the following table will be instructive:

CLASSES.	Number of persons assessed for income in			
	1867.	1868.	1869.	1870.
Tax $30 or less	101,219	100,558	107,997	112,874
Tax from $30 to $50	68,680	55,949	69,184	68,900
Tax from $50 to $100	40,899	38,957	41,196	40,839
Tax from $100 to $200	46 055	51,188	45,002	44,732
Tax over $200	9,282	7,965	9,464	9,316
Total	266,135	254,617	272,843	276,661

And further as showing the unequal incidence of the tax it may be noted that in 1869 the states of Massachusetts, New York, New Jersey, Pennsylvania, Ohio, Illinois and California, paid three-fourths of the entire income tax collected in that year, although they possessed but 40 per cent. of the assessed property and 40 per cent. of the total population of the country. — The tax was to expire in 1870, but it was renewed, the rate of tax being reduced to 2½ per cent. and the sum allowed to be deducted from each person's gross income was raised to $2,000. Whatever reasons there were for raising the limit of exemption from $600 to $1,000. they did not exist for still further raising it to $2,000, and as if to make the tax a still greater absurdity all state or local taxes paid in the preceding year, and all losses "actually sustained during the year from fires, floods, shipwreck, or that occurred in trade; the amount of interest paid during the year; the amount paid for rent, or labor to cultivate land; the amount paid for rent of premises actually occupied; and the sums expended for the usual and ordinary repairs of such premises," could be deducted before the tax was assessed. The result of such sweeping exemptions and deductions could easily have been foretold. The number of persons assessed for income fell in 1871 to 74,775, and in 1872 to 72,949; while the proceeds of the tax practically hardly afforded revenue sufficient to pay the cost of collection. The tax expired in 1872, not being renewed. It was but a war measure, and it is doubtful if another such tax will be again imposed in this country unless a like necessity arises. The amounts collected from income, including salaries, for each year from 1863 to 1872 are given in the following table:

1863	$ 2,741,858.25	1868	$41,455,598.36
1864	20.294,731 74	1869	34,791,855 84
1865	32,050.017.44	1870	37,775.813.62
1866	72,982,159.03	1871	19,162,650.75
1867	66,014,429.34	1872	14,4 6,861.78

Together with the arrears collected since 1872 the total amount raised from income was $346,911,760 48. — We have purposely omitted to speak of the question of the constitutionality of an income tax as levied under the act of 1864, because the question never came before the supreme court for adjudication, and it would be useless to revive the question now, and the main reasoning on either side will alone be noticed. The supreme court had already decided that according to the constitution direct taxes are only such as fall upon land or upon polls, and the economic definition of a direct tax was thus thrust aside. But it is urged that a tax upon income is in reality a tax upon the property from which the income is derived, and under such a theory a tax upon income derived from land would fall under the constitutional definition of a direct tax as explained by the courts, and should therefore be apportioned among the states according to their population. Moreover internal revenue law seems to recognize the principle that a tax upon income is a tax upon the property from which the income accrues. Thus by section 127 of the act of 1864 a tax was laid on succession to real estate, and such succession was defined to be every such disposition of real estate whereby any person should become entitled to any real estate or the income thereof. Furthermore it is established by statute law in this country that a grant or devise of the income of real estate in perpetuity is a grant or devise of the fee itself In Dobbins *vs.* the Commissioners of Erie County (16 Peters, 435), it was held that a tax upon income or profits of real estate is a direct tax, upon the principle that a tax upon the income of a thing is the same as a tax on the thing itself. And many more cases in which the same principle was recognized could be cited. The tax was however levied and collected, and, although a most unpopular tax and regarded as a fit subject of evasion, was endured so long as congress deemed it necessary to continue it. It is a curious fact that the dissatisfaction against the income tax was most loudly expressed while the $2,000 exemption was in force, or, in other words, while it fell upon the rich alone. — The history of income taxes as practiced by other nations has been often told, and we have space only for a statement of the general principles of these taxes. In England the income tax is rather a collection of different taxes, and, as Mr. Gladstone said in 1853, is more of a code or system of taxation than a single tax. To the bulk of the people, however, it is known in its most obnoxious form as a tax upon ordinary incomes—salaries, professional earnings, profits of trading, etc. Assessments on these are now made under schedule "D," which is the most important of all the five schedules into which this system of taxation is subdivided; for it comprises, in addition to incomes of this private character, the profits of public companies, such as gas and water works, or railways, dividends on foreign and colonial investments, as well as the profits on working mines

and quarries, the rents of fishings and shootings, etc. The next in importance is schedule "A," which comprises incomes from the rent of land and houses, proceeds of tithes, royalties, etc. With this may be classed schedule "B," which embraces the tax payable by occupiers of land, except nursery gardens, the profits on which are assessed, like those of trades and professions, under schedule "D." Schedule "C" regulates the assessment on incomes from the public funds, and schedule "E" that on incomes derived from official appointments, whether in the public service, or in the service of corporate bodies. These duties yielded in the year ending March 31, 1881, the sum of £10,776,000. They are the most elastic of the English taxes. — In Prussia are found two taxes, the *classensteuer* and the *einkommensteuer*, the former reaching only incomes of less than 1,000 thalers. The *einkommensteuer* is assessed in forty classes, and varies from 2¼ to 3 per cent. In Austria the tax is divided into four parts, and varies from 1 to 10 per cent. Its product is but small. In Italy a tax is imposed on all incomes other than that derived from land, and is even more complex than that first levied by the United States. Moreover it is a tax of a very burdensome nature, amounting to no less than 13⅓ per cent on the incomes taxed, although certain allowances and exemptions reduce its burden on incomes of an uncertain nature. Thus, all incomes below 400 lire are exempt, and the tax falls upon only three-eighths of incomes derived from labor alone, and upon one-half of incomes derived from public offices or pensions. The elaborate attempts made to render the incidence of this tax equal have signally failed. Of the 184,000,000 lire collected in 1877, 85,000,000 lire were obtained from incomes derived from state pensions and salaries, interest on the public debt, gains of lotteries, and other forms of income which can not possibly escape the cognizance of the government. The remaining 99,000,000 lire represent what was collected on incomes derived from all sources apart from land, and should represent a very large share of all the private income of the Italian people, and these figures prove to what an extent the tax is evaded. (See *L'Impot sur le Revenu Mobilier en Italie*, by M. Vesséolovsky, St. Petersburg, 1879.) — BIBLIOGRAPHY. *First and Second Reports of the Select Committee on the Income and Property Tax*, London, 1852; Leroy Beaulieu's *Traité de la Science des Finances;* M'Culloch, *Taxation and the Funding System;* Levi, *On Taxation; Reports of the Commissioner of Internal Revenue.*

WORTHINGTON C. FORD.

INDEMNITY IN CASE OF WAR. When a war has desolated a country, leaving destruction and ruin behind it, is there reason for an equalization of the burden of material damage (more or less approximate)? This question would be rarely presented if a country were invaded throughout its entire territory, and all its provinces suffered almost equally; but when only one part of a country has been occupied, while the rest has not seen the enemy, the question of compensation, of a general sharing in the whole amount of damages, naturally arises, and the provinces visited by the scourge present their claims. Claims are made even in districts where all the inhabitants have not suffered equally. Are these claims well founded? Is there cause for compensation, for indemnity, for equalization of damages? We shall examine this briefly. — The question of indemnity in case of war is much more complicated than might be supposed. In the first place, damages inflicted by the national army must be distinguished from those caused by the enemy. The acts attributed to the military authority of the country may have taken place during peace; in that case there is reason for an indemnity, regulated in France, for instance, according to the law of eminent domain (May 3, 1841). In time of war, when the enemy is still at a certain distance and preparations are made to meet him, the decree of Aug. 10, 1853, article 38, admits rather a limited right to indemnity. But in article 39 of the same decree we read the following: "No occupation, no deprivation of use, no demolition or other damage resulting from *an act of war*, and from a measure of defense taken either by a military authority, during the state of siege, or by an army corps or detachment, in presence of the enemy, gives a right to indemnity." This provision does not exist in the decree of July 8, 1791, (as to which see articles 35 to 38.) — What is to be understood by *an act of war?* The law does not define it, but jurisprudence has determined certain cases, the most prominent of which we shall cite. The following have been declared acts of war giving no right to indemnity: the cutting of timber at the order of the commander in-chief to cover the retreat of troops manœuvering in presence of the enemy (council of state, March 26, 1823, Bellamy); the removal of timber by hostile troops, for the use of these troops, by order of the mayors, to satisfy the requisitions of the enemy (Nov. 16, 1825, Schoengrun); the destruction of a house caused by the explosion of a powder magazine by order of French authority in presence of the enemy (March 15, 1826, Dassy). This has always been the rule in France, and in this regard the chief of the executive power was right in appealing to it when he maintained in the discussion of the law, Sept. 6, 1871, that in principle no indemnity was (legally) due French citizens who had suffered from damages inflicted by the invasion, and that at most only assistance was due them. — In the same discussion (session of Aug. 5, 1871, *Journal Officiel* of Aug. 6,) Thiers maintained a different doctrine in relation to damage caused the inhabitants of Paris by the bombardment of May, 1871, during the insurrection of the commune. "And as to those quarters of Paris," said he, "of which you have just spoken, and concerning which you have said that we wish to do nothing for the cottages, while we are about to rebuild the mansions of

the wealthy, in the part of the city which we have attacked. Gentlemen, you have not seen those quarters which you describe so strangely. Where is the mansion of the wealthy? Look for it in those quarters ruined by the bombs and bullets, not of the enemy, but of our own army, of France, of the national right, which strove at all cost to re-establish order, indispensable to the very life of the nation. And do you know what principle created the right in this case? The principle that when a government commits an act intentionally, with a definite will, not by chance, but after reflection, it owes a complete indemnity for the damage which it causes. Read our laws, study the principles of public justice, and you will see this is the distinction always made. "The state never indemnifies for the chances of war, it only indemnifies for voluntary, intentional, foreseen damages of which it is the author"*— We do not know whether jurisprudence is always in accord with the second half of the proposition which we have just cited, but we find it (this second half) excellent; it is not for us to discover whether any one can hold a contrary opinion. Therefore we consider it as established, that acts originating with a national army, damages caused by the order, and in the interests of a country, should be repaired by that country.† We may mention here for a similar reason the law of 10 Vendémiaire, year IV. (Oct. 2, 1795), which makes the French communes responsible in case of riots, etc., and obliges them to indemnify sufferers. — We come now to the cases in which damage was caused by the enemy. In the decisions of the council of state cited above, and the complete sketch of which is before us, no law was quoted; the decision was founded on simple reasoning, or rather on the simple assertion, *nothing is due for acts of war*. Still there is a law of Aug. 11, 1792, (see *Journal Officiel*, 1871, pages 2457 and 2459), and another of 1793 (Aug. 14 and 16), which declare "in the name of the nation that it will *indemnify* all citizens for all losses which they have sustained, or may sustain in consequence of the invasion of the enemy." Later, in 1816, a sum of one hundred millions was in like manner granted to the invaded departments. But whatever the previous jurisprudence, and even legislation, since the law of Sept. 6, 1871, the principle of indemnity is—if not completely, at least partially—adopted, in France, by article 1, which we here quote: "Compensation will be accorded to all who have been subjected during the invasion to contributions of war, requisitions, either in money or kind, fines and material damages." The word compensation is the result of a compromise. The government wished to grant only aid, "relief," without recognizing a right; the deputies demanded an indemnity: the term chosen seemed vague enough to satisfy both parties, but in reality the word compensation is a synonym of indemnity, and has nothing in common with aid The French law of April 7, 1873, is to the same effect, and the principle of national solidarity may be considered established.‡ The following, among others, are the terms employed by Casimir Périer: "I admit also, and I go further, I maintain that it is out of the question to impose the special burden of military contributions and military requisitions in money levied by the enemy, on the invaded departments, on the departments which bore them in addition to all the other misery which they suffered." And further, "I maintain that these are facts affecting the whole nation, and it is impossible to avoid distributing the burden of them over all the national territory" Let us add that Bouffet, rejecting the word aid, said, "The reparation which the invaded departments demand is the reparation of a damage of which the whole state is the cause and for which the whole state is responsible."— There is scarcely any other country except Germany in which the question is important. It can have no importance in England, which is protected against invasion by the waters which wash its shores, and when necessary by its "wooden walls" Germany, on the contrary, has long been the battle ground of European passions, therefore the doctrine of indemnification prevailed there at an early period. We have before us a work published in 1798, at Wurzburg, with the title: Weber (councilor, etc.), *Ueber die Repartition der Kriegsschaden*. (On the distribution of the burden—of damages caused by war—on the entire nation.) This work cites and discusses a great number of earlier publications, and, like the majority of previous authors, concludes in favor of indemnity, resting on the argument of national solidarity. We regret that we can not make numerous extracts from this very interesting work, in which questions are discussed from a legal point of view, and texts or precedents are freely used in their support. Among the different opinions examined is that also which considers acts of war as acts of chance, cases of hazard or superior force, cases which among others the French code declared as not justifying indemnity. (See Civil Code, article 1148, and many others.) But Weber does not admit this argument. Chance, if there is any, consists in this, that one district was visited rather than another, or that such a house or such

* Vattel, book iii., chap. xv., § 232, asks no more than this. He is satisfied with aid since it seems impossible to him to indemnify every one for the damages caused by the chances of war. Grotius, book iii., chap. xx., § 8, recognized the solidarity of the nation.

† The "Times," of Aug. 9, 1871, in giving an account of the above discussion, in a leader, treats the doctrine of national solidarity with reference to acts of war (first part of proposition) as *extravagant theories*, and recalls the fact that, in a similar case, Cavour held analogous language, in 1859, which was approved by the parliament of Turin. For our own part, we can not admit recruiting by lot, and many other institutions which impose sacrifices on some citizens for the advantage of all, unless we rest on the principles of solidarity.

‡ Passy's report will be found in the *Journal Officiel* of the first days of April, 1873.

a field was damaged rather than another, but the fact itself of damage has nothing fortuitous in it. The state desired or allowed the war, and as the damage is the natural or inevitable result thereof, there is nothing unforeseen in it. The states are at war, and it is for them to bear the consequences, and not individuals who are unable to do so. We shall add that if the conflagration caused by lightning, the destruction produced by an earthquake, the ravages occasioned by a flood, are examples of superior force, giving no chance of indemnity, it is because the lightning, the earthquake and the flood are not personalities that may be called to account. But let a cannon ball throw down my garden wall, let a locomotive in running off the track cause me damage, and I shall find some person to summon before the tribunals. — Weber next discusses the law *Aquilia* (Roman law), according to which a damage which I cause in the interests of my own legitimate defense does not make me responsible. Thus, if I destroy my neighbor's house during a fire to keep my own from burning, I am within my rights. In like manner the state may demolish your house, fell your forest, cut up your field, if this is necessary for state defense. But, says Weber (omitting the objections which the principle raises in itself), the law *Aquilia*, which is private law, does not apply to the case in point: it is not a question of law among individuals, but a burden imposed by the state in the interest of all.—There is also the law *Ithodia* This law is found in the French Code of Commerce, article 400, and elsewhere; it declares as a common duty the reparation of all damage happening to a vessel, and more especially the indemnity to be paid to the owner of the merchandise thrown overboard to lighten the ship in danger. The owner of the merchandise bears his part, but the others bear theirs also. The principle is beyond attack, but its formula is perhaps not happy when applied to war. But we are not obliged to stop here, since we have clearer and more applicable modern formulæ. It only remains, in summing up, to cite some of the most recent cases of indemnities, granted to invaded provinces. — In 1866, immediately after the conclusion of peace, the Austrian ministry named (Aug. 3) a commission entrusted with investigating the damages in order to discover their total amount. The word employed is *Schaden-Ersatz*, compensation or indemnity. Still a complete indemnity was not granted. Saxony, by vote of Jan. 17, 1867, seems to have been more generous. In 1871, the German law of June 14 indemnified completely the inhabitants of Alsace-Lorraine. (See the law in the French journals of the last days of June, 1871.) At the same date, June 14, 1871, a commission was appointed at Berlin to fix the indemnity due German shipowners, in consequence of war. In fine, modern law is in favor of indemnity, without, however, imposing on the nation the payment of the whole damage; for the person injured must also bear his share, since he too is a part of the nation.

MAURICE BLOCK.

INDEPENDENCE. "Every nation, as well as every individual, has the right not to allow any other nation to assail its safety or its integrity," says Vattel in his "Treatise on the Law of Nations," in the beginning of the chapter entitled, "On the law of safety, and the effects of the sovereignty and independence of nations." These few words contain the whole secret of the development and the life of nations. Self-preservation and improvement form the two-fold aim of true activity; independence to attain this end is a necessary right. — A nation is a collective being, and all the ideas which we form of its rights, its duties, its action, its end, are derived from our knowledge of the human individual. Like the individual, it must apply itself to the preservation of its own existence, to the care of its interests, and to the development of its faculties. Hence, independence is, for the nation as for the individual, the primary law of its existence, and the first condition of development. If a nation desires to improve its institutions, it must have full liberty to change, if necessary, the basis of its constitution and its form of government. It must be sole and supreme judge upon this point. No power can be allowed to argue against it that the changes which it makes within itself are dangerous examples for its neighbors. Nor can any fault be found with it because it seeks to establish whatever is favorable to its progress. It possesses the right to develop in every sense of the word, and it can be stopped only when it encroaches upon the development of some other nation, and lays itself liable to the charge of hindering it in its natural development. — Together with the right to improve its condition, a nation possesses the right to defend itself. A people has an absolute right to create what establishments it pleases, to develop and organize its forces, to multiply and improve all the means of action at its disposal, army, navy, fortresses, in order to provide for its safety. So long as it does not become aggressive, it is free to act, and if it does not feel itself inviolably guaranteed by the strict enforcement of international legislation, it has a right to provide for its own defense as it sees proper. This right results from the right of self-preservation, and is inseparable from the idea of independence. — A nation may make treaties of peace, friendship, commerce and navigation, as also any alliances it may judge favorable to its interests. But a nation in enriching itself or in fortifying itself by alliances or otherwise, may give umbrage to neighboring nations; wherefore Martens, one of the foremost among modern publicists, has established certain rules of courtesy. According to him, every nation is bound to give satisfactory explanations of all preparations made and all enterprises undertaken with a view to its aggrandizement or security. Its conduct will be still more praiseworthy, if in certain cases it reply in anticipation to the questions which might be asked of it. It certainly would be well to observe these considerations, it being distinctly understood, however, that

they must never constitute either a right of superiority or interference on the one hand, or a duty of condescension or feeling of inferiority on the other. But is it quite certain that these explanations will always constitute a perfect guarantee, or will it not frequently be necessary to await that reprobation with which public opinion more and more severely regards conquest, and which will one day secure to every man the free possession of his home? — The idea of independence excludes the idea of the interference of one nation in the affairs of another; but when this interference is consented to by the other nation which is to profit by it, it is perfectly just and legitimate. In a word, independence guarantees to all nations that none of them shall be impeded in its development, to the end that each one may lend its aid to progress in every direction. This assistance, however, must not exceed what is necessary to procure the relief needed by the nation that is in distress. Vattel thinks that this interference should not go beyond the clear and precise terms of a treaty entered into beforehand. It must never by any means become a source of profit or aggrandizement for the nation which contributes the assistance required. A nation, in fact, has not only rights but also duties; and, to resume the parallel which we established in the beginning of this article between a nation and an individual, we believe that when it does not observe these duties and commits faults or crimes, it should be subjected to the inflictions of the decrees of the same justice in so far as this justice can be exercised when passing from an individual to a collective being. But a distinction must be made between the faults a nation commits outside its own boundaries and those committed at home. In the latter case its independence must be respected like the conscience of an individual. But when it is guilty of offensive acts against other collective beings living around it, then it is necessarily open to their vengeance and their repression. — All nations are equal among themselves, for they all possess the same rights and the same duties. Grotius is of opinion that all states have equal rights, no matter how unequal their strength. Baron de Wolf laid it down as a fundamental maxim that all nations are with respect to one another in a state of independence and natural equality. G. F. de Martens says that between nations as between individuals there is a perfect equality of natural and absolute rights. Equal rights necessarily imply equal duties. In virtue of their equality all nations are entitled to the same regard and respect, and no nation should be exposed to anything which might wound its personality. The independence of each must harmonize with the equality of all, and, in like manner, the independence of all with the equality of each. — Every nation has the right to recognize or to refuse to recognize the government which another nation has adopted, the sovereign whom it has chosen, or the title which this sovereign assumes. But equality exacts that no nation be made to suffer for the changes it may see proper to make in its own state, provided it does not cause detriment to any other nation. — It is customary for a sovereign or his representative when traveling outside his own territory to receive certain honors; but these can not be exacted of a people, who, without any feeling of contempt whatever, do not consider themselves bound to give such tokens of attention; nor of a nation whose manners and constitution forbid too great a deference to crowned heads. An illustration of this latter case might be found in a republic. In Switzerland, for example, honors, particularly military honors, are never accorded to any monarch traversing the territory or sojourning therein. It may, however, happen that the sovereign in question will receive a visit of high courtesy from some members of a cantonal government or from the president of the federal council. The United States follow about the same rule, though they seem to find no difficulty in departing from this custom according to circumstances. — The right of precedence has sometimes caused ruptures between governments and produced wars, because pride, presumption and vanity have often taken the place of a sentiment of equality. When carried to such an extreme, the exactions of rank are at once puerile and cruel. But men are more frequently prompted to action by their rights than they are actuated by a sense of their duty, and hence it is necessary to establish rules and customs in order to prevent contests. Formerly these rules were numerous and often whimsical; but most of them have now fallen into discredit. There are in our time too serious interests to discuss, for nations to insist upon details dictated by vanity.

G. CHAMPSEIX.

INDEPENDENT IN POLITICS. (See PRIMARY ELECTIONS.)

INDEPENDENT TREASURY (IN U. S. HISTORY). — I. Until 1840 the United States government never ventured to assume entire control of its own funds. These were left with the two corporations known as banks of the United States, 1791–1811 and 1816–36 (see BANK CONTROVERSIES, II., III.), and in other years with various state banks selected by the secretary of the treasury. The agreements with the state banks usually provided, 1, that they should receive all moneys collected by federal receivers; 2, that they should pay at sight all drafts from the treasury; 3, that the treasury should maintain in each bank a sum, fixed by agreement in each case, as a permanent deposit, the use of which without interest should repay the bank for its trouble and responsibility. Such agreements were also made with state banks during the existence of a United States bank, but with the additional proviso that the state bank should, on request, transfer to the United States bank, or one of its branches, any money received in excess of the amount of the permanent deposit. These agreements were legal even during the

existence of the second bank of the United States under that clause which directed deposits to be made in the bank or its branches, "unless the secretary of the treasury shall at any time otherwise order and direct." (See DEPOSITS, REMOVAL OF.) The permanent deposits amounted, in 1824, to about $900,000 in twelve banks of the western and southwestern states. They were made for the convenience of the government in localities where there was no branch of the national bank; and Jackson's "removal of the deposits" was an expansion of this temporary provision into a medium for the overthrow of the national bank itself. — The first annual message of President Jackson, in which the first vague menace to the recharter of the bank of the United States was given, suggested the creation of a national bank whose functions and employés should be under the direct control of the treasury department; but this project, under the new system of dismissals from office for political reasons (see DEMOCRATIC PARTY, IV.), would have only needlessly intensified the opposition to the administration, and it was abandoned. Just before the removal of the deposits in 1833, the president had suggested the employment of state banks as depositaries of revenue, and his idea was carried into effect by the act of June 23, 1836. It authorized the secretary of the treasury to select at least one bank in each state and territory, and to order the revenue to be deposited therein. The deposit banks, or "pet banks," as they were commonly called, were to discharge all the duties heretofore performed by the bank of the United States, were to pay in specie, and were not to issue small notes. The surplus revenue was to be "deposited" with the states, nominally as a loan. (See INTERNAL IMPROVEMENTS, II.) — During the whole of Jackson's second term economic changes were taking place, which were hurried by some of the results of his political warfare into a rapid and unhealthy development. The first 1,200 miles of the American railway system had been built, and the steam navigation of western waters had been begun; the number of immigrants reached 275,099 in the years 1831–7, as against 79,741 for the seven years previous; the sales of public lands had increased from $2,329,356.14, in 1830, to $24,877,179.86, in 1836; the payments for public lands gave employment to the notes of countless new banks, with and without capital; and the deposit of this sudden and enormous increase of federal revenue in the pet banks stimulated them also to operations far beyond the limits of their legitimate capital. July 11, 1836, the secretary of the treasury issued his "specie circular," ordering government agents to receive only gold and silver in payment for public lands. This checked the stream of paper in its movement to the west, and turned it back upon the east; and the banks which had issued their notes so lavishly, unable to redeem them, suspended specie payments in May, 1837. The result was the panic of 1837. — II. As the federal government, whose entire resources were on deposit in the pet banks, was included among the creditors to whom payment was refused, President Van Buren, soon after his inauguration, found himself at a loss to defray the government's running expenses, and was compelled to call an extra session of congress for Sept. 4, 1837. His message at the opening of the session declared that the national bank and the state bank systems had both had a fair trial and both had failed, and that the people were now anxious to entirely separate the fiscal concerns of the government from all banking corporations. To this end he suggested that the revenues of the government should be left in the hands of the collecting officers, or assistant treasurers, throughout the country, to be disbursed, transferred, and accounted for to the secretary of the treasury, the fidelity of the agents to be secured by bonds. This was the independent treasury or sub-treasury plan, which had been introduced into the house in 1834, by Gordon, of Virginia, and had then received but 33 votes, only one of these being given by a democrat. President Van Buren now adopted it, against the wish of the great majority of his party, and almost the whole of his single term of office was devoted to the establishment of it. — Congress was nominally democratic in both branches. In the senate there were 33 democrats to 19 whigs (Calhoun being included in the latter), and in the house 125 democrats to 116 whigs. But a part of the democrats (4 in the senate and 14 in the house) called themselves conservatives, and opposed the adoption of the sub-treasury system as an attempt to ruin the state banks by depriving them of the funds of the government; and in the house these conservatives held the balance of power. In the senate Silas Wright, of New York, chairman of the finance committee, reported a sub-treasury bill which, as amended after its reception, prohibited the government agents from receiving anything but gold and silver. This was the realization of the long cherished wish of Benton and other leading democrats, to base the party policy absolutely on "hard money," leaving paper entirely to the credit of state corporations and private citizens. In the states, furthermore, the advanced democrats (see LOCO-FOCO) wished to prohibit charters for any such purpose, and to leave paper entirely to individual credit. The whigs hoped to gain a new national bank out of the confusion; the conservatives merely desired the continuance of government support for the state banks. — The Wright bill passed the senate by a vote of 26 to 20, and was tabled in the house by a vote of 119 to 107; evidently, excluding "pairs," which were just beginning to be recognized in congress, the conservative vote had been decisive in the house. In the first regular session, beginning Dec. 4, 1837, and in the second regular session, beginning Dec. 3, 1838, the same process was repeated, the Wright bill being passed by the senate, and voted down by the house. The only attempts at remedial legislation by this congress were the acts of Oct.

16, 1837, ordering the public moneys to be withdrawn from the deposit banks, and mulcting delinquent banks in interest and damages, and of Oct. 12, 1837, authorizing the issue of $10,000,000 in transferable treasury notes, payable in one year with 6 per cent. interest. The specie circular still controlled the agents of the government, and a two-thirds majority was not available in congress to over-ride the veto which it was known would be laid upon any paper money legislation. All parties were waiting for the country's decision in the congressional elections of 1838, which proved to be the most closely contested in our history (see BROAD SEAL WAR); but, while waiting, the government, which had deposited $37,000,000 with the states, and had claims for $15,000,000 against banks and individuals, came so near insolvency that congress was forced, May 21, 1838, to authorize the issue of fresh treasury notes in place of those canceled. — In the 26th congress, which met Dec. 2, 1839, the nominal control of the house depended on the admission of the New Jersey members, and was given to the democrats by the admission of their contestants. The balance of power, however, was now held by the few sub-treasury whigs, whose importance was recognized by the election of one of their number speaker, supported by the democrats. The conservatives had almost entirely disappeared; only four of them had been re-elected to the new congress, and these had nearly ceased their opposition to the sub-treasury. The Wright bill was again introduced, was debated through the session, passed both houses by votes of 24 to 18 in the senate, and 124 to 107 in the house, and became a law, July 4, 1840, by the signature of the president. It directed rooms, vaults and safes to be provided for the treasury, in which the public money was to be kept; it provided for four receivers general, at New York, Boston, Charleston and St. Louis, and made the United States mint and the branch mint at New Orleans places of deposit; it directed the treasurers of the United States and of the mints, the receivers general, and all other officers charged with the custody of public money, to give proper bonds for its care and for its transfer when ordered by the secretary of the treasury or postmaster general; and enacted that after June 30, 1843, all payments to or by the United States should be in gold and silver exclusively. — The results of the first brief trial of the sub-treasury system, July 4, 1840–Aug. 13, 1841, totally failed to verify the prophecies of the whigs and conservatives. It inflicted no damage upon the state banks, or upon business at large; it did not increase the number of offices at the disposal of the president and his party, or the power of the president over the commercial interests of the country; it laid no "cornerstone of despotism"; its practical operation was much more smooth and successful than might have been anticipated in a civil service already so far debased; and it plainly relieved the government from any except indirect and remote consequences of suspension of specie payments by the banks, and the country from the difficulties and dangers incident to the control of a national bank by a representative body. Its passage opened a hitherto unthought-of door of escape from a national bank so inviting that it would have been foolish for the dominant party not to have availed itself of it, and so convenient, when tried, that it would have been impossible on a fair test to induce the country to retrace its steps. Only the momentum of the whig party proper, acquired by years of struggle for a national bank, compelled its leaders to keep up for a time a contest whose futility they were quick to perceive. The first successful execution of the independent treasury act made a national bank an impossibility with general popular consent, and completed the "divorce of bank and state," for which the president had for three years been exerting all his energy and influence. The result must be accredited mainly to Van Buren; usually regarded as a shuffler and intriguer, he had in the midst of the most wide-spread panic yet known in America, unshrinkingly and openly committed his political future to the then unpopular doctrine of non-interference by government, had forced his party to concur with him, and had finally, after three failures in as many sessions of congress, been successful in establishing the independence of the treasury. — III. The election of Harrison in 1840 was accomplished by a union of all the heterogeneous elements of opposition, and by that double-faced promulgation of different policies for different sections which the democrats imitated with equal success in 1844. (See DEMOCRATIC PARTY, IV.; WHIG PARTY, II.) Nevertheless it brought into the house a majority of whigs whose party training had predetermined them to one purpose, the renewal of the bank of the United States. (See BANK CONTROVERSIES, IV.) To this end the repeal of the independent treasury act was essential, and the repealing act was passed by votes of 29 to 18 in the senate and 134 to 87 in the house, and became law, Aug. 13, 1841. The next congress, 1843–5, although it had a democratic majority in the house, had a sufficient whig majority in the senate to defeat any effort to renew the sub-treasury system. For five years after its repeal, therefore, the treasury was managed practically at the discretion of its secretary, and with no adequate regulation by law. Where depositaries were absolutely necessary the banks of the different states were used, and the secretary of the treasury obtained collateral security for the deposits from such banks as were willing to give it. Polk's election brought in a congress democratic in both branches. The sub-treasury system was again introduced, passed both houses and became law, Aug. 6, 1846. This act was essentially the same as that of July 4, 1840, and has remained in force almost unchanged. The act of Feb. 25, 1863, creating a system of national banks, authorized the secretary of the treasury to

make any of these associations depositaries of public money, except receipts from customs; the original sub-treasury act had provided but seven places of deposit· New York, Boston, Charleston, St. Louis, the mints at Philadelphia and St. Louis, and the treasury at Washington, the first four being under the control of assistant treasurers. (See, in general, BANK CONTROVERSIES; DEPOSITS, REMOVAL OF; DEMOCRATIC PARTY, IV.; WHIG PARTY, II.) — (I.) See 26 Niles' *Register*, 291; 3 Parton's *Life of Jackson*, 272, 515; Sumner's *American Currency*, 114; 2 von Holst's *United States*, 174; Bromwell's *Immigration*, 174; 1 Colton's *Life and Times of Clay*, 456; 1 Benton's *Thirty Years' View*, 676; the act of June 23, 1836, is in 5 *Stat. at Large*, 52. (II.) See 2 *Statesman's Manual* (Van Buren's Messages); 12 Benton's *Debates of Congress*, 506, and 13 : 403; 4 Webster's *Works*, 402, 424; 3 *Whig Review*, 465; the acts of Oct. 12 and 17, 1837, and the sub-treasury act of July 4, 1840, are in 5 *Stat. at Large*, 201, 206, and 385. (III.) See Gillet's *Democracy in the United States*, 195; Schuckers' *Life of Chase*, 300; J. H. Walker's *Money, Trade and Banking*, 81; the act of Aug. 13, 1841, is in 5 *Stat. at Large*, 439, that of Aug 6, 1846, in 9 *Stat. at Large*, 59, and that of Feb. 25, 1863, in 12 *Stat. at Large*, 696.

ALEXANDER JOHNSTON.

INDIA. (See EAST INDIES.)

INDIANA, a state of the American Union, formed mainly from the Virginia cession, and in the north from small strips of the Massachusetts and Connecticut cessions. (See ORDINANCE OF 1787, TERRITORIES, ILLINOIS.) May 7, 1800, the northwest territory was divided, Ohio being made a separate territory, and the remainder erected into the territory of Indiana. In 1805 and 1809 the territories of Illinois and Michigan were set off from Indiana, thus reducing the latter territory to its present limits. — April 19, 1816, an enabling act was passed by congress for the formation of a state government by the people of Indiana territory, the following boundaries being assigned by the act to the new state: "Bounded on the east by the meridian line which forms the western boundary of the state of Ohio; on the south by the river Ohio, from the mouth of the Great Miami river to the mouth of the river Wabash; on the west by a line drawn along the middle of the Wabash, from its mouth to a point where a due north line drawn from the town of Vincennes would last touch the northwestern shore of the said river; and from thence by a due north line until the same shall intersect an east and west line drawn through a point ten miles north of the southern extreme of Lake Michigan; on the north by the said east and west line, until the same shall intersect the first mentioned meridian line which forms the western boundary of the state of Ohio." The state convention met at Corydon, June 10, 1816, ratified the boundaries established in the act of congress, and formed the first constitution of the state of Indiana. It fixed the governor's term of office at three years, but prohibited the holding of the office by one person longer than six years in any term of nine years; provided for a popular vote every twelfth year on the question of calling a convention to revise the constitution; gave the right of suffrage to "white male citizens of the United States, of the age of twenty one years and upward," on one year's residence; prohibited slavery, and provided that no alteration of the constitution should ever introduce slavery into the state, "since the holding of any part of the human creation in slavery or involuntary servitude can only originate in usurpation and tyranny;" prohibited the chartering of any banks in the state, except a state bank and branches; and made Corydon the seat of government until 1825, and until removed by law (as it has since been removed to Indianapolis). The state was admitted by joint resolution, Dec. 11, 1816. A new and more complete constitution was formed by a convention at Indianapolis, Feb. 10, 1851. It provided that no negro or mulatto should have the right of suffrage; changed the governor's term to four years; prohibited local or special legislation in seventeen specified cases; provided for a general banking law; prohibited the entrance of any negro or mulatto to the state; and made the employment of such negroes or mulattoes, or the encouragement of their immigration, a punishable offense. The last named provision was decided by the supreme court of the state, in November, 1866, to be repugnant to the constitution of the United States, and invalid. The constitution was ratified by popular vote, and went into effect Nov. 1, 1851. An amendment has since been made to it, repudiating any liability for certain certificates of stock, and prohibiting the state officers from paying them. (See CONSTITUTIONS, STATE.) — Indiana originally had a larger southern population than Illinois. In 1850 this part of the population amounted to near 20 per cent. of the whole, mainly from Virginia, North Carolina and Kentucky. In 1870 the proportion had decreased to less than 10 per cent. This element has apparently had a considerable influence upon the state's political history. A straight line drawn across the middle of the state would separate the southern counties, which have been quite steadily democratic since 1850, from the northern counties, which have been as steadily anti-democratic. — In presidential elections the vote of Indiana until 1860 was cast for democratic candidates, except in 1836 and 1840, when it was cast for Harrison, the whig candidate. In 1860 the state voted for Lincoln, and its vote has always since been given to republican candidates, except in 1876, when it was given to the democratic candidates by a plurality. The result in 1876 was probably due to the popularity of Hendricks, the democratic candidate for the vice-presidency, in his own state, Indiana. — Until

1822 the one representative to which Indiana was entitled was a democrat (William Hendricks), but until 1825 the representatives and United States senators were chosen more for personal than for political reasons. Upon the re-formation of parties in 1825–8 (see DEMOCRATIC PARTY, IV.) the state became democratic and remained so until 1836, with the exception of the congressional district formed from Wayne and the few surrounding counties of the east-central part of the state. This district has been steadily whig, anti Nebraska or republican since 1830. From 1836 until 1842 the senators and nearly all the representatives were whigs, the democrats, however, carrying three southern and two northern districts in 1840. In 1842, eight of the ten representatives were democrats, and two whigs, but from this time the central line of demarcation between the democratic and anti-democratic districts becomes more plainly marked. It was obscured from 1848 until 1854, during the upheaval of the national parties, there being only one whig district in the state, and, on the other hand, in 1854, all but two of the eleven districts gave anti-Nebraska majorities (see REPUBLICAN PARTY); but in 1856 the districts settled to the proportions of six democratic to five republican, the former the southern half and the latter the northern half of the state. In 1858–60, the democrats lost two of their districts, and in 1862 regained them and added two northern districts. In 1864 the republicans regained their two districts and gained four of the southern districts. These were successively regained by the democrats until, in 1870, the parties stood about as they had done in 1856. Since 1870 the current has been slightly in favor of the republicans, until in 1881 the proportion is eight republican to five democratic representatives. In the election of 1878 the republicans carried the extreme southwest, or Posey county, district, which had chosen democratic representatives since 1846. — The state elections have always been closely and stubbornly contested. The governors were democratic until 1857, with the exception of governors Wallace and Bigger, who were whigs. Since 1857 the governors have been republicans, with the exception of governors Hendricks and Williams, who were democrats. The election of 1872, at which the former was chosen, was probably the most closely contested in the history of the state, and Hendricks' election was mainly due to his personal popularity. Out of over 375,000 votes he had but 1,148 majority; the two republican candidates for congressman at large had but 126 and 533 majority respectively. — The political complexion of the legislatures has generally followed that of the congressional representation. The manner of districting the state for representation in the legislature has always been a theme for political declamation, each party accusing the other of gross unfairness. (See GERRYMANDER.) In the years of presidential elections the Indiana state elections, which occur in October, are contested with still more bitterness, because the result is supposed elsewhere to be a foreshadowing of the result in November, and money is largely sent into the state from other states to affect the election. The resulting demoralization induced the legislature, in 1877–8, to prepare an amendment to the constitution transferring the date of the election to November. This, with six other amendments (the principal ones being to prescribe a registration of voters, to strike the word "white" from the constitution, and to allow negroes and mulattoes to vote) was submitted to the people at a special election, April 5, 1880, and all received a heavy majority of the votes cast. A majority of the state supreme court, however, decided that the amendments were not adopted, as they had not received the votes of a majority of all the electors of the state, as shown by other elections. — A peculiar provision of the constitution of 1851, requiring two thirds of each house of the legislature as a quorum to do business, has often been utilized in state politics. In 1856 the state senate had two republican majority, and the house twenty-eight democratic majority. The republican senate, therefore, refused to go into joint ballot to elect United States senators, as the democratic senate had done in a similar case two years before, and claimed that neither house could take part without a quorum. The house and a minority of the senate met in joint convention and elected senators, who were seated by the United States senate after a long contest. In 1863 the republican minority withdrew, and virtually dissolved the legislature, in order to prevent the passage of a bill which deprived the governor of the power to appoint militia officers. In March, 1869, the democratic minority resigned in a body in order to prevent the ratification of the 15th amendment. A special election having been ordered, and a special session of the legislature called in April, the democratic minority, after passing the necessary appropriation bills, again resigned, but the speaker of the house ruled that a quorum was present, and the amendment was ratified. The state supreme court afterward indirectly upheld the validity of the ratification. The next legislature was democratic in both branches, and in February, 1871, the republican minority in the lower house resigned in a body in order to prevent the redistricting of the state and the passage of a resolution declaring the ratification of the 15th amendment null and void. — The most distinguished citizens of Indiana in national politics have been Thos. A. Hendricks, Oliver P. Morton, Schuyler Colfax and Wm. H English. (See those names.) Among the leading names in state politics are those of Jesse D. Bright, democratic United States senator 1845–62, expelled for treason; John W. Davis, democratic representative 1835–7, 1839–41, 1843–7, and speaker of the house 1845–7; Edward A. Hannegan, democratic representative 1833–7, senator 1843–9, and minister to Prussia 1849–50; Benjamin Harrison, republican United States senator 1881–7, William S. Holman, dem-

ocratic representative 1859–65 and 1867–77, "a better critic of appropriation bills than any opposition party ever had before or since"; George W. Julian, one of the founders of the free-soil and republican parties, free-soil candidate for the vice-presidency in 1852, and republican representative 1849–51 and 1861–71; Michael C. Kerr, democratic representative 1865–73 and 1875–6, and speaker of the house; J. E. McDonald, democratic senator 1875–81; Caleb B. Smith, whig representative 1843–9, and secretary of the interior 1861–2 (see ADMINISTRATIONS); Richard W. Thompson, whig representative 1841–3 and 1847–9, and secretary of the navy 1877–81 (see ADMINISTRATIONS); James N. Tyner, republican representative 1869–75, and postmaster general 1877–81 (see ADMINISTRATIONS); and D. W. Voorhees, democratic representative 1861–6 and 1869–73, and senator 1877–85. — The name of Indiana was coined for the territory and state as a memorial of its original inhabitants, the American Indians; the derivation of the popular name of its people, "Hoosiers," is unknown. — GOVERNORS: Jonathan Jennings (1816–22), William Hendricks (1822–5), James B. Ray (1825–31), Noah Noble (1831–7), David Wallace (1837–40), Samuel Bigger (1840–43), James Whitcomb (1843–9), Joseph A. Wright (1849–57), Ashbel P. Willard (1857–61), Henry S. Lane (1861, resigned), Oliver P. Morton (1861–7), Conrad Baker (1867–73), Thomas A. Hendricks (1873–7), James D. Williams (1877–81), Albert T. Porter (1881–5). — See Poore's *Federal and State Constitutions* and *Political Register;* 2 *Stat. at Large,* 58, and 3:289 (for the acts of May 7, 1800, and April 19, 1816); Dillon's *History of Indiana* (to 1816); Chamberlain's *Indiana Gazetteer* (1849); Sutherland's *Biographical Sketches of Members of the State Government* (1861); Drapier's *Brevier Legislative Reports of Indiana;* Scribner's *Indiana Roll of Honor* (1866); Wilson's *Digest* (1867); Barber and Howe's *History of the Western States* (1867); Brown's *History of Indianapolis* (to 1868); Ball's *History of Lake County,* 1834–73; Brown's *State Government* (1875); Goodrich and Tuttle's *History of Indiana* (to 1875); Porter's *West in* 1880, 132. ALEXANDER JOHNSTON.

INDIAN TERRITORY, The, a portion of the public lands of the United States, not organized in preparation for becoming a state, but set aside as a residence for various Indian tribes. — That consistent friend of the Indian, Jefferson, seems to have been the first to form the idea of transferring the Indian tribes across the Mississippi to the new acquisition of Louisiana. (See his proposed Louisiana amendment, CONSTITUTION, III.) This policy was carried out by various Indian treaties thereafter (see CHEROKEE CASE), and by the act of June 30, 1834; all the territory of the United States west of the Mississippi, and not included within Missouri, Louisiana or Arkansas, was to be "taken and deemed to be the Indian country." By another act of the same date a superintendent of Indian affairs was to be appointed, and no one was to trade or settle in the Indian country without his permission or that of one of his agents. The Indian country, or Indian territory, has since been diminished by the erection of various organized territories, until it now comprises the 68,891 square miles, bounded on the north by Kansas, east by Missouri and Arkansas, south by Texas, and west by the 100th meridian. The narrow strip of territory north of Texas, west of the 100th meridian, and east of New Mexico, has never been placed in any organized or unorganized territory by law. — The capital of the Indian territory is Tahlequah, and the population is about 75,000. The leading tribes are the Cherokees (19,000), the Choctaws (16,000), the Creeks (14,000), and the Chickasaws (5,000), but there are a large number of smaller tribes. At the outbreak of the rebellion most of the tribes were divided in sympathy, and many of them formed treaties with the confederate states, but these were readmitted to their former privileges in 1865–6, slavery being abolished among them. In 1870 a convention at Ocmulgee formed a state government, with a governor; a senate composed of one member from each nation, or group of nations, having over 2,000 population; and a house of representatives, elected in the ratio of one representative to 1,000 population. This was rejected through the objections of the smaller tribes to the composition of the senate. Efforts have since been made to organize the Indian country as the territory of Oklahoma, but the Indians object to this step strongly, and congress has not yet taken it. In 1881–2 an organized expedition from southern Kansas, styling itself "the Oklahoma colony," made persistent efforts to settle in the Indian country, in defiance of the ancient prohibitions against settling there without the consent of the government; but they have as yet been intercepted and turned back by the army. The final breaking up of the Indian *imperium in imperio* will probably come through the agency of the treaties made by the Indians in 1866, by which they agreed to grant the right of way through their country to railroads. Interests were thus developed which almost immediately led congress to extend the revenue laws and taxation to all territory "within the bounds of the United States," although the treaties with the Indians guaranteed to them freedom from taxation. The supreme court has upheld the power of congress to thus change the treaties, and their final abrogation is evidently only a question of time. — The act of June 30, 1834, is in 4 *Stat. at Large,* 729; in 2 *Stat. at Large,* 139, 146, will be found a summary of previous Indian acts, and supreme court decisions thereon.

ALEXANDER JOHNSTON.

INDIVIDUAL AND THE RACE, The. How to account for the contrast between the aggregate will (the will of the state) and the single will of individuals, is confessedly one of the most difficult problems of political science. The caprice of individuals is as manifold as their peculiarities,

while the aggregate will can and must indeed be only one. How is it possible to base the aggregate will, which rules in the state, on the multiformity of divergent individual wills? — Rousseau, who explains the state as the agreement of individuals who come together as if by contract, had indeed some idea that the general will was other than the will of all. But he endeavored to evade a problem, which he could not solve, by a fiction, which stands no test. As it is very seldom that all agree, he says, the average will of the majority must pass for the will of all. This is jumping from the frying pan into the fire. In the state we are forced to respect the aggregate will as authority, that is, to respect it in all things as just; and who warrants us that the will of the majority is more just than that of the minority? Almost all great improvements, both in the state and in law, were in the beginning advocated only by single individuals, as were the blessed revelations of religion and the most fruitful discoveries of science, and were understood and accepted by a few enlightened adherents. Only after long and severe struggles with the prejudices, ignorance and crudeness of the multitude did they gradually obtain recognition. If the majority be eventually rational and just, certain it is that it is not so at all times. Therefore to assert that the aggregate will and the will of the majority are the same thing, is to set coarseness above culture, and ignorance above wisdom. — But the unity of the will of the state can be explained in this way still less than the wisdom and justice of the will of the state. The mere counting together and bringing together of many or even all separate wills can never produce one aggregate will. Millions of grains of sand thrown together will make a sand bank, but no whole. A hundred thousand dollars piled one on another is a handsome sum of money, but not a fortune. The vessel, which is baked from the grains of sand, is a whole, and so is a property or an establishment of a hundred thousand dollars a fortune, but only because upon a summing up of the different parts an idea of unity has been added, which has formed them into a whole. In the case of lifeless things this union may come from without. But if the living wills of thousands are to become one will, the unity must be found in themselves. — Hegel had remarked the want of coherence and the contradiction existing between all these separate wills, and perceived that from this confusion no unity of law could be formed. He, unlike Rousseau and Kant, understood the will, which formed the state and the law, to be, not individual caprice, but the general will, grown conscious of itself, really true and rational. But this only tells us how the will of all should be constituted in order to be recognized as the universal will; it does not explain why this universal will is right, rational, or one. — Scarcely a philosopher or jurist has recalled that we have within ourselves the contrast between the aggregate will and the individual will. Only by the double nature of man, from the contrast which we as individuals and as belonging to a race find associated in ourselves, can this two-fold character of the will be explained, but it is completely explained by that. The credit of first recognizing this, and proving the very decisive significance of this contrast for all psychological questions, belongs to Friedrich Rohmer. — We are conscious of our individual will with the same certainty as of our individual thoughts. By wishing something exclusively for myself, something which others do not wish or will not allow me, I am conscious of the opposition between my will and the will of others. Because Cæsar willed to rule Rome, Brutus willed to kill him. It is possible that both wills were only individual, but if one of them was likewise the Roman aggregate will, it is impossible that the other could be so too. — The difference of the two wills is clear enough. But how do we become conscious of the aggregate will? How, except by the opposition which arises in ourselves when we wish something for ourselves, which injures the common nature, of which we, with others, form a part? When a son raises his hand against his father, when a brother wishes to make a slave of his brother, when the thief takes another's property, a voice is audible within him which opposes his individual will. When the indolent man sinks into laziness, and the inactive man buries his talents, he is sensible of an admonition which urges him to activity. In the first case the individual will is checked; in the second it receives an impulse to action. In both cases the inner voice announces the existence of a will, which strives to contend with the will of the individual. Some call this voice the conscience, through which God speaks to man; others call it the conscience, which is immanent in human nature, and which bears testimony to the moral order dwelling in it. At bottom, both mean the same thing; but the former admit that this voice is heard in human feelings, ideas and words; and the latter do not deny that the inner harmony of human nature was given with the creation of man, and is hence in the divine order. A moral spirit lives in the conscience, which is different from our individual spirit. Our individual will is often unjust and irrational; the human will of the conscience is always just and rational. The many individual wills contradict one another; the common will of the conscience is in itself harmonious. The individual will belongs to me alone; the aggregate will, which stirs as conscience, is common to me with my family, my people, and the human race. We can call it the will of the species, or the will of the race, for the species and the race are common to all, and make a unit of all. — In the individual will is a clearer self-consciousness and a higher freedom. In the will of the species the order of nature and instinctive necessity chiefly work. Separate wills give rise to multiformity; the will of the species preserves unity and insures equality. Individual

will lives only in the individual; the will of the species works through the whole species. — In each man the contrast of the race and the individual is found in one person. To the extent that we distinguish and more closely examine both these sides of our being, we obtain great light upon numerous questions. Let us endeavor to establish a few chief principles, although their exhaustive demonstration may not fall within the province of a work like the present one.

RACE.	INDIVIDUAL.
1. The race at first glance is visible in the sameness of the human frame.	1. One's special individuality is, as a peculiar faculty of the mind, concealed in the body.
2. The race is, however, not mere corporeal matter; the organs of the body are at the same time psychic organs. There are also universal instincts of the race, as for instance, the instinct for nourishment, the sexual instinct, the universal moral faculties.conscience, the universal intellectual faculties, human intellect; therefore, in a word, in the race there is also a common spirit.	2. The hidden nature of the mind of the individual strives to become visible, and becomes most clearly so in words and deeds. In exalted and excited moments it is radiated visibly from the body, and its finer or coarser lines impress lasting traces on the body.
3. The human race is originally the work of the creation, but since then has been transmitted from parents to children. The human race rests, therefore, upon propagation through human beings. It preserves its coherence through ancestors and descendants, under the generations, which follow one another. Natural right of inheritance is an effect of race.	3. The individual mind is not the continuation of the parents'. Its production is a new act of creation. Talents and the particular spirit are not transmitted, and an individual may have an entirely different disposition from his parents or his family. Individuals create the new in the world.
4. Race is necessarily bound to the surface of the earth, which nourishes and supports it. It is essentially earthly.	4. The individual mind is not bound to the earth. The whole terrestrial globe is a plaything for it, and it translates itself without trouble to the most distant stars.
5. Race undergoes necessarily a series of transformations. In regular order the different steps of age succeed each other. After youth follows old age, as death follows birth. No one, who lives long, can avoid this evolution, which is independent of him as a power of nature.	5. The individual mind remains essentially the same from childhood to old age. A youthful individual mind remains young, although the hair may be white; while an oldish mind is old, even in childhood. The individual develops himself by his work. His works are like himself.
6. In the external nature of man, in the human race, a complete system of faculties in perfect order is visible. Man is created in relative perfection, a microcosmic picture of the perfection of God.	6 Individual minds are endowed, for the most part, only deficiently and incompletely They are generally only incomplete thoughts of God; single living words, not a complete language. But, with the help of the race, they work themselves up to perfection.
7. Race is similarity. In all essential relations the thousands of millions of men, who have already lived or shall yet live, are endowed with the same physical organs in the same order, and the same psychic powers; and all are subject to the same development with age.	7. Difference is the characteristic quality of the individual. Talents and all special gifts are distributed unequally. Achilles and Thersites, Cæsar and Lucullus, were infinitely different, although as belonging to the same race of people and living in the same period they were classed together
8. Race unites its members in a necessary community. Whoever tries to withdraw himself from this community revolts against nature and breaks the faith which he owes his kind.	8. The individual is first of all interested in himself and has his own life, distinct from other individuals. With free choice he seeks his own companions, and extends his hand of his own free will to them for common work.
9. The human race means the unity of the human kind. The history of the world is the record of the fulfillment of its destiny.	9. Individuals are multiformity. The tasks of individual life promote, but sometimes impede, the progress of human society.
10. The aggregate will has its natural founuation in the community and unity of the race.	10. The individual will is the expression of the individual mind.
11. When the aggregate will rules one-sidedly, the freedom of the individual is lost, and the despotism of the whole prevails: the reciprocal action between the freedom of the individual and the despotism of the whole is unavoidable.	11. When individual will asserts itself, without regard to the aggregate will, then we have anarchy.
In the repose of man the life of the race predominates.	In the work of man the life of the individual is heightened.

— There can be no doubt what relation human law bears to this contrast. Race is visible; and only exteriorly perceptible relations are taken cognizance of, and determined, by the law. In race, psychic and physical elements are combined into unity, and all law is made up of an intellectual-moral and a physico-formal element Race is earthly-human, and so also is law. Race is transmitted from generation to generation, and law also outlasts the life of individuals. Race has an organic growth, and experiences regular transformations; and so the history of law is the organic growth and the regulated transformation of the laws. The life of the race is chiefly a necessity of nature, and the fundamental character of law is the moral necessity of human relations. Race is similarity, community and unity; and these are also the qualities of law. Race is the repose, and the perfection, so to speak, of law and order. — It was, therefore, a great and a fatal error of the philosophy of law to have deduced law and the state from the life of the individual and the will of the individual. Law and the state refer indirectly to individuals, inasmuch as they guarantee them protection in their action, exactly as does the corporeal race serve the mind of the individual as a dwelling place and an instrument. But the law and the state have no measure for what is most individual in the life of the heart and the mind, nor do they exercise any power over that life. Not only is the order of the state based upon the race, and in the first place upon the race to which the people belong, but the life of the state, politics, is the development of

community and unity; therefore of the race. But the life of the individual has also an important share in politics; it is not merely the development of the race There are also certain men who in their capacity of individuals are made for the state, and who give their individual life to the state. All real statesmen are such individuals. Such men are a living embodiment on a large scale of the reciprocal action of the two natures. The state is not exclusively the formation of the common nature of the people or the national race; it is indebted for a part of its existence and its importance to the individual labor of its leaders. — This leads to a further distinction within the race. There is an inborn race and an inculcated race. Whoever wishes to obtain a clear idea of the power of education not only on individual men, but in the formation of whole races or entire classes, has only to consider the influence of Moses on the Jews, of Lycurgus on the Spartans, of the government of Rome on all Roman peoples, or of the clerical education on the whole deportment of the Catholic clergy. Race, which is in the first place a natural idea, is thus changed to an idea of culture. The state gradually and by piecemeal transforms the nation, which is educated by it, through its ever active institutions. The necessity of common nature thus experiences the power of individual freedom. — The most important of the narrower circles of the race, into which the one human race is divided, are: 1. What we, in a psychological meaning of the expression, call the different races of mankind, those great differences which constitute the natural varieties of mankind. How these contrasts, which are apparent in the complexion, the structure of the hair, the form of the skull, and, still more, in the difference in the sensuous and intellectual faculties, and which for thousands of years have remained substantially the same, originated in the first place, whether by different creative acts, or by later workings of nature, has not yet been decided by science. But two things we know. In the first place, we know that this difference in the races of mankind is not a work of human culture, but essentially a product of macrocosmic nature, and it therefore must be accepted as a necessity. In the second place, we know that this very thing is of the highest significance in politics. Only the white race is, in the highest sense of the word, given to the formation of the state; of the white race, again, the Aryan subdivision is here in advance of the Semitic. The black Ethiopian race is evidently assigned to the tutelary training and sway of the Aryan and Semitic races. Only the yellow Mongolian race and perhaps also in other times the red (Indian) race have brought themselves to a real civilization of their own, and by themselves have developed a state, relatively speaking. 2. Races which form nations and peoples are essentially a product of human history; and human history itself is the result of the cooperation of human freedom, a natural necessity and fate. A mere glance can distinguish between the Englishman and the Frenchman, the Italian and the German, although the European culture of to day, at least in the educated classes, has effaced and destroyed a multitude of the old differences. More important than the difference in national traits, the shades of which can hardly be depicted in language, is the race contrast in national character and spirit, which chiefly determines political life. The manly pride of the Englishman is a characteristic of race, like the love of fame of the Frenchman, the calculation of the Dutchman, the philosophical nature of the German, the craftiness of the Slave, and the deceit of the Italian. The peculiarity of nations is their race. 3. Within the nation, the race of single tribes of people is modified, as among the people that of estates and classes is. 4. The family forms the narrowest circle of race. Whoever compares the family portraits of the Hapsburgs or the Bourbons for hundreds of years, will be surprised at the energy and tenacity with which nature so long held fast a fixed family character. The very same thing is repeated in families of the middle class. With family traits are also transmitted a definite family character and family spirit. The mental side of the race of families is therefore no less worthy of attention than the physical. — All these races together, of the family, of the nation, and of mankind, form the animated instrument, which the individual living therein uses during his earthly life. The race serves him; but it demands in return also from the ruling individual, respect for the conditions of its life, and due regard for its limited faculties. Happy, the intellectually powerful individual, who has at the same time received a strong and enduring race as an inheritance. Unhappy, the man in whom race and individual struggle with each other in continual dissension. So, happy is the state, whose race of people is guided by statesmen, whose individual nature is the loftiest expression of their race; and miserable is the state, whose rulers are not worthy of the better race.

BLUNTSCHLI.

A. D. HALL, *Tr.*

INDIVIDUALITY. This word suggests a problem which our age is compelled to propound if not to solve, namely, the respective parts which should be assigned to the individual, to the state and to society. This problem has undoubtedly existed from the very beginning of civilization, but only in a latent state. The three interests, when confronted with one another, have not been slow to conflict, each of them exhibiting considerable strength and corresponding with some one of the human passions: egoism in the individual, affection in society, ambition in the state. — For the harmonious development of humanity it is necessary that no one of these forces should destroy the others. This necessity has at all times been instinctively felt, but it is only in our day that men have become conscious of it. So also is it only in our day that the problem has

been formally propounded, and the attempt been made to bring direct influence to bear upon its solution. — As Lapalisse would say, it is better to understand the problem clearly than to guess at it blindly. However, we are tempted to believe that a clear understanding of the problem will render its solution all the more difficult. In fact, an interest which is conscious of its own legitimateness is much less disposed to make concessions than a mere tendency whose action we feel perhaps while disproving it. — But it is rare to find men such perfect masters of their inclinations that their reason is not affected by them. And was reason ever found wanting in arguments to serve human passions? Hence it follows that a passionate man is apt to become a more exclusive individualist, socialist or adherent of the government than one of a different disposition. — What we have just given expression to, is merely an apprehension; but by consulting certain famous works from the "Leviathan" of Hobbes to the "Icarie" of Cabet, it will be found that this apprehension is not entirely without foundation. However this may be, let us endeavor, if not to define the part of the individual, in relation to society and the state, at least to collect the principal elements of a definition. — The individual can, strictly speaking, exist without society, but he could not improve without it. It is society that makes of man "a two-legged animal without feathers." Nature likewise has endowed man not only with all the selfish inclinations which constitute his instinct of self-preservation, but also with the affection which attracts him toward his like. But affection is often weaker than egoism; in other words, interest often prevails over morality; this is unfortunate, but experience proves that it is true. The élite of men endeavor first of all to strengthen society, and the more brutal and ignorant nations are, the more ingeniously the eminent minds of the period try to increase social tendencies and forces. — Among the manifestations of this tendency, we will mention, in the economic order, art and trade organizations and castes, and in the spiritual order the rule of the church. But at a given moment a part of society becomes too large, the various institutions which were intended to protect it separate from it and form themselves into individual establishments which possess a collective egoism; and a reaction becoming both necessary and inevitable, the part of the individual increases. The force of this reaction spent, we are now no longer over passionate, and it will be possible for us to examine the question coolly. — *Mens sana in corpore sano.* In like manner society is sound when the individual is not corrupt. Man, like water, becomes corrupt by stagnation. Advancement and *progress* are what the body needs as well as the mind. Man, if his faculties have not been compromised by domestic education, or by social and political influences, is naturally progressive: an invincible curiosity urges him to acquire knowledge; an insatiable avidity prompts him to appropriate to himself all that he possibly can. When we build air-castles, do we not begin our dreams with the most modest desires, and behold them increase before our eyes until they surpass the bounds of the marvellous? — Such is man And we should congratulate ourselves that he is such. Without this stimulant how would our will overcome the inertia which characterizes the purely material part of our being, the clay of which we are made? how would we overcome the pain which labor causes? But, without labor, there can be no progress. Hence it follows, that the individual, in order to prosper, must have the fullest possible liberty to work, materially and intellectually. It would not be at all difficult for us to deduce from this proposition the necessity of enjoying all the political, religious, civil and other liberties which this age so energetically claims. But the developments would oblige us to repeat what has already been said elsewhere. — Society should therefore restrain the individual as little as possible, and ask of him only such sacrifices as are indispensably necessary. This is, at bottom, really to the interest of society. In restraining man's inclination to injure his neighbor or to appropriate the fruit of his labor, society protects the weak, without really giving the strong any reason to complain. It teaches him so to direct his efforts that humanity will profit by them, either against his evil passions, or against the brute forces of nature. The object of society is *par excellence* the moral and intel lectual culture of man. To it we owe the development of our sentiments of affection, as well as all our scientific discoveries. Without society there can be no morality, and without morality man would become the most relentless and formidable enemy of his fellow-man. — From these propositions one might be led to infer that society should take precedence of the individual, just as the mind rules the body. We willingly admit this formula, for the very reason that it is vague. In these matters it is impossible to be very precise. But we must be on our guard against the abuse which may be made of it to oppress the individual. It must ever be borne in mind that the individual is the raw material of society, and that whatever is injurious to one is injurious to the other. In like manner, the thought is assuredly infinitely more precious than the brain in which it is elaborated, no one knows how; but be careful not to injure the brain, if you would preserve the thought. — The *individualistic* and social tendencies of men, when left to themselves, are often the first to prevail. We have already said that egoism is stronger than affection. It was necessary that some institution should come to the aid of society, and this institution was found in the state. In fact, many states are formed by means of which morality does not approve, but time purifies almost as much as fire; and in a word, the state has become the frame-work of society, and to a certain extent the body in which it has become incarnate. — The state was not slow to constitute itself the arm of society. If it had

stopped with the fulfillment of this task, all would have been well. But the more society became incarnate in the state, the more the state became incarnate in men, and these men, say what we will, have not always been the élite of our species. If not their personal interests, at least their views and opinions always exerted more or less influence over their public acts, and as they had the power, they circumscribed the liberty of the individual, first for the greater good of society, then for that of the state, and finally for his own benefit: some of them would willingly have made man a mere automaton. Did they not oblige him to believe what the authorities believed, to work according to methods prescribed by law, to adapt his clothing and diet to rules, to retire at sound of the curfew bell, and not to take a step except in official leading strings? — It is against these exaggerated pretensions that we contend. Let us give to society and to the state what belong to them, but let us maintain the rights of the individual. We are ready to make every possible sacrifice for society and for the state: we will open our purses, we will shed our blood, we will restrain our passions for them; but in return, leave us the right to use and abuse our individuality. We wish to belong to ourselves; protect us against others; it is each one's own duty to protect himself against himself. Are we not responsible agents? — We will not insist any further; but will merely propound our theory, and demonstrate how it can be applied in a very few words. Whatever belongs exclusively to the domain of individual interest, should be left entirely free. Society should use only moral force; public opinion and human respect are, besides, powers of the first order. The duty of the state is to watch over the general interests of the nation, political, legal and moral; and as to the province of economy, it should occupy itself only with things that are beyond the power of the individual, or which the individual could not reach without its assistance; this does not clash with its duty to maintain order and respect for morality, and to protect the weak. MAURICE BLOCK.

INDUSTRIAL ARBITRATION AND CONCILIATION is the name given to certain methods of preventing labor disputes or settling them when they arise, by their submission to the decision of umpires or judges, or by conferences between the parties to the dispute or their authorized representatives. — Though the terms arbitration and conciliation are jointly used to name this system, and though in many instances, in recent years, the best results came from their joint operation, yet they are by no means the same, though having the same object in view. Arbitration implies a more or less formal hearing of the matter in dispute before an umpire or umpires, with a formal decision or award which the parties are legally or morally bound to accept. Under conciliation there is no umpire, nor any power lodged with any one or more persons to make a binding award. Any decision arrived at is the result of conferences, and is of the nature of an agreement. As in arbitration, there are a hearing and discussion of the questions at issue, but usually very informal. The result of arbitration partakes of the nature of a binding judgment; of conciliation, of a mutual agreement. — In their origin and modes of working, arbitration and conciliation are either, 1, *Legal*, that is, established and operated under statute law with its sanctions and power for enforcing awards; or, 2, *Voluntary*, that is, established and operated by mutual agreement. The submission of disputes under legal arbitration and conciliation is either, 1, *Compulsory*, that is, the question must be submitted for decision upon the application of either party; or, 2, *Voluntary*, that is, it can be submitted by mutual agreement. In either case, while there may be a choice as to the submission of the dispute, yet when so submitted the decision is binding upon both parties, and can, so far as its character permits, be legally enforced. Of course, the submission of questions to voluntary arbitration and conciliation is always voluntary, and the awards are only morally binding and can not be legally enforced. — The method of compulsory arbitration and conciliation, under the forms and sanctions of law, which has existed in France and Belgium since early in the present century, and which in the former country succeeded to some of the powers of determining trade and labor disputes possessed by the ancient trade guilds until they were abolished in 1791, is treated of under the title CONSEILS DES PRUD'-HOMMES, which see. The only other country in which arbitration and conciliation has been employed to any considerable extent is England, though the forms and methods used differ materially from the French and Belgian. In treating of English arbitration and conciliation it will be most convenient to consider its history and methods under two heads, Legal and Voluntary. — I. *Legal Arbitration and Conciliation in England.* Under the Elizabethan statutes concerning labor which codified many of the rules and regulations existing for centuries among the English craft-guilds, the assessment of wages and settlement of disputes between masters and apprentices, as well as the protection of the latter, were placed entirely in the hands of magistrates. Under the decisions of the courts these statutes were only applicable to the trades existing at the time of their passage, and to these only in certain localities. During succeeding reigns these statutes were modified and enlarged. New industries were included in their scope and additional provisions and statutes enacted providing various means for the settlement of labor disputes, gradually taking from the magistrates their arbitrating power and developing the idea of arbitration by chosen or appointed referees. In 1824 all these acts were consolidated and replaced by that of the 5 Geo. IV., cap. 96, entitled "An act to consolidate and amend the laws relative to the arbitration of disputes between masters and work-

men." This act, which was one of the outcomes of the investigation of the operation of the labor laws by a committee of the house of commons, was evidently modeled after the French law establishing conseils des prud'hommes, but adapted to the different character of English industry and institutions. In it provision is made for the compulsory submission to arbitration, upon the request of either party to the same, of disputes arising between employer and employed in certain specified trades and upon certain subjects, which are also specified in the act. The justice of the peace, before whom the case is brought, or arbitrators elected by a board, composed equally of employers and employed, nominated by the justice, hear and determine the dispute; or any other method that may be mutually agreed upon by the disputants can be adopted; but it is carefully provided that "nothing in this act contained shall authorize any justice or justices acting as hereinafter mentioned to establish a rate of wages or prices of labor or workmanship at which the workman shall in future be paid, unless with the mutual consent of both masters and workmen." The awards under this act could be enforced by legal processes. Though this act is still in full force in England, it has rarely, if ever, been used.—Shortly after the passage of this act voluntary boards of arbitration and conciliation were introduced into some of the industries of England. In addition to the formal arbitration of existing disputes contemplated in the act of 1824, these boards considered and fixed future rates of wages, and also provided for conciliation committees, whose province was to adjust differences between employers and employed by mutual good offices without a formal hearing and award. In 1867 these boards had become so numerous and successful that an attempt was made to give them a legal basis, if they so chose, by the passage of the 30 and 31 Vict, cap 105, commonly called Lord St. Leonards' Act. This act is entitled "An act to establish equitable councils of conciliation to adjust differences between masters and workmen." It provides for the formation of a council of conciliation under authority of the home secretary, upon the joint petition of the masters and workmen of any particular trade working in the same locality. It also specifies the method of election of this council, the qualifications of electors, and other matters necessary to its proceedings. The council is to hear all differences between masters and workmen, as set forth in the act of 1824, that may be submitted to them by both parties. The award is to be final and conclusive, and may be enforced by proceedings of distress, sale or imprisonment, as provided in the recited acts. It is, however, specially provided that "nothing in this act contained shall authorize the said council to establish a rate of wages, or price of labor, or workmanship, at which the workman shall in future be paid." The quorum of the council is to consist of three members, but a committee called the committee of conciliation, appointed by the council, and consisting of one master and one workman, shall endeavor to reconcile all differences in the first instance. The chairman is to be unconnected with trade, and has a casting voice. No counsel, solicitors or attorneys are to be heard before the council or committee without the consent of both parties — In both of these acts especial care is taken to provide against the fixing of future rates of wages—one of the most prolific sources of dispute. This was a serious defect. Accordingly, in 1872 an act was passed, the uses of which, briefly stated, are three, viz.: 1. To provide the most simple machinery for a binding submission to arbitration, and for the proceedings therein. 2. To extend facilities of arbitration to questions of wages, hours, and other conditions of labor, and also to all the numerous and important matters which may otherwise have to be determined by justices under the provisions of the master and servant act, 1867. 3. To provide for submission to arbitration of future disputes by anticipation, without waiting until the time when a dispute has actually arisen, and the parties are too much excited to agree upon arbitrators. These acts have been of but little practical value. In their best features the recent ones have followed, not preceded, the voluntary practice of arbitration and conciliation, and they have only sought to give the forms and sanctions of law to a practice that was successfully in force without such forms and sanctions. If the same (if not better) results can be attained without an appeal to law, the English character is such that it will always prefer the non-legal to the legal. — II. *Voluntary Arbitration and Conciliation in England.* Prior to 1860 there had been in England frequent settlements of labor disputes by their voluntary submission to boards of arbitration and conciliation. These had attracted but little attention, however, and the system was making little or no progress. In this year, through the efforts of Mr. A. J. Mundella, the first permanent or continuous board of arbitration and conciliation in England was established in the hosiery and glove trade at Nottingham. This was soon followed, though without any knowledge of the existence of the Nottingham board, by the establishment of a board in the Wolverhampton building trades, through the efforts of Mr. Rupert Kettle, who has since been knighted for his services in behalf of this system. Boards were soon formed in the manufactured iron trade, and in the coal and other trades, and for nearly twenty years many labor disputes and the rates of wages for many thousands of workmen have been settled by these boards without strikes or lockouts. These boards are purely voluntary. They have no sanction of law—no legal existence. There is no forced submission of disputes, nor is there any power except a man's sense of honor, public opinion, and the aggregate honor of the trades unions or the employers' associations to enforce the acceptance of the awards; and to the honor

of the parties involved be it said, that except in a very few isolated and unimportant cases, these have been found sufficient. — The boards are made up of an equal number of employers and employed, each class electing its own representatives. In some boards each establishment has a representative of each class, as in the north of England iron trade. In other cases groups of establishments elect the members, as in the lace trade of Nottingham. The officers of the boards are generally a president and a vice-president, one an employer and the other an employé, and two secretaries, one for each class. The two classes have equal influence and an equal vote on all questions. Meetings are held monthly, quarterly or less frequently, at which all subjects at issue are discussed and settled, if possible. In all of these boards there is a provision for settling minor disputes by conciliation without convening the entire board. Failing a settlement in this way, however, the dispute is referred to the board, when it is generally adjusted, unless it is a subject of some moment. Broader questions, those that affect the trade of an entire district, or of a class, are in the first instance generally referred to the board, and, in case the board can not agree, to an umpire. In the Nottingham board there is no umpire, the board deciding all questions. This referee or umpire is in some cases a regularly elected officer of the board—a standing umpire or referee, as he is often termed—or he may be chosen for the decision of a particular question. His decision is final. The members of the board are clothed by their constituents with plenary powers. The expenses are met equally by each class. The course of proceedings before the board is very simple. In case of a claim for an advance in wages, for example, the employés' representatives submit, through their secretary, a formal statement setting forth the reasons for the demand, such as an increase in the demand for the goods manufactured and in the selling price for the same, increased demand for labor, or higher prices paid in other districts manufacturing similar goods. The representatives of the employers submit a formal statement in reply, stating their reasons for refusing the demand. With these statements before them the justice and advisability of the demand are discussed by the members. The proceedings are without ceremony. No valuable time is wasted discussing parliamentary rules. Statements are made, and questioned or impeached. Proofs are demanded and furnished. The circumstances surrounding the market and the trade are canvassed, estimates compared, statistics set forth, and the strength of competition measured. As the outcome of all this, a result is generally reached that, if not entirely satisfactory to one or the other party, is accepted as preferable to a strike or lockout. — Arbitration and conciliation has not been generally adopted in England as a means of settling labor disputes. In many trades it has prevailed through a series of years and then been abandoned and the method of strikes and lockouts substituted; but in those trades in which it has been most thoroughly and systematically used during the time it prevailed, strikes and lockouts were almost unknown. One great advantage of these boards is, that they form a market where labor and capital can come together and in a friendly spirit fix what is "a fair price for a fair day's work." Judge Kettle admirably expresses this when he says, "I verily believe that, without limiting the influence of fair competition, boards of arbitration, properly worked, afford the best means of fixing the market price of a fair day's work." They also have served to bring employer and employé into closer relations. Under their action a most friendly feeling has taken the place of hostility, and confidence and mutual respect have been inspired where formerly all was suspicion and hatred. The changed relations of employer and employed have been recognized. They have met around the same table as equals, and out of all this have come juster and truer views of their mutual rights and duties. — For further and more detailed information on this subject consult *Industrial Conciliation*, by Henry Crompton, London, 1876; *Strikes and Arbitration*, by Rupert Kettle, London, 1867; *Masters and Men*, by Rupert Kettle, London, 1871; *Report of the Trades Union Committee of the British Social Science Association*, London, 1860; *Report on the Practical Operations of Arbitration and Conciliation in the Settlement of Difficulties between Employers and Employés in England*, by Jos. D. Weeks, Harrisburg, Pa., 1879; *Industrial Arbitration and Conciliation in New York, Ohio and Pennsylvania*, by Jos. D. Weeks, Boston, 1881.

Jos. D. Weeks.

INDUSTRIAL EXPOSITIONS. (See Expositions)

INDUSTRY. I. Definition of the Word; Explanation of the Subject. The meaning of this word, at first quite restricted, has gradually extended, in proportion as the importance of the phenomena to which it relates and the connection of the various labors of man were better understood. It may be recognized, however, as having at present three distinct acceptations. — In common language, the word *industry* most frequently means nothing more than manufacturing industry, whose special object it is to transform, in the working, the raw materials furnished by agriculture or mining. We usually say, for example, *commerce* and *industry*, when we wish to distinguish the shop from the workshop, the store from the factory. We also say *agriculture* and *industry* when we wish to compare farming with the activity of cities. This popular acceptation is moreover the one which long prevailed, and which still prevails quite frequently in official language and law. — Nevertheless, a broader meaning is sometimes given, in ordinary speech, to the word *industry*. It is used in a general way

to describe all material labors, agricultural as well as manufacturing or commercial, in distinction from those which appear to have a more elevated character, such as the labors of scholars, artists, public functionaries, etc. In this case, industry forms in a certain way an antithesis to all that is embraced under the term liberal professions. We say, for instance, that a man begins an industry when he becomes an agriculturist, a manufacturer or a merchant, and that he abandons industry, when he exchanges one of these occupations for that of an artist, an advocate, a physician or a public functionary. This interpretation, like the first, has gone into official language and law, in which the restricted meaning which we have just mentioned, or the broader one to which we call attention, is given to the word *industry* according as it is desired to express one sense or the other. — Though neither of these acceptations of the word belongs really to economic language, for the reason that each one of them seems to create an absolute separation between labors which are only distinguished by differences of kind or species, still they are both found in the works of the principal economists. Adam Smith uses no other, and they appear frequently enough in the writings of his successors. It is difficult, moreover, to reject either of them absolutely, since they are sanctioned by use, and there is perhaps no inconvenience in adopting them sometimes, provided that care be taken clearly to define their application. But we must hasten to say that, in proportion as the field of economic science extended, while being cleared from obscurity, in proportion as the resemblances between human labors as well as the force of the ties which connect them were more clearly explained, the necessity was felt of giving a broader meaning to the word. The distinction so frequently established between the industrial arts and the professions called liberal, seems false or empty, at least when taken in an absolute sense. It was understood that these labors, no matter how different they may be in their processes and in their relations to their immediate object, are connected, bound together, lend each other a mutual support; that they are governed by the same laws, and lead in reality to the same ends; that there is, consequently, a reason to include them under a common designation. In this way, by the natural movement of economic studies, men came, gradually, to include under the general name of industry, all labors, of whatever nature, which contribute directly or indirectly to satisfy the wants of man. — So that, in genuine economic language, industry is human labor, without distinction of kind; labor considered in the infinite variety of its applications. The word industry would even be the exact synonym of labor, were it not necessary to recognize for it a higher meaning in some respects. But, while we can scarcely understand by the term labor, only the exercise pure and simple of the physical forces, or the intellectual faculties of man, we must include under the term industry the employment of these same forces, these same faculties, with all the social combinations which increase their power, and the concurrence of all the physical agents which favor their action. It is, in one word, labor; but labor raised, if it be permitted to say so, to a higher power, both by the agency and combination of individual forces, and the aid of auxiliary agents which man has been able to gather around himself. — Considered from this broad and general point of view, industry is, as we shall see in the article POLITICAL ECONOMY, the real object of the investigations of economic science, which studies its organization and explains its laws. By taking it up in this way we are evidently relieved from exalting its importance. We have no need of dwelling on those commonplace considerations which are usually brought forward to extol its advantages and merits; considerations which to our thinking are always of meagre fitness, since they lower what they pretend to exalt, and which would be particularly out of place here. Industry, as we look upon it, is not a secondary fact seeking its place; it is the active life of man; it is, in some respects, the man altogether. When addressing men there is no need of wasting eloquence to heighten the importance of such a fact. — But if we are freed from insisting on this point, we have another task to fulfill, that of showing at a rough estimate how industry is organized as a whole; to present a miniature picture of this organization, and indicate at least its principal features. This is the place to group and collect the general phenomena presented to us in the field of industry, and which form the ordinary text of economic studies. It is necessary to show, as far as is possible in a summary analysis, how these phenomena are arranged and connected, in order to point out the place which each one of them occupies in the industrial order; this is the best way of showing, at the same time, the extent of the field which economic science must cover. — To attain this object successfully, it is well understood that what we have to consider is industry as it exists, such as civilization has made it, that is to say, with all the organic elements developed in it by time. Still, as industry, considered with reference to the organization of the labors which it embraces, is an essentially progressive phenomenon, which, though subject to certain invariable laws derived from the nature of man itself, is built up in a gradual and progressive manner; since it begins in a rude state and rises gradually to the miracles of organization, which we witness to day, like the tree which, contained at first in the germ, develops only with time, and throws out its branches successively, it seems to us useful to consider it in its rudimentary and primitive state. This is the more important since it is not developed regularly, in the sense that its organization is equally advanced everywhere; it is, on the contrary, very unequally developed according to locality, and we find here and there, in places.

even far advanced in civilization, remnants of its primitive organization. — II. PRIMITIVE AND RUDIMENTARY CONDITION OF INDUSTRY. The condition of industry which we call rudimentary consists essentially in this, that the most varied functions are united in the same hands; that exchange is almost unknown, and consequently the division of labor also, which is induced by exchange. All those occupations, so numerous and diversified, which are carried on separately in society as it now exists, opening a field to so many professions or different careers, were then in a certain way mingled and confounded, in the sense that they were exercised in turn by the same individuals, though in a very imperfect and rude manner. Another distinctive trait of this primitive organization is, that a sort of intimate community existed in it among men, at least among those forming the same society, in such a manner that they performed the greater part of their labors in common, and made a direct division of the fruits of these labors. — We have tried to give an idea of this state of things in several articles in this Cyclopædia, especially under the word EXCHANGE; but we think it our duty, in order to preserve the connection of ideas, to recall it in a few words here. In order to find its traces it is not absolutely necessary to go back, as we have done previously, to the infancy of society, or to follow man in the savage state; we can find a more or less faithful picture of it, even to-day, wherever a small group of men live separate from the rest of society, or without ordinary communication with it. If, for example, we go to the remote frontier of the United States, we shall find here and there isolated farms, on which a small number of men, belonging in most cases to the same family, live together, and satisfy all their own wants themselves without contact with the rest of the human race. This picture of primitive society is not complete, it is true, but it is near enough to the type which it represents. No matter how remote these men may be from the great society of mankind, they do not cease to borrow from it largely: first, they obtain their arms from it, as well as most of the implements which they use in their labor. Besides, having issued from that society themselves, they took from it at their departure a portion of the enlightenment and acquired knowledge which it had accumulated for the use of all. This gives them a decided advantage over their savage neighbors. With this exception, they embody the type of primitive industry, in the sense that all labors necessary to their support are carried on by themselves, and all the functions of social life are united and concentrated in the little group which they form. — A truer picture of this primitive constitution of industry can be found, perhaps, in the lives of the patriarchs, as presented to us in the Scriptures. Abraham and his earlier successors lived alone with their families and their servants by isolated agriculture, and without ordinary contact with the rest of the world. These patriarchs, it is true, knew the use of money, which shows that exchange was practiced among them to a certain extent; but it is evident that they had recourse to exchange only at long intervals, in exceptional cases, and that in general they themselves supplied everything which was needed to satisfy their daily wants. In their activity, as in that of the farmers of the American border, all industrial labors were united, all social functions brought together, with this additional circumstance, that as the patriarchs recognized no superior authority to which they owed obedience, they held besides the functions of the government in their hands. — On considering industry in this primary stage we perceive clearly the intimate connection of all its branches. On close examination all the functions of social life are found there united, though many of them appeared only in germ. Around agricultural industry, which in a certain way formed the basis of the common labors, were gradually grouped manufacturing industry, commercial industry, the fine arts, which were not unknown there, as well as the labors which to-day form the appanage of the professions called liberal, including even the functions pertaining to public authority. Land was cultivated and flocks were raised; this was the chief occupation of the tribe, an occupation altogether agricultural. But the fruits of the earth once gathered, it was necessary to prepare them for common use. It was necessary also to collect the wool of the flocks, to spin and weave it, to make garments for each one. This was manufacturing industry with all the distinguishing characteristics which belong to it, but closely connected with agricultural industry, of which it was merely the accessory, so to speak. Next, it was necessary to distribute all these products among the different members of the tribe; and what is this but the foundation itself of those occupations which constitute commercial industry? The fine arts were cultivated, even if only in the song and dance at leisure moments. Man observed the stars, while cultivating the earth, or watching his flocks; this was the beginning of science, which was connected with the advancement of the most common labors. At intervals, also, the properties of certain medicinal plants were studied, plants suited to the cure of certain diseases; medicine took its place side by side with the plow of the laborer. Arms were sometimes taken up in self-defense, either against wild animals, or against other enemies more dangerous, and the art of war was practiced by the same hands which were devoted to the arts of peace. Those who had committed crimes were judged and punished; and thus, in the midst of so many other labors the solemn functions of justice were performed. Finally, there was a government, a chief to direct, and agents to serve it, and a police of some kind. It is true, therefore, that in this small group, composed of so few men, all the essential functions of the social order were united. It was a small picture of the world, as it exists in its pres-

ent condition; with this sole difference that, in the world of the tribe, all these functions were mingled, confounded, exercised by the same agents, while in the world of to-day they are separated and intrusted to different agents, without ceasing on that account to be united and dependent on each other, as much as they could possibly be the first day. We shall now see how, in consequence of the progress of exchange, all these elements, mingled at first, became detached from each other, and what the new order was which was established. — III. ORGANIZATION OF INDUSTRY. *Exchange; division of labor; subordination of labors; money.* In proportion as the number of exchanges increases, under the influence of causes which we have enumerated elsewhere (see EXCHANGE), a division of labor takes place, in the sense that each individual chooses a distinct occupation to which he devotes himself exclusively, leaving to others the task of carrying on those which he has abandoned. In this way the functions of industry, at first closely connected, and executed by the same hand, separate; the mingled elements become detached from each other, and a new organization is established with exchange and division of labor as essential bases. — The first general effect of this movement of division is to set free manufacturing industry, which settles into a distinct branch of labor, through separation from agricultural industry, with which it was at first confounded and of which it formed, so to speak, merely an appendage. We have seen that, in the primitive organization, agriculturists themselves prepared the wool of their flocks, or the flax which they had harvested, in order to turn them into clothing; just as they also produced every change required by the other products of the earth. This part of labor, which consisted in fashioning and working up all the raw products of the soil, in order to adapt them more completely to our wants, was at that time only a kind of accessory of the first; in appearance, as well as in reality, there was at that period but one industry: agriculture, with its dependencies. But gradually, in proportion as exchanges became more frequent, these accessory labors separated sharply from agricultural industry, where they were always out of place and imperfectly executed. They acquired a greater importance by the separation itself, and tended to constitute, under the name of manufacturing arts, or manufacturing industry, a perfectly distinct branch of industry which, feeble at first and in the infancy of society, now occupies a high position among civilized nations. We are indebted to it in general for the creation of cities; for it is the nature of the manufacturing arts, which are not, like agriculture, fastened to the soil, to associate in groups, to concentrate and form by their union those masses of population which are called cities. Once established, they become still more special, through separation into a great number of distinct branches. Exchanges consequently multiply more than ever, and by their increase lend a new importance to that other branch of general labor, whose object it is to facilitate exchanges, and which is known as *commerce*. At the same time several other labors, previously without distinct character and confounded in the general mass, are detached from the common trunk: labors of art, of science, those relating to government, the police, and in general all those which form the object of what is called at present the liberal professions. Thus, everything which was formerly united now tends to separation, specialty is introduced everywhere, and exchange, originally the exception, becomes the universal law. — Exchange and the division of labor are therefore the fundamental bases of the new organization of industry; to speak more correctly, they are the points of departure for every genuine organization. In truth, it can not be said that this primitive condition which we have endeavored to describe had really an organized industry. All these isolated groups of men appearing on different parts of a territory, each one working indifferently the tract of territory which fell to its lot, were too unconnected to exhibit any general order in their relations. They formed, perhaps, industrial workshops, but workshops without connection, without tie, among which, therefore, no trace of general organization could be noted; and as to the particular organization of each one of them, it was the ruder and more imperfect since the most varied functions of labor were mingled and confounded, and no assistance from without could be expected to favor its action; it was, besides, unstable, depending essentially on the changing views of those who directed it. It was only when exchange became more frequent, that regular relations were established between these workshops, and it was then also that general organization began to appear. This was completed by the division of labor, which freed each one of these workshops from the parasitic functions with which it was overburdened, confined it to its own specialty, and made every separate workshop an integral part of a great whole — An imperfect idea would, however, be formed of the general order of industry unless to these two essential conditions, exchange and a division of labor, a third and no less important one be joined, which completes them, namely, the connection, the mutual dependence in which the various functions separated by the division of labor are placed with regard to each other. To say, as is often said, that labor is divided in the progress of industry, is not enough; this is to omit another important phenomenon, which beyond a doubt has an intimate connection with that of the division of labor, but which in many respects is distinct from it, and would on this account deserve a separate title. We wish to speak precisely of this principle by virtue of which the various labors of industry, though separated from each other and executed independently, continue nevertheless in such a reciprocal dependence and subordination that they all seem to form the different links of an

endless chain. Economists in general do not, perhaps, dwell sufficiently on this phenomenon, to which, as appears to us, they do not attach due importance. But what other phenomenon shows more clearly the elevated character, the eminently social character of industry, so different from that which so many unjust detractors attribute to it? In virtue of the division of labor, different kinds of labor are separated in view of more convenient and better execution; it might be believed that they continue thus without relations; nothing of the kind; once separated, they come together again, and are reconnected; without being confounded, however, as they were before, they are subordinated to each other, but solely for purposes of mutual support. There is not, therefore, a single one of the great functions of industry which is not connected with a thousand others, from which it obtains the materials which it works up, the instruments which it uses, the buildings which it occupies, or the technical processes which it employs. This is what we shall permit ourselves to call the *subordination of labors;* the necessary crowning of the division of labor, from which, however, it is distinct; an interesting phenomenon which characterizes, better than any other, this organization at once simple and complex, to which human industry lends itself. Another no less interesting phenomenon, which completes the foregoing, is the use of money, without which any active system of exchanges would be impracticable. — Exchange, the division of labor or the separation of tasks, the subordination of the different kinds of labor, and the use of money: these are the four essential elements which constitute the industrial order as it exists; they are the fundamental bases on which the whole edifice rests. It will be understood that this is not the place to dwell on these elements, which will be more properly explained elsewhere. It is sufficient for us to call brief attention to them, to assign them their proper place in the industrial system. Let us merely repeat that together they form the whole industrial order, and it is not necessary to go outside this circle to include the total of economic phenomena. It remains, however, to see what results from the action of these elementary phenomena, and how in the movement of affairs originated by exchange, order is introduced among all these industrial elements separated by the division of labor. — IV. Consequences of the Preceding. *The industrial world constitutes a great society.* In the primitive state of things, a feeble sketch of which we have tried to present, there was, properly speaking, no human society; the world was divided into a certain number of isolated groups of close communities, little disposed, as a general thing, to come together, and between which a state of war often created a gulf. But when exchanges increased and the division of labor began, all these isolated groups dissolved, they became merged into each other, and finished by forming together a great society, whose tendency, as we shall point out in the article Political Economy, is to become universal. This is human society, very different from political society, with which it is sometimes improperly confounded, and which is never greater than a more or less considerable fraction of it. — Now what are the bonds of this society? Precisely those which we have just enumerated: exchange, division of labor, subordination of the different kinds of labor, and money. By exchange, men supply each other with the fruits of their labors, products for products, services for services. By the division of labor, they share the different parts of a common task. This is enough to create between them a social tie so intimate that no human power can break it, and from which no individual can free himself. The subordination of the different kinds of labor strengthens this bond, which the use of money cements, by making it general. The existence of this great human society has often been denied or ignored. Some look on it merely as a promise of the future. They are mistaken; it is a reality of the present. This society exists to day, though it has not yet arrived at the last stage of its development, and continues to extend and multiply its bonds daily. Its existence is shown clearly enough, it appears, by that intimate solidarity of interests which becomes more and more evident, which is established especially between all parts of the civilized world, and which makes them all sensitive to the same accidents, to the same catastrophes. It is shown by the simple fact, that any individual hidden away in a corner of this civilized world may deliver the fruits of his labors to his neighbors, and, provided that he has them accepted, may receive their equivalent in any other part of this habitable world. He has worked for the French, the Germans or the Russians; he can be paid the price of his labor by Americans, Indians or Chinese. Its existence is shown further by this other no less significant fact, that nations most different from each other, not only agree to effect an exchange of products, but, in addition, aid each other in a certain way in completing the successive processes which certain products require, and bearing them by a series of uninterrupted labors to their final termination. Thus the cotton fabrics which we wear are the combined result of the labor of North Americans and Europeans; leaving out the fact that several other nations have contributed to their manufacture, some by furnishing dye-stuffs which color them, others by furnishing the instruments which were used in their manufacture. The wool of flocks raised by Australians is brought to Europe by English seamen; it is distributed by English merchants over the European continent; where it is converted into thread and cloth by German, Belgian or French laborers, dyed with stuffs furnished by Central America; again it is transported, in the form of manufactured cloth, by the sailors of every country, into every part of the world, including that in which it grew. Is it possible to fail to recognize in such movements the intimate

community of interests which is established between the inhabitants of countries most different from each other, and the existence of a social bond which connects the whole world? — Our intention, however, was not so much to prove this great fact here as to mention it. We shall say simply, in passing, that it is just this human society, thus formed and constructed of the elements which we have just examined, whose laws are studied by political economists. It remains now to see what the principles and general facts are from which these same laws are derived. — V. MOTIVES AND REGULATORS OF INDUSTRY. *Personal interest; supply and demand; competition.* The great motive of industry is personal interest, which is besides the essential motive of all human actions. When God created animated beings he endowed them with a profound and indestructible sentiment: love of self, as necessary to their preservation. It is his will, however, that this sentiment, too exclusive, should be tempered in each individual by a more or less pronounced sentiment of sympathy for his fellow-men. This same sentiment, personal interest, love of self, imparts movement to the whole industrial machine; but it finds here an additional moderator, the balance of opposing interests, which confine each individual interest within its limits, and from this, final harmony results. — The pretense has sometimes been made of substituting another motive for this natural one: devotion to others. This was a desire to interfere in the work of the Creator, who assigned its place to each sentiment, when he admitted sympathy or devotion merely as a corrective. Suppose this project to have been successful (an impossible thing), its success would have merely enervated man, by depriving him of his most active principle. For what other sentiment can rival self-interest in energy and perseverance? What other, inherent in man from the cradle to the grave, could apply the same spur to his activity? Happily these absurd projects have never had a chance of success. Personal interest may sometimes be perverted or corrupted, by turning it from its path, but it can never be destroyed. — The great motive of industry is, therefore, the same which has determined human activity in all directions and at all times: personal interest. But it would be a mistake to suppose that from the movement and conflict of diverging individual interests anarchy or disorder must necessarily result. This would have doubtless been true in those systems of an absolute community of labor and wealth which existed at the beginning of human society, and which certain misguided minds have sometimes been bold enough to propose to us as an improvement on our present condition. With such an arrangement personal interest, without ceasing to be as active as in our present society, would be absolutely deprived of a rule of action: therefore it would become lawless at every moment through brutal violence, passionate disputes over places, by a rivalry of slothfulness in labor, and a culpable disregard of the service of the community, unless continually reproved, directed and restrained by the all-powerful and despotic will of a director. But this is not the case in the industrial system founded on exchange, in which order springs from the very principle in virtue of which society moves. As soon as exchange has become in practice the universal law, as each individual is forced to count on others for the satisfaction of his wants, and as he has no right to their services except in so far as he brings them to accept his, he is led by his own interest to labor for his fellow-men, to study their wants, their tastes, and to make the satisfaction of these wants the sole object of his activity. Thus, in this system, personal interest, without losing any of its native energy, tends unceasingly toward order, while subordinating itself in each of its manifestations to the interests of all. — In the midst of this extreme complication of phenomena, which exchange and the division of labor produce, there remain nevertheless certain grave questions to be solved, which touch upon the very existence of the industrial order; that of knowing, for instance, on what basis products and services are to be exchanged, and how equal values are to be established. This is the great problem of value. This problem is solved by the beautiful law of supply and demand, which has been explained before (see DEMAND AND SUPPLY), and by competition which is its complement. Let each man be obliged to offer his services to his neighbors, and have them accepted by those who demand them before being able to claim a part of the fruit of their labors in his turn; this arrangement suffices to make the personal interest of each individual tend to satisfy the wants of all the others; but it is inadequate to effect a balance and equilibrium between all the individual interests which are put in movement, and give to each one in a just measure the satisfaction due it. What would happen, for instance, if each individual, when he offered his products and his services to others, were able to fix his price arbitrarily according to his will? Another rule is needed. Where does it come from? The decrease of the demand suffices, in a certain measure, to moderate the claims of those who offer the supply; it is the commencement of a rule. But it would still be insufficient, if competition which grows up naturally between the latter did not impose on them a more rigorous law, by forcing them to be satisfied with the lowest price which the exigencies of production can admit. It is competition then, finally, which determines the relative price of things. It renders many other services, and in the last analysis it may be considered as the supreme regulator of the industrial world. But having already explained this truth, in some of its developments, under the word COMPETITION, we shall not return to it here. It only remains for us to do what we have omitted elsewhere: to determine the conditions of competition and the limitations to which it is naturally subject. — VI. CONDITIONS AND

LIMITS OF COMPETITION. *Interference of political authority; necessity and danger of this interference; natural monopolies.* Such is the power of the principles of order which we have just mentioned, and especially of competition, that sovereign regulator of industrial affairs, that if the action of these principles were never opposed or limited, if it were not submitted to conditions which frequently distort its effect, all the functions of the industrial world would be carried on without trouble, and with perfect regularity. We have stated elsewhere that, if competition had always ruled without obstacle, if it could have fully developed in the midst of human societies, such is the power, the inexhaustible fruitfulness of this principle, that humanity would have advanced, and with an incessantly increasing rapidity, toward a future of prosperity, of wealth and of general well-being, of which it has perhaps yet no idea. More than this: the industrial mechanism, so admirable already, would be free from all the disorders which impede its action. — The action of competition supposes the reign of justice and right; it supposes that, in every operation of exchange, the contracting parties will be free to refuse or accept the conditions proposed them, and even to apply elsewhere if such is their good pleasure; it supposes, in a word, the absence of constraint, of fraud, of violence in human transactions; for if one of the parties may, in any manner, impose his conditions on the other without the latter being free to weigh, to measure and reject these conditions, there is no longer any competition, and equilibrium between the respective interests of the parties ceases to exist. Under the empire of the law of exchange, personal interests continually tend toward order, since no one can pretend to obtain values which he seeks, unless at the cost of furnishing equivalent values to his fellow-men, and of subordinating his labors to their wants. But it is always under this essential condition, that no one of these interests in question should prevail over the others through violence and injustice; that, on the contrary, each man should be bound to respect in all other men the free manifestation of their wants. Otherwise, the tendency of individual interests toward order immediately changes into a contrary tendency. Now, it is precisely this essential condition, this necessary condition of order, which is almost never completely realized. — In view of the evil passions of men, which but too easily incline to violence and injustice, when urged by personal interests, and when they have force on their side, justice and right can prevail in human transactions only so far as there is a superior power above individuals, which holds the balance between them, and which has both the force and the will to prevent all their deviations from justice; this is the political power, whose interference, understood in this way, is always necessary. The task of this power is a great and admirable one. It consists essentially in holding the balance between individuals, to make the liberty of each one of them respected, and to keep them within the limits of their respective rights, without speaking of the corresponding mission which is intrusted to it, of defending the population of the country which it governs against foreign attacks—a negative rôle, when properly considered, since it consists almost entirely in repressing violence and preventing evil, but which is nevertheless of considerable importance. It is owing to the continual interference of this power, an interference altogether salutary and beneficial when it does not exceed proper limits, that freedom reigns in private transactions, and it is in this case alone that competition becomes possible. If the political power is not the creator of the industrial order, whose principle lies elsewhere, it is at least its guarantee, and the necessary guarantee. Under its wing, so to speak, individual interests are secured, and competition gains its vigor. We can therefore consider the different political powers which divide the world between them as so many indispensable wheels in the great industrial mechanism. — But these political powers are exercised also by men who are no more exempt than others from the evil passions which it is their duty to restrain; this is the weak side of human society; it is the gate through which every evil enters. In addition to the fact that those who wield power in each country (we mean here governments in general) do not always show themselves sufficiently active in repressing excesses, and thus fail in their exalted mission, they too frequently permit themselves to commit like excesses. Subject to all the impulses of human nature, they often yield, like other men, to their evil inclinations, and the unjust acts which they commit at such times have consequences all the graver since they have a loftier origin. To find a government which makes justice respected and which respects it scrupulously itself, is the political problem, but a problem which still awaits solution. This is why the industrial system, in spite of its admirable structure and the regulating principles which it possesses, forced as it is to lean on the political order, which does not enjoy the same advantages, still finds itself tainted with a great number of partial disorders from which perhaps it will never be entirely exempt.— Thus in the industrial order, everything is good in so far as we consider it governed by the economic law; but this law, more general in its application than the political law, is nevertheless subject to it, in certain respects, within the territory embraced by the latter, since it is everywhere incomplete without its co-operation. From this arises disorder wherever disorder reigns; from this come the vexatious imperfections to which the industrial system is still subject. The mass of men have no reason to complain, since the primary cause of the evil is in the violence of their own evil passions. It must be said, however, that independently of this severe condition to which competition is subject, of being unable to act except

under the protection and guarantee of the political powers, it meets also here and there necessary limits, which the nature of things imposes on it. — It is evident, to begin with, that competition can not act in all its completeness except when the number of men occupied in the field of industry is so large that each one of those who offer in bulk services of a certain kind should meet competitors or rivals. It is evident that where population is sparse, or the groups of men are few and far between, this beneficent principle is scarcely felt. It is almost entirely absent in that primitive condition of society which we mentioned above; and this is one of the causes which explain why progress is generally so slow in nascent societies. It only begins to exhibit all its effects when men collect on narrow spaces, or when among sparse populations means have been found to establish numerous and easy communications, which bring producers into contact with consumers. — But even where the population is dense, competition always meets certain limits, if nowhere else, in the existence of certain absolute monopolies which arrest its activity. We do not speak here of artificial monopolies, of those which the negligence of governments has allowed to spring up, or which they have by design unjustly established. We speak of natural monopolies, of those which are necessary, unavoidable, and which the most careful vigilance of the political power could not remove. There is in every country a certain number of this kind of monopolies; and though inevitable and necessary, they do not in general fail to produce certain disorders followed by pernicious effects. The first and most considerable of all these monopolies, the most unfortunate perhaps, but surely the most inevitable, is precisely that which is enjoyed by these same political powers just mentioned. In every country, the established government, whatever it be, acts alone in its sphere, and suffers no competition of any kind in the exercise of the functions intrusted to it. This is inevitable, we say, and results from the truths which we have just explained. Since in fact competition even between one individual and another is only possible on condition of equal freedom for the contracting parties; since it supposes, consequently, the existence of a superior power, which holds the balance of justice between the contracting parties, and forces each to respect the rights of the other, how could it be practiced with reference to a government which knows no superior, and which could accept one only by abdicating? Contracts are made between individuals under the guarantee of public authority which prevents violence; this is what produces freedom of agreements and makes competition possible. But under what guarantee can a contract be made between a government and an individual? There can be none. In this case the strongest carries the day and imposes the law. The strongest is the government, which, instead of bargaining, of discussing as individuals do in their affairs, dictates and imposes its conditions. This is what has been seen in all times and which will always be seen, since the nature of things has thus ordained it. — But if this monopoly of political powers is inevitable, it nevertheless produces very annoying results. Since they never feel the spur of competition, which alone is able to enforce activity, economy and order on men of whatever condition, all the governments of the world grow slack. Consider what really happens in every state, and you will see that of all industrial enterprises undertaken, the enterprise of government—and we can call it that—is, beyond comparison, the worst administered. There are doubtless differences between states, but they are merely differences of degree. Besides, these same governments always sell their services too dearly. The price of these services, not being determined by the general laws which determine the relative value of things, is arbitrarily raised, with no other certain limit than the resources of the people. We are not criticising one particular government or another, since, on the contrary, we are establishing a general law. We simply say it results from the very nature of things that the functions peculiar to governments are always badly executed and paid for at too high a price. It is another consequence of this same fact, that the remuneration of services rendered by governments always assumes a particular form, that of a tax or impost—an annoying form, for more than one reason, though it is, in some respects, inevitable. Taxes are nothing else in principle than the remuneration for services rendered by those who govern; but they are a remuneration which, instead of being voluntarily and freely paid like all others, is exacted and collected with authority by those who receive the remuneration. From this there results both an underhand resistance on the part of those who pay, and who endeavor by various means to escape from the burden imposed on them, and a want of equilibrium in the assessment of taxes, which scarcely ever are proportioned to the importance of the services received by each individual, and besides a considerable increase in the cost of collection, aggravated by the resistance of tax payers; without considering that the precautions taken to insure this collection almost always become serious hindrances to industry, and nearly as oppressive as the taxes themselves. — Thus from the natural monopoly which governments enjoy, it results that the functions belonging to these governments are badly executed, that their services are always too highly remunerated, though there are great differences of degree between them. Besides the natural monopoly of political powers, there are others, which always involve consequences more or less lamentable. But it is not our intention to enumerate them here, still less to analyze all their effects, this subject being specially treated, like all others, in its own place. It is sufficient here to point out the principle, in order to compare it

with the other principles which govern the industrial world and indicate in what sense it modifies the action of this world. — VII. INSTRUMENTS OF INDUSTRY. In the preceding pages, we have passed in rapid review the series of great industrial phenomena, stopping only at the chief points. We showed first that industry, in its general expression, embraces all human labors, of whatever nature they may be. We then stated that when scarcely out of its cradle, this industry tended toward ordering itself by exchange, division of labor and subordination of the different kinds of labor, by the aid of money which favored their action; that thus organized it constitutes a great society, the tendency of which is to become universal; that its principal motive is personal interest, the same that directs all human actions, but subordinate in this case, in virtue of the law of exchange, to the general interest; that the great principle governing it, and from which all its laws spring, is competition, a principle both of progress and order, which directs it incessantly toward an organization more and more satisfactory and perfect. We added that if this principle reigned in the industrial world alone and without division, all would be for the best, and that the wealth or general well-being would be as great as the degree of civilization at which nations have arrived would permit; but that competition has its conditions and its limits, which arrest its action and neutralize in a certain measure its beneficial effects; that it is subordinated, for example, to the action of governments, which not being subject themselves to its influence, do not subordinate themselves to the general order; that it is, besides, limited by a certain number of artificial or natural monopolies; that this is the weak or vulnerable side of human society; that by this, that is to say, the irregular action of governments, and by the disastrous influence of monopolies, disorder is introduced into the world; and that this explains why the organization of industry, so beautiful and marvelous as a whole, still continues to be tainted with numerous imperfections. — We have in a certain fashion summed up all the economic truths in this miniature picture. It must be understood, of course, that each one of these truths would require lengthy explanations, necessary to illustrate and bring out all its applications, but which we refrain from making because they will be found elsewhere. There would be a lack, however, in this general picture, if we should pass over, without mentioning them, the instruments of industry, that is to say, the agents of different kinds which are of assistance to man in his labor. — Man does not labor alone; he calls to his aid, as far as possible, all the forces of nature, all the powers of the physical world. Among the instruments which he uses, some, created by his own hands, were slowly accumulated by saving; others, given by nature, were merely conquered and subjected by him. But all lend him a powerful aid, without which the most energetic development of his activity would remain comparatively barren. This is a great and general fact, which could not be omitted, and whose place it was necessary at least to indicate. — There is really no particular law to be established in regard to the instruments of labor. Considered in their general bearings, the principles which we have already laid down apply to everything, to the simple agents of labor as well as to men. Men and capital are subject to the great law of competition, which arranges and classifies all things, which fixes everywhere the value of services rendered. Everything is subject in like manner to the influence of monopolies, which are connected with things as well as with men, and everywhere produce the same effects. The only difference is in the applications, which still offer, it is true, a vast field of study, but into which we can not enter at present. But if there is no particular law to establish here concerning instruments of labor, there are at least a few observations to make — To begin with, it is not uninteresting to see what kind of assistance is furnished to man by tools and machines in general, how far they are necessary to the development of his productive faculties, and how their increasing multiplication raises the level of humanity every day. So far as various kinds of capital are particularly concerned, the accumulated fruits of the labor of man, it is of interest to see how they are formed and accumulated by saving; in what conditions this accumulation is quickest, and what are the circumstances which favor it most—an important subject in itself, with which many others are connected, which are not devoid of importance either. There is less to be said, it appears, about appropriated natural agents. As they are given by nature, they do not increase by saving; though saving almost always adds something to them by means of the capital which it connects with them They are purely and simply conquests of man over nature, conquests which are happily extended from day to day. There is, however, an important observation to be made on this subject, it is that appropriated natural instruments are more subject to monopoly than capital, and to monopolies frequently complicated, whose effects are not always easily analyzed. As to agents not appropriated, however valuable be their aid, we may omit them entirely, since, their services being always gratuitous, they do not enter into the current of exchanges, and thus escape all the effects of economic law. — Moreover in all we have just stated, though here and there a glimpse may be had of a vast series of interesting studies, no new principle appears; at least none of those primordial principles, those generative principles, so to speak, like those which we laid down earlier in this article, and to the explanation of which we desired to confine ourselves. In fact, since the instruments of labor, those at least which are appropriated, follow, as we may say, the fortunes of the human race, and are subject, saving a few differences and restrictions, to the same general laws, what principle could be appealed to con-

cerning them which would not be simply derived from these same laws? — VIII. CLASSIFICATION OF INDUSTRIES. Industry is one in this sense, that all its parts are connected, and that it would not be possible to suppress a single one of them without leaving an evident breach in the whole. Nothing, however, prevents our dividing it into several branches, for the convenience and facility of the studies of which it is the subject; there is no difficulty in doing this, provided the necessary connection of all the branches with each other is never lost sight of. — "There is but a single industry," says J. B. Say (*Cours*, part i., chap. vii.), "if we consider its object and general results; and there are a thousand, if we consider the variety of their methods and the materials on which they act. In other words, there is but a single industry and a multitude of different arts." Though J. B. Say takes the word industry here in a more restricted sense than that which we have given it, since he applies it only to that kind of labor which acts on matter, his observation is correct. It has even a higher significance than he gives it, and we can apply it to universal industry with the same authority. "Nevertheless," adds the same author, "it has been found convenient, in studying industrial action, to classify its operations, to unite in the same group all those which have a certain analogy among them. Thus, we say that the industry which brings products from the hands of nature, whether it has promoted their production, or whether that production has been spontaneous, would be called *agricultural industry* or *agriculture;* that the industry which takes products from the hand of their first producer, and subjects them to any change whatever, by chemical or mechanical processes, should be called *manufacturing industry;* and that the industry which takes products from one place to transport them to another, where they are nearer the consumer, should be called *commercial industry*, or simply *commerce.*" This classification is, in fact, that which is most generally followed. It has passed from everyday language into books, and nothing prevents its adoption, since after all, as the writer we have just quoted very aptly says, every classification is arbitrary, having no other object than to direct study or simplify operations of the mind. Still, it is necessary to remark how insufficient and incomplete this classification is in certain respects. It comprises under the same denomination, that of agricultural industry, several kinds of labor, which have without doubt an analogy to each other, as all human labors have, but which surely differ for many reasons; for instance, the venturesome labors of the man who is engaged in whale fishing and the uneventful occupation of the laborer who cultivates his field in peace. The man engaged in the whale fisheries in the southern seas, would surely be astonished to learn that he exercises an industry similar to that of the gardener who furnishes the market of Paris with fruits or vegetables. On the other hand, how many industries remain outside of this classification, even if we give it every possible extension. We find here, for example, no place for the labors of scholars, physicians, advocates, artists, professors, public functionaries, nor for those of the men devoted to the professions called liberal; for all these men, each one of whom exercises an industry, and often a very active one, could not be considered as merchants, manufacturers or agriculturists. — Struck with these considerations and some others in addition which he has developed with much force, Ch. Dunoyer has endeavored to establish a new classification, more scientific and complete, in his excellent work, *Sur la Liberté du Travail.* He begins by dividing industry into two categories or two orders; embracing in the first category those which act on things, and in the second those which act on men. The industries which act on things, are: 1, extractive industry, that is to say, that which wrests from nature spontaneous productions, and in which must be comprised fisheries, the chase, and the working of mines; 2, the industry of transportation, that is to say, that industry which transports objects by land or by water; 3, manufacturing industry; 4, and last, agricultural industry. The last two, the author defines very nearly as they are defined everywhere. In the category of industries or arts which are exercised on men, Ch. Dunoyer includes: 1, those occupied in the perfecting of our physical nature; 2, those which have for special object the cultivation of our imagination and sentiments; 3, those whose office it is to educate our intelligence; and 4, those which contribute to the perfecting of our moral habits. This classification, more regular than the other, more satisfactory, perhaps, and surely more complete, has nevertheless the great drawback of not being usual, and not presenting, in the terms used, a meaning understood with sufficient ease; a serious drawback, especially in a publication like the present, which should, by the simplicity of its nomenclature, make itself easily understood at once by every one. Is Dunoyer's classification itself complete? Is it satisfactory, speaking in the language of science, in the sense that it comprises without distinction, while ranging them in their real order, all kinds of labor? We need not examine this question here; we shall merely say that, satisfactory or not, it may be considered at least, as a new elaboration of a subject which still leaves much to be desired — a rational, judicious elaboration, always very useful to consult. — Notwithstanding the relative merit of this classification, we are forced by the decisive consideration which we have just mentioned to return to the other. We adopt, then, the distinction established between the agricultural, manufacturing and commercial industries; but we would remark that this classification, which only applies to the great divisions of industry, does not comprise everything. In the first place we can not permit ourselves to confound under a common denomination agriculture, fisheries,

working of mines, or even the chase, which we consider rather as special industries, and very important ones. It seems to us necessary, besides, to make another reservation in favor of the industries connected with the professions called liberal, which we have already enumerated.

CH. COQUELIN.

INDUSTRY, Agricultural. (See AGRICULTURE.)

INDUSTRY, Manufacturing. I. Next to the chase, which alone supplied the wants of man in a savage state, agricultural industry, which includes the raising of flocks as well as the cultivation of the soil, is the first to which man devotes himself; it is the original, the mother industry, which long continues to be the only industry of nascent peoples. Manufacturing industry appears only later, with the arts which complete and attend it. As its particular object is to prepare the raw materials furnished by agriculture, in order to make them more suitable to satisfy our wants, it naturally succeeds agriculture in the order of time, as it does in the logical order of facts; this industry, therefore, does not generally appear until the first advances have been made in civilization, and when there begins to be a surplus of field labor, in an already well-settled region. Not that we fail to find the first rudiments of manufacture in the very infancy of society, and even among savage tribes devoted entirely to the chase. It is not entirely unknown in any stage of civilization; the savage fashions wood and some other materials into a bow and arrows; he turns, in some fashion, the skins of beasts which he has killed, into clothing for his person; he pounds and rubs different dye-stuffs to color his face and his body; he makes an ornament or a distinguishing mark of the feathers of certain birds; and these are so many attempts at manufacturing industry—an industry still very rude, it is true, but which has already the distinguishing characteristics which it afterward maintains. In passing from this first stage, in which the chase is their only occupation, to the raising of flocks and the cultivation of the soil, men make a further advance: they use for clothing the wool of their flocks, which they learn to spin, weave and dye; they sometimes also employ for this purpose the fibre of certain plants, such as flax and hemp, of which they also make cloth. This is, it would appear, the result of an established industry. But in this condition of society, labors of this kind are not separated from agricultural labors, to which they are, so to speak, only accessory; they are carried on together with field labor, by the hands of those who cultivate the soil, and in the intervals of leisure which they have in these labors, it is less, therefore, a branch of distinct industry than an appendage of this primitive industry whose object is the cultivation of the soil.—In order that manufacturing labors should become detached from those of agriculture with which they are closely connected in the beginning, and form an industry apart, they must have acquired a certain importance and made some progress. For this purpose it is necessary that the agriculturist should have grown wealthier and consequently more exacting, so that, no longer satisfied with the rude garments which he can make himself in his leisure moments, or the rough instruments which he used at first, he prefers to obtain both from specialists whose only occupation is to make them. It is also necessary that the number of workers of the soil scattered through the country, and using manufactured products, should be great enough to furnish these specialists with continuous labor throughout the year. This supposes a more numerous population, more extensive wants, a more advanced civilization. Such progress is not made in a day; neither is it always made regularly nor in exactly the same manner everywhere; but it is necessarily the first step toward manufacturing industry proper. — When manufacturing arts are separated from agricultural labors, they are in the nature of things united and grouped. Since men occupied with these arts are not obliged, like tillers of the soil, to live scattered over the country, so as to be near the lands they cultivate, they can move their shops almost wherever they please; and as they have frequent need of each other, it is natural for them to unite, and associate in groups at certain given points. This is the origin of those collections of houses, which form at first villages, later towns, and finally cities. It is in cities that the manufacturing arts concentrate. We still find, it is true, even in our time, and in countries most advanced, certain great workshops scattered here and there in the country where there are special local advantages, either on account of water power, or some other cause, but it is none the less in the nature of things for them to be brought together in the cities. Manufacturing arts are best developed in cities through the aid which they lend each other, and the growth of public enlightenment; we see, therefore, that they tend continually to confine themselves to cities, or draw near them. This at least is the general rule; the contrary is, in every country, the mere exception. — If the separation of manufacturing labors from those of agriculture marks the earliest steps of civilization, it is far from being complete at first. Far from taking place suddenly, at a given moment, it is effected slowly, gradually, in a progressive manner, and often almost imperceptibly. It is, so to speak, the work of centuries. Thus, there is not yet a country in the world, even in the Europe of to-day, where it is complete. — Reduced to its most simple expression, agriculture consists in cultivating the earth in order to obtain, in a raw condition, the various products which it is capable of giving. Strictly speaking, agricultural labor proper stops here. All subsequent modifications given to these products, all changes to which they are submitted, may be considered

as belonging, or capable of belonging some day, to one of the branches of the manufacturing arts. Now agriculture is far from being brought to this state of final simplicity in any country; on the contrary, it still retains possession of some of these processes or modifications which follow cultivation proper and the harvest; it is still only a question of degree according to the stage of advancement in each country. There are several of these processes, it is true, which it would seem should always belong to agriculture, because they can be conveniently carried out only on the spot; such as threshing wheat in the bundle to get the grain. — In some countries of Europe, the greater part of the spinning and weaving of flax and hemp is still carried on in the country, on farms, and thus continues to form a sort of appendage to agriculture. Not long since this was the case in all France, and is still so to a greater or less degree in a large number of French provinces. Nevertheless these two operations tend more and more, especially since the invention of machinery, to leave the country, to abandon the farms for the industrial centres. In England especially (we speak of England proper, leaving out Ireland), this separation is almost complete. But this is not true of retting and hackling, which continue to belong almost everywhere to rural industry. It is easy to foresee, however, that they will be detached from it sometime. Even now in some parts of Belgium, where flax culture has reached the highest degree of perfection, it is nothing rare to see a farmer sell his crop of flax standing, or after it is pulled, to persons who make retting and hackling a specialty. It is true that these persons still work in the country, for the most part, because the present conditions of retting demand it; but suppose that the question of retting by chemical means, which has been so much studied and the solution of which is so desirable, should be finally settled, we may believe that this operation, as well as hackling, would be soon separated from rural industry, to extend, with so many others, the domain of city industry. — II. Thus it is that, in the succession of ages, in proportion as progress is effected, manufacturing industry increases and extends by detaching each day some one of the branches of this mother industry from which it sprang. Agriculture, which was complicated in its origin by a great number of operations, foreign to its nature, frees itself gradually from these parasitic functions; it leaves them to the workshops of cities, to which they belong, to confine itself more strictly to its special functions, the improvement and cultivation of the soil. The causes which favor this movement are the same which determined it in the beginning: the progress of arts, the increase of wealth, and, above all, the increase of population in a state of civilization somewhat advanced. In order that the separation between the manufacturing arts and agriculture should continue to grow more definite, it is necessary, above all, that exchanges between the city and the country should be easy, so that the agriculturist may always transport to the city, without too much trouble, the raw products which his industry gives, and obtain the finished products which he consumes. If numerous ways of communication contribute to this facility of exchanges, which is not doubtful, this same facility also demands, we can see, a dense population, which increases the number of towns and cities, so that they are never too distant from every part of the country. — Of all the countries of Europe, and probably of the whole world, England (we always speak of England proper) is that in which the separation between the manufacturing arts and agriculture has made most progress; it owes this advantage to its wealth, its enlightenment, the number and perfection of its roads and canals, but, above all, to the density of its population. With an amount of wealth almost the same comparatively, with as much enlightenment in the masses of the people and a very considerable development of roads and canals also, North America is in this respect much less advanced, because its population is scattered over a great extent of territory. In England, where the agriculturist is exclusively an agriculturist, agriculture is reduced, or nearly so, to its most simple expression; and this explains an interesting phenomenon which has often occupied men's minds, without their referring it, so far as we know, to its real cause, which is the numerical inferiority of the agricultural population of England, compared with that of all other countries. English agriculture, it is said, is enormously productive, much more, in proportion, than that of any other country, especially France, and still it employs fewer men, which is true: whence it is concluded that England has acquired an immense superiority in agricultural processes. The superiority of English agriculture is real, no doubt, but not to the degree which seems to result from these comparisons. English agriculture employs fewer men in a greater production, because the work is simpler, that is to say, freer from foreign elements; because the men it employs are occupied only in performing special functions, the improvement and cultivation of the soil, while elsewhere the same number of men is divided among a great number of different kinds of labor. — It is sometimes asked whether the removal into the cities, of the manufacturing arts which previously formed an appendage to agricultural labor, is in itself a good or an evil. If this question be considered in a general way there can be neither hesitation nor doubt on the subject. The separation of manufacturing labors from those of agriculture is the beginning and the point of departure of that division of labor which forms the wealth of civilized nations, and which has so greatly increased the power of man; it is the first condition of progress; we might say it is progress itself. To ask whether this separation is a good one, is in other terms to ask whether civilization is superior to barbarism. But that it should be really favorable, it must be produced

under normal conditions, that is to say, slowly, progressively, and under the influence of those natural causes which determine it everywhere: otherwise it may become really the occasion of cruel suffering and fatal confusion. The reason for asking if this removal is not an evil was, no doubt, because in our day it has sometimes taken place suddenly, and violently, under the influence of artificial inducements and restrictive laws. — III. In proportion as agricultural industry is freed from the foreign elements which complicate it, it acquires more energy and power. The cultivator of the soil, whose attention was at first divided among a great number of different labors, turns it entirely to those which belong to him; he devotes himself solely to the cultivation of the earth, and invests in this all the capital which he can command. Thus the soil, being better and more diligently cultivated, yields much more on a given space, though a smaller number of laborers may be employed on it. But manufacturing industry gains most from this separation. So long as it is scattered, so to speak, among rural occupations, it is necessarily imperfect, rude, and besides incapable of any connected progress. How in fact could field laborers, whose first care is cultivation, and who become manufacturers only in moments of leisure, producing for a limited consumption, sometimes one object, sometimes another, give to everything they touch the time and attention necessary to bring it to perfection? Should they become skillful, which is not possible, they would be stopped in the way of improvement by the single fact that they could use only imperfect materials in each one of these divided manufactures. In these conditions, therefore, the manufacturing arts are forced to remain stationary. It is only when freeing themselves from the restraints of agricultural industry, and taking up their abode in cities, they commence their upward and progressive movement. Scarcely have they settled in the cities when they assume a new character. The men who carry them on being now in a position to see each other daily, begin an exchange of ideas, and each profits by the advance of general enlightenment. These arts thus brought together and grouped, are soon arranged into classes. Labor is divided. Each one chooses a specialty to which he devotes himself. He becomes more experienced in it, more skillful in everything relating to the execution of his daily labor, and especially more apt to perfect his labor by the application of new processes. For the same reason he is no longer obliged to scatter his capital; he applies it all to this single object, with the greatest success, since he supplies a great number of consumers; and therefore devotes more complete material and a greater quantity of it to its special manufacture. These are not the only advantages which the manufacturing arts gain by going to cities. To them should be added the development of credit, greater where population is massed, the relative ease of the circulation of products, and, above all the instruments of labor, the mutual assistance which the arts lend each other and which becomes for them, especially in certain branches, a daily necessity; but we have said enough to make it clear that their concentration in cities is for them the principle of progress. — All this does not mean, and we have already said so, that in certain given circumstances manufacturing establishments may not be situated here and there in the country, to make use of particular advantages, such, for instance, as a water power, a coal pit, a mine, etc., without giving up, on this account, the benefit of progress. Properly speaking, when establishments of this kind are indeed special, that is to say, devoted to a single manufacture, even if they are scattered through the country, they belong rather to city than rural industry. They share, like all the others, in the general movement. Still it is necessary, even in this case, that they should maintain constant relations with the cities. — The more manufacturing industry, considered in all its branches, is freed from the restraints of agricultural industry, the more active and powerful it becomes. Those luminous centres which it creates in cities are the brighter for being composed of a greater number of rays. When a particular manufacture is detached from rural industry, in order to join the groups already formed in the cities, it not only acquires a new force from its contact with the others, but it brings a new contingent to the common centre. A sort of fermentation takes place among these industries thus united and grouped. They continue to be classed, and divided, becoming more specialized every day, not only by reason of the absolute number of various operations which they embrace, but in a much greater proportion. Taken together, they gradually reach an incomparable degree of power, owing to their increasing subdivision, and the mutual assistance which they give each other.—IV. The country pre-eminently manufacturing is, therefore, naturally that in which manufacturing arts are most completely separated from agricultural industry. In such a country the industrial system develops in its greatest fullness and exhibits the faculty of progress in the highest possible degree. And as, on the other hand, of all the causes which favor this movement of separation, density of population is beyond contradiction the most powerful, it seems we may conclude *a priori* that, all other things being equal, the sceptre of manufacturing industry should of right belong to the most populous country. — Moreover, this conclusion obtained from theoretical data alone is not disproved by experience; on the contrary, facts are generally at hand to confirm it. Of all European countries, England is surely greatest in manufactures, and it is also, in proportion to the extent of its territory, nearly the most populous. With regard to the continent of Europe, it may be said that it is more or less devoted to manufactures in proportion as it contains on a given space a population more or less numerous. On the other hand, the United States—the rival of England in so

many regards, almost equaling it in wealth, and surpassing it in some respects in prosperity and well-being—presents the most striking contrast to it on the particular point with which we are concerned. Its manufacturing system is comparatively as undeveloped as England's is advanced. And why? Because its population is scattered over large spaces, especially in the regions of the west. This sparseness of population has not allowed the manufacturing arts to separate from agricultural industry so completely as elsewhere, and this is the reason why these arts have not kept pace in their development with the general progress of wealth. To this consideration is added another no less decisive. So long as populations, scattered over a considerable extent of territory, find themselves at ease in the territories which they occupy, and land is not wanting to their labor, they have a natural tendency to devote themselves by preference to agriculture, and they do so almost exclusively, merely adding, as we have just said, certain rather rude manufacturing labors to agriculture. This is especially true when they can dispose of the surplus products of their lands abroad and obtain in return the manufactured articles which they do not make themselves. But when these populations once begin to press upon each other, and grow dense on a limited territory, and agriculture no longer suffices to occupy them all, they naturally seek a new object for their activity elsewhere. This they commonly find in the practice of the manufacturing arts. These arts then develop with an irresistible power; they increase and improve in proportion to the amount of activity, and as in such a case they do not delay in finding a market for a good part of their products abroad, they discover in this extension of the markets which they open, and in the growing division of labor which is the natural consequence of this, a new means of improvement and progress. — These observations so simple, and yet so fruitful in consequences, destroy many systems. They relieve us from searching so far away, as is sometimes done, for the reason of the manufacturing superiority of one country over another. Wealth being equal, this superiority is essentially connected, we find, with the relative density of population. Other circumstances may no doubt concur in this result, but it is none the less the first and ruling cause. This does not mean, as is sometimes supposed, that the most populous country should secure the monopoly of manufacturing industry, for such a monopoly belongs to none; but it does mean that it should occupy the first rank, according to the natural order of things. For the same reason, all other countries will have a rank in the development of their manufacturing industry answering to the relative density of their population. Next to England, for instance, will come France and Belgium; then, certain German states and Switzerland; and, at last, on a decreasing scale, the almost uninhabited regions of Russia and South America. On this point notable differences will be observed in the same country in going from one province to another, according as the population is more or less dense. Lancashire, for example, so rich and, above all, so populous, will be found far superior in manufacturing development to all the other counties of England. In France, the departments of the north, and of the lower Seine, without mentioning the department of the Seine, will be found superior, for the same reason, to all the other departments of France. Finally, in the United States, the eastern states which have been longest settled, and for this reason are the most populous, will be found the only ones in which the manufacturing arts have acquired any power, while the western states, which are younger, are almost entirely strangers to them. It may be said, it is true, that if the density of population acts on the development of manufacturing industry, the growth of this industry, favored by certain local circumstances, influences in its turn the increase of population. Thus the effect would react on the cause and become a cause in its turn. Who knows even, it will be said, if we shall not invert the rules here? Is it by reason of the relative density of its population that Lancashire is superior to all the other provinces of England in the manufacturing arts? or is it not rather to its manufacturing superiority, itself due to other causes, that we must attribute the relative density of its population? Does it not owe this superiority to the exceptional advantages which it has enjoyed for so long a time; to the wealth of its coal mines, and the ease of working them; to the great number and convenience of the water-ways which furrow it; to the neighborhood of the port of Liverpool, so convenient for supplying raw materials and for the exportation of manufactured products; finally, to the relative freedom which a number of its industrial cities have enjoyed, having been freed from the brutal tyranny of trade corporations earlier than others? These doubts are well founded, and we are far from denying all their force. Applied to certain restricted localities, the observation may even be found strictly correct. But it is none the less true that density of population, to whatever cause it be due, and it may come from the age of the nation alone, is one of the necessary conditions, we may even say the first and essential condition, of the manufacturing superiority of a country. The advantages of situation which Lancashire enjoys are not so peculiar that other places do not share them. They may be found, for example, in the United States, a region where the coal mines are not less rich nor less easily worked; where navigable highways are not less numerous; where industrial freedom is as great; where credit, another source of activity and power, is as great; where this other advantage is found which Lancashire has not, of having the raw material near at hand, without the manufacturing arts having as yet attained the same activity. It is because the United States, a new country, has not had the time, in spite of the real advantages which it enjoys, to

be covered with a population equal to that which is crowded into the regions of western Europe occupied since ancient times. It will have this population some day, perhaps, and then, but only then, will it be able to rival Europe in the perfection of its manufactures. In contrast to the United States, China enjoys almost none of the advantages which Lancashire possesses, save, perhaps, the number and extent of its canals. It has no coal mines, or it does not know how to use them. The resources of the mechanical arts, which contribute so much to increase the industrial power of Europe, are almost unknown. China has no idea, it appears to us, of the marvelous power of credit; and a deplorable policy, followed for a long time, of refusing all regular communication with other nations, deprived its industry altogether of the active stimulus given by foreign competition, and of that increase of vigor received from the increase of markets. Notwithstanding this, the Chinese people are superior to the Americans in nearly every branch of the manufacturing industry, except the mechanical. They are even superior, in many respects, to the English people, whom they surpass at least in the ingenious subtleness of their processes and the perfection of their workmanship. And to what circumstance is this superiority, otherwise so difficult of explanation, to be attributed unless to the extraordinary density of the Chinese population, which has increased and multiplied upon the same territory during a long succession of centuries? So true is it that this is a ruling circumstance, and that it triumphs even over obstacles of various kinds which a nation may meet. — What has not been tried to invert this natural order of things? What systems have not been imagined and put in practice? All the governments of Europe, struck with the prestige which manufacturing industry gives countries where it is exercised, and even attaching an exaggerated importance to the possession of this industry, have tried to anticipate its appearance, by enforcing an artificial activity upon it within the limits of their respective states. They first acted by means of tariffs, drawn up in such fashion as to favor the importation of raw materials, and to hinder that of manufactured products, in order to assure for their own manufactures on the one hand the exclusive advantage of the home market, and on the other, a greater or less advantage over foreign markets. They did more; they encouraged and excited the manufacturers of their countries by exceptional favors, by advances of money or prizes. Vain efforts! The superiority in the manufacturing arts remained where the nature of things put it, that is to say, in the midst of dense populations, whose activity could not find sufficient employment in the cultivation of the soil. Was there at least success, by all these artificial means employed, in hastening the advent of industry one step? On the contrary, we might venture to maintain, though we do not intend to insist on this side of the question, we might make bold to maintain, we say, that by these means their progress has been retarded rather than hastened; and if anything might have hurried the course of time, it is much less the artificial activity forced on them, than the enjoyment of a perfect freedom. Beyond a doubt, certain manufactures may be raised up here and there before their time by exceptional favors, prohibition or subsidies, but to make them prosper is another thing. And at what a cost have these sickly establishments been maintained! At the price of heavy sacrifices by the country; at the price of a harmful misdirection of capital, which was withdrawn from more fruitful investments in which it was employed; finally, at the price of a relative decrease of agriculture. In reality there was no success, therefore, in this method except a success in lessening the natural resources of the country, in checking the increase of population, and in retarding, after all efforts, the natural advent, the final and really fruitful advent of this same manufacturing system so much desired. — V. We have no desire, however, to belittle what the development of the manufacturing arts adds to the brilliancy, the greatness and the power of the civilization of a great country. The manufacturing arts contribute more than any other power to attract and fix in industrial centres the liberal arts and positive sciences whose promoters they are, and whose co-operation they require at every step. By the uninterrupted communication which they establish among men, they favor the progress of enlightenment in every direction, and by this greatly contribute even to the advancement of agriculture to which they seem foreign. To them, and to commerce which assists them, we owe most of the works of public utility, roads, canals, railroads, harbors, and great monuments of architecture. A German writer, whose name has gained a certain celebrity on the other side of the Rhine, has developed, in a work, otherwise of no great real value, this thesis successfully, though he has almost everywhere exaggerated the truth and drowned just conclusions in the floods of an exuberant imagination. However this may be, we can agree with Fr. List, that the development of the manufacturing arts is one of the most powerful motors of progress, nothing perhaps contributing so greatly to the growth of civilization in all its aspects. But should we conclude, with this writer, that we ought to force this development and endeavor to produce it prematurely by artificial means? Certainly not; for in addition to the fact that such an attempt would certainly fail, it would, we repeat, postpone the realization of its object. — On the whole, a dense population is in some respects a great disadvantage for a country; the raw products of the soil are generally more costly there than elsewhere, and living more difficult. As a compensation for this disadvantage, it seems to be the will of Providence that densely populated countries should have a natural superiority in enlightenment, civilization and in-

dustry, which serves as an offset to the relative drawbacks of their situation. Is the compensation sufficient? We shall not examine this question here; but we can not deny its existence. To undertake the reversal of this law of Providence, by guaranteeing to a new and thinly settled country all advantages at once, is a chimerical and foolish project. — VI. It will be understood, after a proper consideration of what we have just stated, that it is the nature of the manufacturing arts to extend their domain incessantly and to acquire in time a relatively greater importance. Though agricultural industry is not absolutely stationary, though, like all other branches of human labor, susceptible of progress, still it has its limits, marked both by the extent of territory under cultivation, and the number of its productions; the field of manufacturing industry, on the contrary, is limitless, and the number of its productions infinite. "That part of agricultural industry," says J. B. Say, "which is devoted to the cultivation of the soil, is necessarily limited by extent of territory. Neither individuals nor nations can make their territory greater than it is, nor more fruitful than nature wished it to be, but they can increase their capital continually, and consequently extend almost indefinitely their manufacturing and commercial industry, and in this way multiply products which are also wealth." (*Cours*, part i, chap. viii.) In every country marshes can be drained, wild lands brought under cultivation, greater fertility imparted through cultivation to lands already tilled, but the number of these improvements is not infinite; an impassable limit is always met in the extent of the territory occupied. In like manner, the number of the products of the soil may be increased with time; in addition to the fact that this increase is itself limited, it is to be remarked that the cultivation of one of these productions of the soil necessarily encroaches on that of the other. In manufacturing industry, on the contrary, in which immense values can be produced on a very small space, by the aid of a large amount of capital, there are really no limits to production except the amount of capital and the number of wants. The variety of its products also is unlimited. It is therefore, we repeat, in the nature of things that manufacturing industry should increase in importance, in proportion as civilization progresses; while agriculture, without losing its rank of mother industry and feeder of nations, tends nevertheless to descend to the level of those which it ruled so long.—This change of position, evident in history everywhere, becomes especially striking when we compare the old condition of the nations of Europe with their present state. Consider, for example, what England was in the time of the Norman conquest and what she is today. She was then an almost exclusively agricultural country. The agricultural interest, the agricultural movement, dominated everything. A simple appendage of agriculture, manufacturing industry occupied a very humble position at its side, and was scarcely counted in the balance of the nation's interests. Consequently it arrested the attention of the sovereign but rarely. Several countries of continental Europe were more advanced in this direction, especially Italy, the Netherlands and some provinces of France, where from that time forth a certain number of cities were found which gave a rather striking activity to manufacturing industry; but even in those countries the agricultural interest had a visible preponderance — It is generally said in all the legislative assemblies of Europe, in speaking of each country separately, that agriculture is the great business of each country, in particular that agriculture is its predominant interest. This statement is often repeated in France; it is made even in England, and, for stronger reasons, in other countries. It may be there is right on both sides. But it is a remarkable sign of the times that it should be necessary to put forth and defend propositions of this kind, which formerly were so strikingly self-evident that the contrary could not even be conceived. These propositions alone prove that a certain change of front is gradually going on, and that the time draws near when manufacturing industry will occupy decidedly the first rank in the most advanced countries. There is no reason to complain of this. The relatively higher position which manufacturing industry occupies, is the most evident sign of a growing civilization. In the earlier ages of the world, when men were satisfied with the roasted flesh of animals as their only food, and their rough skins as their only clothing, with a hole in the ground or a hut made of mud and reeds or sticks as their only dwelling, it is quite clear that manufacturing industry had little to do and occupied but a small place. It is quite as clear that manufacturing industry occupied a greater place in proportion as the human race required better food, lodging and clothing, and raw products of the earth needed, in consequence, a more complicated and skillful manipulation.— VII. To obtain a correct idea of the importance which manufacturing industry has acquired, in civilized societies, we must not examine it merely in great establishments which are commonly called manufactories. It is far from being in these places in its totality. On the contrary, it is rather to be found in the infinite number of shops of the second or third order; in those of small manufacturers, artisans, of the men of all trades. Shops that are inconsiderable, when each is taken alone, are so superior to the others in number that when taken together they exhibit an amount of labor far beyond that which is executed in the great manufactories. "All labor," says J. B. Say, "expended on purchased material, even when it is fashioned for one's own consumption or that of one's family, may be classed with manufacturing industry. The mother of a family who spins flax or knits stockings for herself or her children, carries on a manufacturing industry. A tailor is a manufacturer, since the same quantity of cloth has a somewhat greater value when it is

cut and sewed into clothing than it had before. A locksmith, a bookbinder, are manufacturers; a baker, a pastry-cook, the keeper of a restaurant, are also manufacturers, since they purchase provisions and by a certain process render them fit for our use, and thereby increase their value. In cities manufacturing labors are carried on in every story of every house. In one place, buttons are made; in another, snuff-boxes; in a third, the links of a watch chain are made and put together; in a fourth, gloves are made or shoes bound. The perfumer plucks rose leaves; the apothecary pulverizes drugs; the optician polishes eye-glasses. All these labors are of the same kind, whether performed on a grand scale, in vast workshops where two or three hundred men are at work, or on a small scale, by the chimney corner." Much more subject to the division of labor than agriculture, manufacturing industry is usually divided into an infinite number of branches, so that it is nearly impossible to follow it in all its subdivisions. — VIII. Like agriculture and commerce, manufacturing industry has had serious difficulties to overcome at various times, without speaking of the natural difficulties connected with its own task. It has met the resistance of man and of things, especially in the imperfections of civil and political laws. If commerce has often been trammeled with artificial barriers, such as tolls, home and foreign tariffs, etc.; if agriculture, on its part, exercised all through the country, undefended, was more exposed than any other branch of human labor to exactions, violence and brigandage of every sort; manufacturing industry had to suffer also from many kinds of oppression. Despised and abased in antiquity, left almost entirely to the hands of slaves, it was generally trampled upon by governments and citizens. In the middle ages, though preserved in a certain measure, by the walls of the cities where it took refuge, from the exactions, the robbery and the despotism of the lords, it had to endure the almost equally brutalizing yoke of trades corporations. Later, it had still to struggle, particularly in France, against manufacturing regulations. It was in spite of these obstacles that it grew, and rose to the point at which it has arrived. — IX. Some are alarmed at the increasing predominance of manufacturing industry, to which they ascribe the greater part of the evils which afflict modern society. They are especially alarmed at seeing populations concentrate as they do in cities, and gather in great masses, whose existence seems often precarious, and who even sometimes become dangerous to the public peace. It would be better, they say, for this multitude to remain scattered through the country, devoted to the labors of the field, which would procure them a more assured existence and a better morality. Crowded together as they are in cities, they grow corrupt by contagion. Moreover, there is nothing less certain than the refined labor which the manufactories in cities offer them; generally better remunerated than labor in the country, it is more precarious, and the manufacturing industry is not seldom seen to abandon in distress and give over to despair the mass of those it has supported. — Those who reason in this way forget, first of all, that there is no choice to be made in this question: the relatively greater concentration of population in cities is the inevitable consequence of its increase. We have already stated that the field of agriculture has its limits; it has its natural limit in the extent of territory, in the possible extension of cultivation. Now, when population, by increase, has exceeded its limits, what is to become of it? Would it be convenient and profitable, would it moreover be possible to detain men in the country when they could no longer find employment there? True, it is sometimes said that masses of unemployed laborers are crowded together in the cities, while the country lacks laborers; but this is a mistake; these words are generally in the mouths of those who use ready-made phrases, and repeat them blindly, without examination. This state of things is impossible in principle, and does not exist in fact. The influx to the cities is the surplus of the country, nothing more; sometimes even the reflux is not so rapid as is necessary to maintain the just equilibrium of functions and forces, because the domestic hearth has its charms and the native village its attractions, and neither is abandoned without effort. This is proved by the single fact, that in ordinary times the wages of labor are less in proportion in the country than in the cities. There is a mistake, therefore, on this point; it is forgotten also that men multiply chiefly in the country; therefore, whatever may be said and done, is not the influx of the country population to the cities a necessary and inevitable movement? It is necessary also that this population should move toward the cities in greater numbers in proportion as it increases, because there at least manufacturing industry opens up to it an indefinite field of labor. — Is it true, on the other hand, that this labor is more hazardous, more subject to chance, than field labor? It is true, in fact, that in many branches of manufacturing industry, production has its intermissions, its moments of activity and languor; most economists have made this remark. Manufactured products which mainly answer to change in taste and fancies, are more subject to the fluctuations of demand than agricultural products which answer more to constant wants. When, however, it is merely a question in the tastes or the fancies of consumers, the evil is generally not so serious, because capital and labor are transferred without much trouble, whatever may be said to the contrary, from one kind of production to another, and the damage resulting from displacement is generally compensated for in advance, by the relative increase of wages and profits. What is more serious is this, that there is sometimes a general stagnation of production in manufacturing industry. "There are," as J. B. Say justly remarks, "periods in a

country where manufacturing industry is highly developed, in which there is no movement of labor, and when the whole laboring class suffers." (*Cours*, part i., chap. xviii.) In practice, nothing is truer than this. But we believe there is a mistake as to the ordinary causes of these stagnations of labor, when they are attributed to the uncertainties peculiar to manufacturing production and industry itself. However variable the tastes and wants may be to which this industry answers, they may be quite constant enough when taken together, unless other causes foreign to industry suddenly disturb production and labor. We have pointed out some of these causes under the heading COMMERCIAL CRISES (which see): there are also other causes in the uncertainty of political movements. Manufacturing industry, therefore, is unjustly blamed for those fatal crises which descend upon it without provocation on its part, and of which it is merely the earliest victim. — We will admit, however, that when these calamities come they affect field labor less than the labor of cities, because the first answers more to wants which can not be put off. But if manufacturing industry and commerce find causes of suffering in the irregular movements of political bodies, and the defective constitution of credit which affect them more directly, agriculture has its causes of suffering also, and perhaps more incurable ones, in the uncertainty of harvests and unfavorable seasons. A failure in the vintage threatens the existence of rural populations in the south of France, and a failure in the grain crop has more general and not less disastrous effects. If the sufferings of these people are less noticed it is perhaps only because being scattered over great spaces their complaints are less audible. — X. There is, besides, a general consideration which dominates this whole subject. It is this, that the concentration of a great manufacturing system in cities is the best guarantee, we might even say the only guarantee, of the tranquillity, the security and the liberty of the country. It has often been said, with justice, that manufactures nourish and vivify agricultural labor, because they absorb its products. Nothing could be truer. But it might be added, with no less truth, that the manufacturing population collected in cities are, with regard to the inhabitants of the country, vigilant sentinels who watch for them, advanced corps who defend them. Is it believed that the inhabitants of the country in Europe have always enjoyed the comparative liberty which is assured them to-day? Has their labor always been as regular, and their existence as peaceable? No matter how little any man has studied history, he knows that they have not. Now these populations have not risen to this superior position which they occupy without effort and trouble. Let us add that they have not won this position by themselves, and that they owe it above all to the manufacturing and city populations, which opened up to them in so many directions the way of civilization and progress. This remark is not a new one. It was made by Adam Smith, who himself borrowed it from Hume. "Commerce and manufactures," says he, "gradually introduced order and good government, and with them the liberty and security of individuals among the inhabitants of the country, who had before lived in an almost continual state of war with their neighbors, and of servile dependency upon their superiors. This, though it has been the least observed, is by far the most important of all their effects. Mr. Hume is the only writer who, so far as I know, has hitherto taken notice of it." ("Wealth of Nations," book iii, chap. iv.) An important result indeed, and which would suffice to destroy all the critical observations which the development of manufacturing industry has occasioned, by compensating richly for the real or supposed evils which this development may produce. Even if we consider the marvelous activity of manufacturing industry in modern times, we need not ask if the extension of industry has not been attended by some evils. We need not trouble ourselves to learn if in the present state of things manufacturing industry is as sure and as profitable as agricultural labor. We must ask, first, if this increase of manufacturing industry was not inevitable; then, if, in spite of partial suffering which it engenders, or which we wish to attribute to it, it has not produced a greater general benefit. In other terms, if the general condition of the human race is not to-day, owing to this same increase of manufacturing industry, greatly superior to what it was formerly. Thus stated, the question will be quickly solved. (See FREE TRADE.) CH. COQUELIN.

INDUSTRY, Progress of. In political economy this expression ought to be understood as the improvement of all the conditions on which the power and productiveness of labor depend. To appreciate correctly the magnitude of the results which we owe to industrial progress, as well as to distinguish with certainty the general characteristics which mark it, thought must go back to man's primitive condition, and the attention be given for a little to the principal industrial achievements which, in the course of centuries, have gradually brought about the present condition of things. — The immense multitude of different kinds of matter and force, of organized and living creatures which compose the terrestrial creation, was not, from the beginning, more particularly appropriate to our existence than to that of most other animate beings, but we received, more than they, the faculty of altering extensively, of completing in some sort to suit our own needs, the primitive creation, and thus only is it that this world has really become man's domain. — It is to the successive developments of this faculty, too little thought of, that we owe all the means of existence and of well-being accumulated by our race—means which have permitted it to multiply to a thousand times greater extent than it could have done had it been compelled to subsist

on the spontaneous productions of nature. To this faculty do we owe our success in changing completely, to our own advantage, the original proportions of the different species of living creatures; in substituting for the forests and plants which covered a great part of the earth irrespective of their suitability to our wants, those that might prove most useful to us; in arresting the increase of numerous species of noxious creatures; and in subduing and then multiplying at will all such as were of a nature to be useful to us. It is also by the more and more extensive employment of this powerful faculty that we have succeeded in fertilizing large tracts of desert, in drying up large tracts of marshy land, and in making the watercourses nourish our crops, move our machines, and transport us and our products; that we are enabled to extract from the bosom of the earth the shapeless metals destined to become the instruments of our labor and of our exchanges, the coal which we use in our homes and our manufactories, and from which we distil the inflammable gas which gives light to us in the night; that we can quarry from the mountain side and the crag those myriad buildings, palaces, temples, cities, roads, canals, etc., which are the boast of civilization; that we have discovered in compressed steam one of our most powerful natural helpers; that we have made of the seas and winds one of the great means of communication between the peoples distributed over the earth; that we have found in magnetism the guide to show us the way across the vast expanse of the ocean; and lastly, that we have made of that other mysterious force which we name electricity, the marvelous messenger which instantaneously transmits our thoughts to distances of thousands of miles. The faculty which has already been successful in obtaining such admirable results from the wonderful world which it has to explore, and which is possibly destined to obtain others still more astonishing, is that known to political economy as *industry*. We must then admit as industrial progress everything which tends to increase the power and productiveness of this faculty, all that contributes to swell the mass or the importance of the utilities of every sort which are the ultimate end of its action, the satisfaction of our wants and the necessary basis of the amelioration and diffusion of human life. Hence it follows that industrial progress can be shown in all useful works, without exception; in those of the savant, the statesman, the magistrate, the clergyman, the artist or the author, as well as in those of the agriculturist, the manufacturer or the merchant. The first named labor, or at least may labor, to develop and improve our intellectual and moral faculties, which are so closely bound up with our industrial faculties that the latter are necessarily elevated or debased with the former. Thus the labors of the savant, by extending our acquaintance with nature and with the properties of the objects submitted to our action, manifestly increase the real power of industry, and it is commonly labor of this sort which paves the way to the greatest industrial advances; the labor of the statesman or the magistrate has as its legitimate object to fit us for social life, to protect our life, liberty and property against violence or any attack that might be made on them, thus giving to all the security, lacking which, industry would soon cease to be productive; the labor of the clergyman or the moralist may, if it be well directed, tend to the same result by adding to the force of authority used by the legislator or the magistrate, the force of persuasion; they may, in addition, impart to life consolation and hope, which are utilities of no mean order, and they may also influence our passions and our habits by enlightening us as to their consequences in the manner most favorable to the productive power of our industrial faculties; finally, the labor of the artist and the author may also tend to the same result by cultivating and purifying our imaginations, our affectional faculties, by inspiring us with a taste for the beautiful and the good. True it is that the different kinds of labor have not always the tendency we have just attributed to them, and that instead of contributing to the amelioration of our intellectual and moral faculties they have often for effect, if it be not their aim, to deteriorate and degrade them; but if such be the case they are no longer useful works, and, far from assisting industrial advance, they are powerful obstacles to it. — The first want of all animate beings is food. As long as men look to hunting, fishing, or the few vegetable foods which the earth produces spontaneously, for their livelihood, their existence is a wretched one and little above that of the beasts; their wants, like their industries, are limited, and yet to live thus even in the sorriest way each individual must occupy a square league or more of fruitful soil. The first step in advance is taken when, abandoning the pursuit of their prey in the forest or the waters, men learn to assure themselves of their daily food by capturing the creatures most easily tamed and forming them into flocks which they feed, wandering with them from pasturage to pasturage which the untilled soil affords. But this means of providing food demands also the occupation of immense tracts of country by a small population, and in that case wants and industry continue extremely limited. The most important step in industrial progress is taken when populations, recognizing that they can by cultivation substitute alimentary vegetation for that which has not that quality, determine to exchange a savage or a pastoral existence for an agricultural one. — When it reaches this last degree of development, industry is in possession of the most powerful means which have been given it for the improvement and spread of human life; agriculture soon succeeds in producing a quantity of substances far in excess of that needed for the sustenance of the cultivators of the soil, population increases, and some are able

to turn their attention to other labor; henceforward wants increase progressively, and food, shelter, furniture, clothing, fuel, the want of utensils and machines of all sorts, of communication, of transport, etc., put to work whole masses of laborers, divided into series corresponding to each particular class of wants, then subdivided into a multitude of different professions, which form the special occupation of those who practice them. Since this specialization of labor rapidly increases the force of industry, wealth accumulates, and as its sum increases, populations find it easier to create new wealth; it is then that numerous classes can be exempted from material labor and may apply their energies to the cultivation and perfecting of human faculties. This last named variety of labor is no less necessary than any of the others to the continuation of industrial progress, for the obstacles to this progress appear as much in the imperfection of our moral faculties, in the evil bent of our passions, in the wrongs we are too prone to do each other, as in the things on which we act. — In the present state of civilized communities the main conditions most necessary or most favorable to industrial progress seem to consist: 1st, In security, which includes the maintenance of peace and the guarantee, as complete as possible, of property; 2d, In specialization of employments; 3d, In abundance of capital; and 4th, In freedom of labor and contract. —It will be needless to dwell at length on the intimate relations between industrial progress and security. In times of agitation, of trouble or of war, multitudes of men who might contribute to this progress, are occupied, on the contrary, only with what injures and arrests it, and those who are not directly engaged in hurtful acts, weakened in general by anxiety and by the uncertainty of the future, lose much of their energy. The experience of all ages proves that the most fruitful periods in industrial progress have always been those in which security and peace seemed best assured. It has only been through chance or by the efforts of men of genius that important discoveries destined to increase greatly the power of industry, have been made in a time of violence or disorder, but it is evident that it was not this condition of affairs which gave birth to them, and it was only after the restoration of peace and security that all the benefits derivable from them were obtained. — The security of property is the indispensable condition of industrial progress; for this progress is generally the result of a succession of efforts which no one would make unless certain of reaping the fruit of them. Without this guarantee, industry, far from making progress, would rapidly slip back to its original starting point. Where property is not secure, men must necessarily look upon one another as enemies rather than as friends. The idle and improvident constantly seek to take possession of what has been earned by steady and industrious men; and if the strong arm of the law did not hinder their aggressions they would become, by destroying all security, an obstacle to industry and to all idea of accumulation, and would thus drag down all classes of society to the level of hopeless destitution to which they have themselves fallen. (See M'Culloch's "Principles.") It is certain then that, all else being equal, industrial progress will be most rapid and most extensive where property is best guaranteed, not only against illegal attacks, but against those made on it in the name of the law itself or of public authority. — Adam Smith, in his endeavor to determine how it is that division or rather specialization of labor develops greatly the power of industry, assigns three principal reasons as its cause. The first, is the increase in aptness and dexterity which workmen gain by the constant repetition of one operation; the second, is the saving of the time which is unavoidably lost, in labor not sufficiently specialized, by passing from one operation to another; the third, is the facility given by specialization of labor, to the discovery of machines or of natural motors which may save human labor. It is especially by the last named of the three causes that division of labor contributes powerfully to industrial progress; by concentrating the attention of each worker on operations reduced to their simplest elements, it has paved the way for a multitude of inventions and discoveries. It would be an error to suppose, as has often been done, that division of labor does not sharpen and improve the inventive faculties, among workmen and artisans. As society advances, the study of the different branches of science and of philosophy becomes the principal or the exclusive occupation of the most intelligent men, and each of them, by concentrating his research and his thought on one special branch of knowledge, arrives at a degree of perfection or experience never, or at most very rarely, attained by those who busy themselves with all the sciences. (M'Culloch's "Principles.") — The possibility of specializing labor depends evidently on the power of exchange; without this power each one of us would be obliged to produce by himself all the objects of his different wants; it may therefore be affirmed that all which serves to extend the power of exchange, permits the increased specialization of labor, and in consequence contributes to the industrial progress which depends on that specialization. — It is easy to understand how this progress is furthered by abundance of capital; without tools or machines, without materials, without supplies resulting from previous labor, the most highly perfected industry could effect but little; it was only by the continued accumulation of capital that industry became powerful; and its power necessarily increases as capital increases. Suppose, for example, that it be desired to bring under cultivation a distant and uninhabited land; if those who undertook such a scheme began it with their hands only to help them, it would not be long before they would perish of want, however industrious they might be; but if

they arrived at the place well supplied with all the implements needed for cultivation, for clearing land and for transport; with provisions, cattle, seeds, etc., their enterprise might succeed, and their success would be the more assured the greater the capital they could devote to it, the better they were in a position to renew at need their supplies, until the newly broken land could furnish them itself. That a people may establish canals, railways, steam engines, electric telegraphs, etc., they must previously possess a multitude of workshops and of instruments necessary to the preparation of all the materials used in producing these things, unless they receive them ready made from some other people, in which case they must give in exchange other capital of the same value; they must also be provided with provisions of every description in sufficient quantity to support the workmen, while they are being established. Without those conditions, and as long as they can not fulfill them, they must resign themselves to remain deprived of these powerful means of progress and civilization. — We have enumerated, among the main conditions needful in industrial progress, freedom of labor and of contract. By this freedom all men are occupied with the career in which it is likely that they will contribute most to the production of wealth, because each man has been able to choose for himself the career which seemed to him best suited to his position and to his peculiar talents; on the other hand, each is urged by all the force of personal interest to multiply and improve the services which he can render others in the career which he has chosen, for with entire freedom in transactions, the rewards which he can obtain will necessarily be proportioned to the quantity or the value of his services, a value determined by the free judgment of the interested parties. Hence, it follows that the more extensive this liberty of the individual is, the more universal, persevering and fruitful will be the efforts which urge men to industrial progress. Experience also amply bears this out, for the history of industrial development shows that it is more powerful in proportion as each person is free to choose his own profession, to practice it as he understands it, (under the sole condition of respecting the liberty and property of others), and to dispose at will of the products he obtains. In our times the industrial power of any nation may be judged of by the extent of the liberty assured to its labor. The most progressive are those which have best known how to guarantee to every man the free disposition of his useful faculties and of what they produce; the least so, those where that freedom is most restricted, where work and commerce are most subject to regulation by the state. — We have already alluded to the fact that the division of labor is closely allied to the exchange of wealth, and that in restricting the latter, obstacles are thrown in the way of the industrial progress depending on the former. We may here remark, that on the day industrial populations shall have done away with or greatly diminished the legislative obstacles in the way of international trade, they will have opened the way to immense industrial progress; for these obstacles oblige each nation to devote part of its energy to those kinds of labor which with it are less favored by natural circumstances than they are elsewhere, and oblige it to restrain within the limit of what it can consume the exploitation of the special advantages of the country it occupies, which is simply squandering the gifts of Providence. — Industrial progress is rarely made without entailing some partial suffering, for it almost always consists in a new and more perfect mode of satisfying certain classes of wants which were formerly met by other means. The industrial faculties engaged in the abandoned processes can not always be turned immediately to other occupations; there is, therefore, more or less intense and more or less extended suffering undergone by all those whose special industry is thus rendered, at least temporarily, useless, and who are consequently obliged to change their calling. This is unfortunately an inevitable inconvenience connected with the gradual progress of industry. A. CLÉMENT.

INGERSOLL, Jared, was born in Connecticut, June 14, 1749, and died in Philadelphia, Oct. 21, 1822. He was graduated at Yale in 1766, was a delegate to the continental congress from Pennsylvania, 1780–81, and to the convention of 1787 (see CONSTITUTION), took the federalist side in politics, and was supported by the federal party for the vice-presidency in 1812. (See FEDERAL PARTY, II.) A. J.

INHERITANCE. The right of inheritance is the right by virtue of which goods of every kind are transmitted, after the death of those who possessed them, to their heirs or descendants. The person who succeeds to another's goods is called his heir; heritage is either the fact of transmission, or the thing transmitted, the right of inheritance is the principle by virtue of which the transmission is made. We shall here treat only of the right of inheritance. — The right of inheritance flows naturally from the right of property itself. "The right to dispose of what one owns," Charles Comte justly remarks, "is one of the essential elements of property." In fact, the owner's right over what he possesses is absolute, so that no one else can have any pretension thereto, either in the present or in the future, so long as he has not transferred it by his own act. This is a consequence of the very nature of property, and of the original causes of the institution of property. Hence the owner has the right to dispose of his goods in favor of whomsoever he pleases in the present, and, for the same reason, to dispose of them also after his death. This is a natural and simple conclusion, so simple and so natural that it has been sanctioned by the unanimous consent of all nations. — Nevertheless this conclusion has been con-

tested at different times by certain adventurous and frivolous spirits, who have pretended to oppose the rights of nature, such as they understood them, to what they have been pleased to style a mere social convention. "Can a man who is dead," asks Raynal, "have any rights? By ceasing to exist has he not lost all his powers? Did not the great Being, in depriving him of life, deprive him also of everything that was dependent on his last wishes? Can these wishes have any influence over succeeding generations? They can not. As long as he lived, he enjoyed, and rightly, *the land he cultivated.* Upon his death it belongs to the first person who takes possession of it and chooses to cultivate it. Such is nature."—It will be noticed, and is evident from the words which we have underscored, that Raynal here refers only to landed property, apparently not suspecting that there is any other kind of property. It is scarcely necessary to say that we give to the word *property* a much larger scope, applying it to goods of any kind that men can possess. If Raynal had taken it in this sense, which is the only one in which it should be taken, he would perhaps have realized, from the first, the injustice of his proposition. But what must we think of the singular plan which this writer proposes, even considering it from his own standpoint? After the death of a landowner, the first comer takes up his land, and cultivates it in his place; but he probably would not do this, without taking at the same time his plow, his oxen, his barn, his farm house, the unharvested crops, and those already gathered; for men do not labor with their hands alone, nor do they sow without seed, nor live upon air from seed-time to harvest. It is plain from the inconsistency and frivolousness of his proposition that Raynal did not even ask himself, if a landowner or farmer would take much pains to gather together all these things upon his place, when he knew that they would become, after his death, the booty of the first comer. Would he not, in this case, rather consume in his lifetime all he possessed, and leave after him but the bare land? Our author did not stop to inquire whether there would not always be, on his hypothesis, a number of new comers ever ready to quarrel over the dead man's spoils; he did not think of informing us how their rival pretensions could be reconciled. It is truly astonishing to find so much inconsistency in a man who, in the last century enjoyed considerable reputation as a philosopher and writer.—The plan which he afterward proposed seems not quite so thoughtless. He says: "Among the different possible methods of inheritance to citizens after their death, there is one which might perhaps find some supporters: it is that the possessions of the dead man should form part of the mass of public goods, to be employed first in relieving the indigent; next in continually restoring an approximate equality in private fortunes; and, these two important points accomplished, in rewarding virtue and encouraging talent."—This plan, which is not quite so absurd as the former one, has found supporters. It has been adopted, with some modifications, by a certain number of modern sectarians, who believed they were making a discovery in bringing it to light, and were astonished at the fertility of their own brains. Although it has become utterly impossible of application to landed property in modern society in its present state of civilization, this was not always the case, nor is it equally the case in all nations even at the present day. In fact, we find an institution somewhat similar to this in many barbarous nations, among whom the possession of the land is only for life, and this land, after the death of the titular owner, reverts to the public domain. This was the case in France, at least for certain landed estates, under the first French dynasty; and it is the case to-day in some very remote countries of the east. Applied to landed property, therefore, this system is not impossible of realization. The only strange feature about it is, that any one should dare to propose to us as progress, this practice, borrowed from barbarous countries and times, beyond which we have, most happily, so far advanced. As to personal property, which is by far the most important in our times, this system has been found impracticable in all countries and at all times. It would be, in the first place, a revolting injustice. Personal property, which constitutes what is called capital in political economy, is essentially the fruit of the possessors' labor. It has in some sort been created by them. By what right, therefore, can it be disposed of, even after their death, without their approval? To whom would the right of thus disposing of it belong? Do not our natural feelings tell us that property of this kind can legitimately go only to the natural heirs of those who produced it, or to those whom they themselves designated? Besides, even if we should refuse to recognize the force of these considerations, the system must inevitably fail, through the obstinate resistance of those interested, who would easily find means of saving their personal property from the hands of the usurpers. We may remark, moreover, that the most violent enemies of the right of inheritance have been themselves so strongly impressed by the evidence of this right, when considering the question, that they have rarely attacked the right of inheritance to personal property. They almost always limit the application of their system to landed property.—But within these limits, it is evident that the system is applicable only as long as the land remains unimproved, that is to say, as long as the owner has not collected and placed there the capital necessary to improve it: barns, stables, cattle, farming implements, etc., not to speak of the innumerable works of improvement which all lands require. This capital once collected and these improvements made, as both are almost always inseparably connected with the land itself, the same difficulties of fact and right arise as in the case of capital. The

truth is, therefore, that this system is applicable only in the infancy of nations, when men content themselves with performing on their land the transitory work of to-day, without establishing anything permanent thereon. The country which would undertake to perpetuate such a system would remain forever in that infant state in which alone it is possible. — "If I wished," says Charles Comte, "to refute the errors, borrowed from the Abbé Raynal, concerning the right of children to enjoy the goods left by their parents when dying, I could not help calling attention to the fact that the family spirit is one of the principal causes of the production and preservation of wealth; that a man, to insure his children a living, performs labor and undergoes privations, to which no other consideration would induce him to submit. I would point out to my readers that families conform their manner of living to their means, while, if the wealth of a man were not to pass to his descendants, he should accustom his children to the severest privations, and himself set them the example; that, consequently, he could derive scarcely any real advantage from his property, even during his lifetime. I would show to them, finally, that a nation in which children were excluded from succeeding to their parents, would, in a very few years, fall a great deal lower than the inhabitants of Egypt under the domination of the mamelukes, or the Greeks under the domination of the Turks." — We will not here insist too strongly upon these considerations, which will naturally recur under the word PROPERTY, where they more properly belong. But we must add a few words upon another phase of the question. — Although the right of inheritance, like the right of property itself, is absolute, it can and ought to be equally regulated by law. The provisions of the law are not, however, more arbitrary in this matter than they are on many other points. Their general object should be, in the first place, in some sort to force the dying man to fulfill the formal or moral obligations contracted in his lifetime; next, to avoid possible embarassments and litigation. — Since every man can dispose of his own goods, it is an undoubted principle that a dying man has the power to determine by will what division he will make of the fortune which he leaves after him. But if this man leaves children, shall he have the right to dispose of this fortune to the exclusion of his children? This does not appear to us as a logical consequence of the right which he enjoys. By bringing into the world beings who depend upon him, he has contracted toward these beings and toward society itself, the obligation to support them, to educate them, and to leave them, after his death, as far as his means will allow, in a position corresponding to that which he assured them in his lifetime. His right, therefore, here finds a natural limit in the obligations which he may have contracted. There are others of a different nature, equally deserving of notice, but which we shall not enumerate here, because it is the principle alone that we have here undertaken to lay down. CH. COQUELIN.

INSTRUCTIONS. This word, in politics, refers to the right in a government or in any portion of the people to direct or control the conduct of its or their agents, delegates or representatives. The existence of the right is determined by the nature of the agency or trust, and no more general rule can be laid down than this, that in all cases where the relations between the parties are essentially those of principal and agent a right to prescribe what the agent may or may not do is unquestioned, and that in the case of other relations, such as those arising from a trust, the right is uncertain. A distinction may be made between cases in which instructions are given to a person who is merely delegated to express in any assembly, such as a nominating convention, the predetermined wishes of his principals, in which case the instructions when given by the actual principals are properly controlling, and other cases in which the right of instruction is asserted over persons sent to a deliberative body, as a legislature, in which case they are not, since a legislator is not an agent, but a representative. But no invariable rule can be laid down in any case. In the diplomatic service instructions are specific and obligatory, but our diplomatic officers are strictly agents. The United States has never sent out a diplomatic officer with the representative character of an ambassador; our highest officers have been envoys, with full power for particular purposes, and their instructions have become more specific as the means of communication between states have been facilitated, and as the necessity of depending upon their discretion has thereby been lessened. In the last century a much wider latitude was allowed to all diplomatic officers than now, and their instructions were then more general, although defining their limits and manner of negotiations. The first of our own diplomatic officers, Commissioners Adams, Jay, Laurens and Franklin, accompanied the preliminary articles of peace transmitted to congress in 1783, some of which they had signed, without, as they had been directed to do, communicating them to the French government through Count Vergennes, with excuses for having "so far deviated from the spirit of our instructions"; and their disobedience seems to have been very kindly acquiesced in. At a much later day, however, the deviation from instructions was the reason alleged by the administration at Washington for the recall of Mr. Motley from his post as minister to England, although so far as can be ascertained from the publications relating to this particular case, Mr. Motley's deviations from the instructions of the state department were scarcely perceptible. — The instruction of members of constitutional conventions has been claimed as a right, but principally through the limitations of the powers of the convention by the legislature which called the convention. Thus, it seems to be decided that a legislature

may call a convention to amend certain articles of the constitution, and the convention so called can not propose amendments to other parts of the constitution not specified. (Mass. Sup Ct., 6 Cushing, 573; N. C. Convention, 1835.) In the Ohio constitutional convention of 1850 there was also some attempt to instruct delegates by the constituencies, and one delegate, who had been called upon to adhere to the instructions given him "strictly, or to resign," chose the latter course, without, however, expressly admitting the validity of such instructions. A conspicuous instance of the disobedience of all such instructions is afforded by the federal convention of 1787. All of the delegates to that convention, excepting those from New Jersey, were by their credentials restricted to the task of revising and amending the articles of confederation, and all of them disregarded that limitation on the plea of necessity. —The right to give instructions is of importance in connection with legislative bodies, and with nominating conventions. Blackstone says, that in the British parliament "every member, though chosen by one particular district, when elected and returned, serves for the whole realm, for the end of his coming thither is not particular, but general, * * and therefore he is not bound, like a deputy in the United Provinces, to consult with or take the advice of his constituents upon any particular point, unless he himself thinks it proper or prudent to do so." This principle was first asserted in parliament as early as 1571. It is admirably emphasized by Burke in defining the true relations of a legislator to his constituents, in the speech made by him to the Bristol electors after he had voted to extend the privileges of the Irish trade in opposition to their express instructions. In the United States the same theory of the general character of the duties of the members in both the upper and the lower chambers of a legislature has finally prevailed, although the history of the subject shows some wavering and a distinct tendency in one party toward the narrower view. During the debate on the first proposed amendment to the constitution in the house of representatives, in August, 1879, it was moved by Mr. Tucker, of South Carolina, to add to the clause which prohibits congress from making laws abridging various specified rights, these words, "to instruct their representatives." The proposition was vigorously supported by Elbridge Gerry, who said: "I presume that the gentlemen of this house do not mean to arrogate to themselves more perfection than human nature has as yet been found capable of; if they do not, they will admit an additional check against abuses, which this, like every other government, is subject to. Instruction from the people will furnish this in a considerable degree. * * * Now although I do not believe the amendment would bind the representatives to obey the instructions, yet I think the people have a right both to instruct and bind them." The motion was opposed by Madison, Fisher Ames and Roger Sherman, the latter saying: "It appears to me that the words are calculated to mislead the people by conveying an idea that they have a right to control the debates of the legislature. This can not be admitted to be just, because it would destroy the object of their meeting. I think when the people have chosen a representative it is his duty to meet others from different parts of the Union, and consult and agree with them to such acts as are for the general benefit of the whole community. If they are to be guided by instructions there would be no use in deliberation; all that a man would have to do would be to produce his instructions and lay them on the table and let them speak for him." The amendment was lost by a vote of 10 to 41. The feeling, however, was still very general that the people had some power of instructing their representatives, and of course that disobedience to such instructions entailed some penalty, though no attempt was ever made to specify what it was. John Adams, for instance, says ("Works," vol x., p. 605), "The right of the people to instruct their representatives is very dear to them and will never be disputed by me." Judge Tucker, speaking of the embodiment of a constituency in its representative, and its consequent right to instruct him, says (1 Black, 193 n), "However inadmissible this doctrine may be in Great Britain, it seems perfectly adapted to the principle of our government." This feeling found expression in the constitutions of several of the states, in provisions that the people have the right to petition, etc., and "to instruct their representatives." This is found in the constitutions of the following states: Arkansas, 1868, Art. I., Sec. 4; California, Art. I.; Florida, Art. I., Sec. 2; Indiana. Art. I., Sec. 31; Kansas Bill of Rights, Sec. 3; Maine, Art. I., Sec. 15; Massachusetts, Art. XIX.; Michigan, Art. XVIII., Sec. 10; Nevada, Art. I, Sec 10; New Hampshire, Part I -XXXII.; North Carolina Dec., Art. I., Sec. 25; Ohio, Art. I., Sec. 3; Oregon, Art. I., Sec. 27; Pennsylvania Dec. Rights, Tennessee, Art. I., Sec. 23; Vermont, Chap I.-XX; West Virginia, Art. III., Sec. 16. The words are substantially the same in the constitutions of each of these states, but they have been omitted in the latest constitutions of Arkansas and of Pennsylvania, and the clause was altered in the last constitution of Illinois so as to read that the people shall be secure in their right to "make known their opinions to their representatives" The same phraseology is also used in the constitution of Iowa, Art. I., Sec. 20, and in that of New Jersey, Art. I., Sec. 19. It is difficult to discover the object of such provisions The latter is obviously absurd, and if the language used in the greater number of the constitutions is to be construed as protecting the right of the people to give their representatives advice or information, it seems useless and equally absurd. If it is to be construed as meaning anything more than that, it not only does violence to the true and established conception of the function of

representatives, that they are to deliberate and to legislate for the *general* good, but it is also futile. No such provisions could give the instructions any coercive effect unless some penalty was attached to the disobedience of them, and no penalty in such cases has ever been imposed or suggested. — These provisions can be considered only as an expression of a feeling prevalent at the time of their adoption, of a vague distrust of any central government, and of the necessity for the fullest protection of individuals against it. Such provisions have, however, in conjunction with the earlier democratic theory of the sovereignty of the states, served to give color of authority to the frequent assertion of the right of a state legislature to instruct its senators in congress. Upon this topic Rawle says: "Some of the state legislatures appear to have viewed the relative duties of the senators whom they have appointed in a more restricted light than it is apprehended the constitution implies. It seems to have been supposed that the senators were bound to obey the directions of the state legislatures, and the language of some resolutions has been, that the senators be 'instructed' and the members of the house of representatives from the particular states 'requested' to make and support certain resolutions. But surely the opinion is erroneous; a senator is no more bound to obey the instructions of the state legislatures in opposition to his own judgment than a representative of the people in the other house is bound by the occasional instructions of his constituents. They are both elected for the purpose of freely and honestly exercising their own judgment according to the best of their capacities." (Rawle on the Constitution, p. 38.) The history of many states furnishes instances of the assertion of the right. John Adams bewailed it in Massachusetts in 1820, and in the same year the New York legislature passed a resolution "instructing the senators and requesting the representatives" from New York to vote against the admission of a slave state to the Union. The legislature of the same state also instructed its senators to vote for the tariff of 1828, and Van Buren, then a senator, obeyed these instructions in opposition to his personal wishes, although Webster insinuates that he procured them to be passed in order that he might, on the ground of a state's right to instruct its senators, excuse his tariff vote to the state's-rights and free-trade wing of his party in the southern states. — It would be difficult and unremunerative to ascertain how often this right to instruct senators has been asserted. Benton, speaking of the resignation of senator Hugh L. White of Tennessee, says that it took place "under circumstances not frequent, but sometimes occurring in the senate—that of receiving instructions from the general assembly of his state, which either operate as a censure upon a senator or which require him to do something which either his conscience or his honor forbids." While in the case of such instructions there has never been any attempt to provide means for enforcing them, the acquiescence of senators in the view that states had the right so to instruct, has sometimes given them a binding force. Thus in the case of Mr. White, who had been instructed to reverse his course of voting on certain measures and to support Mr. Van Buren's administration, Benton continues: "He consulted his self-respect, as well as obeyed a democratic principle, and sent in his resignation." A more conspicuous instance occurred in 1840. Messrs. Brown and Strange, both democrats, were at that time senators from North Carolina, and the whigs controlled the state legislature. The whig party had disavowed the doctrine of state instruction, but nevertheless in 1838 this particular whig legislature passed a set of resolutions denouncing the passage of the expunging resolutions by the senate, and also the course of the administration generally, and further resolved "that our senators in congress will represent the wishes of a majority of the people of the state by voting to carry out the foregoing resolutions." To this the two senators responded in a letter, dated Dec. 31, 1838, as follows: "The resolutions do not expressly instruct us to carry into effect the opinions expressed therein, nor are we able to perceive in them impliedly any authoritative command, such as instructions convey. We are therefore left to infer that it was the intention of the general assembly not to assert or to exercise the right of instruction. We have therefore publicly declared that whenever instructions are given us by the legislature we will either obey them or resign. We therefore respectfully ask your honorable bodies if we err in our construction of the resolutions, that we may be set right." The legislature, in reply, resolved that "the resolutions are sufficiently plain and intelligible to be comprehended by any one desirous of understanding them;" and it was insisted by Mr. Clay in the senate, and by whig newspapers, that the resolutions in question were really instructions, and that Messrs. Brown and Strange were, therefore, on their own theory, bound to resign. They presented the resolutions to the senate, but did not at once resign, presumably because that course would have destroyed the democratic majority in the senate. But their failure so to do subjected them to so much criticism at home that, in 1840, they tendered their resignations in such manner as to make the propriety of their course an issue at the ensuing state election, in which, as it resulted, the whigs won a decided victory. The case of the censure of Charles Sumner by the Massachusetts legislature, in 1872, may be referred to in this connection as an illustration of an entirely different and more modern view of a senator's duty under such circumstances. — The passage of resolutions in state legislatures requesting the representatives and senators from each state to pursue a particular course in congress, is still not infrequent, as, for instance, the resolutions passed by the New York legislature in 1881, urging the confirmation of President Garfield's

nominee for collector of the port of New York, which had been vehemently opposed by the New York senators, and the free-trade resolutions passed by the Iowa legislature in 1882. — The doctrine of instructions has been applied more frequently and more variously to delegates to nominating conventions than to members of legislatures, and perhaps properly, on the theory of the mere agency of such delegates. Without reference to local conventions it will be sufficient to trace the usage in this regard in the national conventions. From that usage it appears that the doctrine of instructions has been applied, first, to the instruction of district delegates by their actual constituents, through the caucus or convention selecting them; second, to the instructions by a state convention of all the delegates from that state, however chosen—but in such cases the instructions have in later years rarely extended to a direction to vote for a particular person, and have not gone further than to instruct the delegation to vote as a unit in accordance with the decision of the majority, thus constituting the well-known "unit rule"; third, the adoption of the unit rule by the delegation itself, and its own instruction to its chairman to cast all the votes of the delegation in one way or for one person. The democratic party has leaned toward the validity of the instructions in each of these cases, while the whig and republican parties have favored the opposite view, and it seems to be now settled in the latter party that delegates are not in any sense agents and bound by their instructions, but that each may vote his own sentiments. The principal instances in which the right of instruction has been asserted in national conventions are as follows: In the democratic convention of 1840 the delegates from most of the states were instructed to vote for Van Buren. In the democratic convention of 1844 the delegates from Massachusetts, Pennsylvania, Ohio, Michigan, Maine, New Hampshire, Vermont, Connecticut, Rhode Island, Louisiana, Alabama, Mississippi, Arkansas, Illinois and New York, were instructed to vote for Van Buren by the conventions which selected them, or else Van Buren had been actually nominated by those conventions. In this convention of 1844, also, the unit rule seems to have been asserted for the first time by Virginia. The delegates from that state were appointed en masse, and it was resolved that the votes of her delegates should be settled by the majority and counted per capita. In reference to this, Mr. Calhoun, in an address to his political friends and supporters, dated February, 1844, after animadverting severely upon the manner in which the convention was being packed, and refusing to allow his name to go before it, says: "I object not less strongly to the mode in which Virginia has resolved her delegates shall vote. With all due respect I must say I can imagine nothing more directly in conflict with the principle of our federal system of government, or, to use a broader expression, the principles upon which all confederate communities have ever been united. I hazard nothing in saying that there is not an instance in our political history, from the meeting of the first revolutionary congress to the present day, of the delegates of any state voting by majority and counting per capita." (Calhoun, "Works," vol. vi.) — In the democratic convention of 1848 delegates from North and South Carolina stated that they voted in accordance with their instructions. In 1852 the democratic convention resolved that each state should be entitled to the same number of votes to which it would be entitled in the next electoral college, without reference to the number of delegates in attendance, and "that the manner in which the said vote is to be cast shall be decided by the delegation of each state itself." The whig convention of this year adopted the same resolution excepting the last clause, and the whole of the resolution was readopted by the democratic convention of 1856. In 1860, at the Charleston democratic convention, the Georgia delegation was "requested" to vote as a unit, and Mr. Caleb Cushing, the chairman, decided that this amounted to an instruction which must be obeyed. The New Jersey delegates were "recommended" to vote as a unit, and this Mr. Cushing decided was likewise a binding instruction; but on this point his decision was reversed by the convention, which also decided that in the absence of instructions to a delegation to vote as a unit its members might cast individual votes. There was in this convention much intelligent discussion by the chair and others, of the whole subject upon instruction, and while the right to instruct seemed to be unquestioned, it was not clear what amounted to an instruction. — In 1860, also, the republican convention granted the right to two delegates from Maryland, after the vote of that state had been cast as a unit, to vote as individuals, and at this convention the unit rule was imposed upon the New York delegation by a vote of the delegates in caucus, under circumstances which are worthy of mention. It was feared that the delegation, which had been expected to vote unanimously for Mr. Seward, might break, and to avoid that contingency a caucus was called, from which all persons not delegates excepting Mr. Thurlow Weed were excluded, and through his instrumentality a resolution was adopted by a large majority instructing Mr. Evarts, the chairman of the delegation, to cast the solid vote of New York for Gov. Seward, and although this resolution was bitterly opposed as a gag law by several delegates, it was acquiesced in by all, and the vote of New York was cast as directed. — In 1868, in the republican convention, the Pennsylvania delegation presented a candidate for the vice-presidency under instructions, but when one member of that delegation refused to be bound by those instructions, and pleaded "the great principle of individual right to be represented in that convention," he was overwhelmingly sustained by the convention. — In 1876 a caucus of the New York delegation to

the republican convention attempted to instruct its chairman to cast the solid vote of the state for Mr. Conkling, as had been done in 1860 for Mr. Seward; one delegate, however, Mr. George William Curtis, asserted the right of every delegate "to vote his own sentiments," and declined to be bound either by the unit rule or the instructions of his colleagues; and the convention, by a vote of 395 to 353, sustained his position. In the same convention the Pennsylvania delegation was stated to have been instructed by the state convention to vote for Gov. Hartranft, and to vote as a unit under the direction of the majority. Four members of the delegation declined to obey these instructions, on the ground that they held credentials from their own districts and owed no allegiance to the state convention, and after debate they were allowed, by a vote of 395 to 354, to vote as individuals for Mr. Blaine. — The occurrences in the republican convention of 1880 are too recent to need more than a bare reference. The delegations from New York, Pennsylvania and Illinois were "instructed," and the convention, by a decisive vote, refused to consider them bound by their instructions. — In democratic conventions the validity of instructions and even their necessity is still recognized. The convention of 1876, for example, resolved "that the states be requested to instruct their delegates to the democratic national convention which is to be held in 1880, whether it is desirable to continue the two-thirds rule longer in conventions," and in democratic conventions the unit rule based on instructions is still in vogue, but it is to be presumed, only because of the lack of desire on the part of the delegates to break or violate it. Considered altogether, instructions for legislators or delegates appear, therefore, to be passing away with the ultra-democratic theory of the rights of states and of constituencies upon which they were founded; and happily, for the doctrine of instructions seems inconsistent with the theory of an intelligent and free representative system, and in practice it had become a mere instrument in the hands of machine politicians for the accomplishment of selfish ends and the perversion or the defeat of the wishes of the actual constituents.

FREDERICK W. WHITRIDGE.

INSURANCE is a contract by which one party undertakes to protect the other, to a greater or less extent, against the pecuniary consequences of certain accidents to which men are liable, such as the loss of property by fire or shipwreck, or the loss of future earnings by sickness or death. I. *The Need and Basis of Insurance.* The material possessions which constitute the property of man are, aside from the destruction of value which occurs in consequence of their use, constantly exposed to all kinds of injuries and losses, which are occasioned partly by human actions and partly by the hostile forces of nature. Even human labor is not exempt from this destiny, and, as it creates property, its temporary or permanent loss is connected with loss of property, not only to the laborer himself, but also to those dependent upon him. Of course many of these dangers can be warded off by the owner himself. His power to do so increases with increasing education, which teaches him caution, makes him acquainted with the causes of the dangers, and enables him to protect himself against the inimical forces of nature. Education has, of course, the same effect upon the diminution of those willful and careless actions by which the rights of others are invaded. Against other dangers of the same sort, whose removal exceeds the strength of the individual, the state protects by its courts and police. But it is impossible for the individual or the state to protect against all dangers to property, even with the best intentions. In spite of education, in spite of the best ruled state, serious accidents will happen, such as sickness, which disturbs or ends human labor; premature death of fathers, which exposes the widows and orphans to want; conflagrations, hail storms, floods, earthquakes, bad harvests, cattle plagues, shipwrecks, accidents in travel, bankruptcies, panics, crises, etc., etc. Losses of property by such occurrences are unavoidable. It goes without the saying that such losses may easily become ruinous to those upon whom they fall, and may prevent them from again taking up any remunerative employment. Since the loss is unavoidable, there is only one course to meet it—restitution. But who shall make this? In the case of malicious or careless actions of others, there is a legal claim to damage from that person. But what if the offender is unable to meet the obligation, or can not be ascertained? What of those losses caused by natural forces or by accident? The loser must bear all the loss himself in such cases unless he is assisted by charity. But it will not do to rely upon this source, since, as it is purely voluntary, no claim can be made to it, either upon the state or the individual. Nor would it be desirable to do so, since individual independence would thus be impaired. Fortunately there is another way to replace these losses. Human society suggests it by affording a kind of help which is perfectly consistent with the self-respect of the receiver, viz., self-help. A loss which is distributed among many is scarcely felt by the individual. When, therefore, a large number of persons who are threatened by the same danger unite and declare the loss which may happen to any individual in the union from this danger to be a common one, *i. e.*, to be a burden resting equally on all, a means of securing full restitution has been found. This will be made up by the shares of all members in the loss which by the terms of the society is to be a common one. By accepting the share which falls to him, every member secures the right of claiming full restitution in case a similar loss should occur to him. This is generally a small sacrifice in comparison with the advantage secured by it, which often consists in the averting of complete ruin. The injured party owes his

security against loss, therefore, not to any act of another's liberality, but to his own resources realized by union with others. The help afforded has the nature of an economical undertaking, and rests, therefore, on reciprocity of service. The individual member helps the others make restitution and receives in return restitution from them. This reciprocal aid is afforded by the contrivance of *insurance*, which has acquired in modern times such great importance and extension. The matter is so simple and the principle underlying it so plain that it is astonishing that such an institution did not exist in ancient times, that it was not born until the middle ages and did not acquire a really great importance until within a comparatively recent period. — II. *Object of Insurance.* We have described this in general already, but it needs a more careful definition. Not every direct or indirect loss is adapted for insurance. A loss intentionally inflicted by a person on himself can not be an object of insurance; the loss must be more or less accidental. It is not necessary, however, that the injury done shall be absolutely accidental. It is enough that it be accidental so far as the injured party is concerned, *i. e.*, not intended by him but caused by the actions of other parties which he could not hinder. It makes no difference whether the action of others which caused the injury was done on purpose, or carelessly or in ignorance of the consequences. Even loss which occurs through one's own negligence, if it is not too gross, does not exclude from insurance. However, in the present stage of the development of insurance, accident plays the principal part, and, in insuring, regard is had first and chiefly to it. But the object of insurance is still more limited. The injury must not be of such a kind that it can happen at the same time to a very large number of the owners of those objects threatened by it, or that it threatens a small class of persons very often and most others very seldom or not at all. If the first were the case, the amounts devolving upon the individuals to pay in order to indemnify the rest would reach such a height that it would be better for each one to bear his own loss. If the second should be true, there would be, in addition, the fact that the number of participants would be so small that no considerable advantage could accrue from a distribution of the losses. This is the reason that losses from floods, earthquakes, volcanic eruptions, avalanches, locust plagues and war are not proper objects for insurance, and why even insurance against the damage by hail storms has never become universal. The loss to be insured against must be, further, capable of estimation by statistics; it must occur with a certain regularity; the causes and occasions of its now frequent, now rare occurrence must be known. And even if these can not be traced back to certain natural laws, yet the "law of large numbers" must be applicable, and the long-continued and comprehensive observations necessary to ascertain this must not be neglected. Otherwise, there would be no basis for a decision as to the practicability of insurance, and as to whether and how far it would be advantageous; and thus the *sine qua non* of a sound insurance would be lacking. The science of statistics is, therefore, of great importance to insurance. With its development not only will the existing branches of insurance gain a firmer foundation and a wider extension, but it will render possible the establishment of new branches hitherto unknown. Thus it is possible that with the further evolution of the statistics of crime, insurance against theft, robbery, deceit, etc., will have a future, while, on the other hand, the failure of insurance against hail and the cattle plague to become as wide spread and firmly established as fire or life insurance is to be ascribed mainly to our present defective knowledge of their statistics. Finally, the injury to be insured against must be capable of easy investigation, both as to the manner of its occurrence and its amount. The exact investigation of its origin is especially necessary when it could have been easily caused by the insured party himself. — III. *The Insurance Premium and its Standard.* It has already been remarked that insurance is no one-sided transaction in which only one party gives and the other receives—it is not an act of charity. It rests upon service and counter-service, it is a contract. The service of the insured by which he acquires the right to indemnification for loss we call the insurance premium. It is the share of the total losses of all insured parties which the individual assumes when he joins the association. The premiums must also furnish the means of covering the running expenses, of accumulating the necessary reserves, of paying the interest on any borrowed capital which may be necessary, and, in case the insurance is undertaken as a business venture, of yielding a fair return on capital and labor to the undertakers. As a matter of course the amount of the premium can not be the same for every one insured, but must be regulated according to the eventual advantage which the insured party will get from the insurance. The value of the object insured is, of course, the most important element. The greater the value, the greater the injury which the loss of the same inflicts upon the possessor, and the greater the advantage which the latter derives from insurance. But there is also a second consideration. The insured objects are not all equally exposed to the danger, but some of them more and some less. In the former case the insured party will sooner and oftener be in a condition to make demands on the insurer than in the latter, from which it follows that the premium should be different in the two cases. The basis of the premium, therefore, is a double one, and consists in the value of the insured commodity and the degree of danger to which it is exposed. And it is only when the premium is fixed with reference to these two points that service and counter-service become equal. With a uniform rate of premium the possessors of the

more valuable and more exposed property would have a great advantage over the others. The value of the insured object is generally easily ascertained and its determination can generally be left to the owner. For, as the premium varies with the value and is expressed in per cent. of the latter, and as the increase of the premium consequently tends to prevent over-valuation, there is no great danger in so leaving it, provided that no restitution shall be made in case of intentional destruction on the part of the owner, and that the sum paid shall in no case exceed the actual loss sustained. On the other hand, it is difficult to estimate properly the danger. This depends upon various circumstances and relations which can not always be foreseen. And even if these should be known, their effect is oftentimes very various. The degree of danger can be most easily determined in the case of life insurance, since it depends in this case upon the rates of mortality, with which we are tolerably well acquainted, owing to the statistics which have been carefully kept for several generations. In other cases we must rely altogether on the law of general average, which needs longer continued observations to establish it thoroughly, than any we have yet obtained. According as the insurance is temporary, *i. e.*, relating to a single definite accident, or permanent, *i. e.*, relating to such accidents in general for an indefinite period, the rate of premium will be different. In temporary or occasional insurances the rate varies merely as the sum of the actual or probable losses in one definite instance; in permanent insurances, on the contrary, as the number and extent of the losses during a giving period, generally a year. In permanent insurance the premium is, therefore, periodical and generally annual, and is paid regularly every year as long as the insurance continues. The premium, of course, like the payment of every other service, is subject to the law of competition, which begins to make itself felt when competing insurance companies meet each other in the same field. Economy in administration, great extent of business, which effects an evener distribution of losses, exactness and caution in insuring and estimating losses, careful regard to the degree of danger, and rejection of all hazardous risks, permit a reduction of the premium without depriving the institution of its ability to meet its obligations. — IV. *Systems of Insurance.* The various systems of insurance may be classed, in the first place, as public and private, according as the insuring party is the state (or municipality) or an individual, either alone or in union with other individuals. The respective merits of the public and private systems of insurance will be examined when we come to discuss the relation of the state to insurance. There is another division of insurance systems into the industrial and mutual systems. The former has been sometimes called the joint stock or premium system. These terms do not seem very happy, inasmuch as a private individual or a political organization may adopt the industrial system, *i. e.*, the system in which the business of insurance is conducted for the same purpose as any other business, viz., to make profits for the undertakers, and since in both kinds the premium appears. Nor does the term "mutual" seem to be a good one, since all insurance is mutual and could not exist on any other basis. The only difference between the so-called mutual and the industrial systems consists in the peculiar way in which the principle of reciprocity expresses itself. While in the former case every participant is at once insured and insurer, and thus the element of mutuality appears directly, in the industrial system this takes place through a third party, the insurance undertaker, who assumes the rôle of insurer toward all insured and receives from them the premiums. In this system insurer and insured are distinctly opposed to each other in consequence of a division of labor. Instead of the owners of property performing for one another the service of insurance, they have this done by a third party who makes a business of it, and whom they pay for his services. The real distinction between the two systems lies in the speculative character which the industrial system possesses, and must possess, but which the mutual system lacks. The better terms, then, would be, the speculative and non-speculative systems. — The mutual insurance system needs no capital stock. The means of repaying losses comes exclusively from the contributions, or premiums, of the members. If the losses increase, the premium must be raised in order to make full restitution, as it may be diminished with every decrease in the losses. The premium is, therefore, variable, and is determined by the losses to be made good. As no profit is intended, these two items correspond almost exactly, the premium including a small per cent., in addition, to defray expenses of administration. The simplest way to manage the mutual system is to reckon up, after the lapse of a certain length of time, the losses which have occurred within that period, and to distribute the amount necessary to make them good among the individual members in proportion to the value of their insured property and the danger to which it is exposed. The premiums are then paid in. Of course, there is no reference here to any estimation of probabilities in reference to the happening of any accident; the premium varies exactly with the actual losses incurred. On the other hand, annual premiums may be fixed which the insured parties must pay in advance, these to be determined with reference to the average of losses likely to occur within the space of a year. If the amount of the premiums exceeds the demand of any year, the surplus may be added to the reserve, or treated as a profit and written to the credit of the various members on their next premium. If the losses exceed the premiums, the deficit may be made up from the reserve, or, in case there is no reserve, must be made good by subsequent payments. — In the

industrial or speculative system the premium is a fixed sum, by the payment of which the insured party secures the right of complete restitution under all circumstances, and nothing more. The insured can not be called upon to make good any deficit nor can he lay claim to any share in the profits of the undertaking. If the premiums amount to more than the losses and running expenses, the surplus belongs to the insurer as undertaker. It is his profit — the only consideration which can move him to carry on insurance as a business. On the other hand, if the premiums do not cover losses and expenses, the insurer must bear the loss himself; he has no further claim upon the insured. It makes no difference to the insured whether there are many or few accidents, whether the damage done is great or small. The responsibility of the insurer in this system necessitates a capital stock, which is usually collected by the sale of shares. The nominal sums are not generally paid up in full, but only from 10 to 20 per cent. of the same. It is seldom that further payments are necessary; for the premiums must equal the losses and running expenses. The amount paid up is used in getting a fair start, and if anything remains it constitutes a guarantee fund. The losses would have to be enormous if this fund could not cover them, or if it could not be easily replaced if it were necessary to take a portion of it. Masius makes the statement that in the course of forty years there was only one case in fire insurance and ten in hail insurance where further payments toward the capital stock were necessary. In order to be sure of punctual payment, however, in case of need, the shares are generally in the names of the shareholders, and these must bind themselves to make further payments, if called upon. The paid-up capital must, of course, pay ordinary interest, and the premium must be arranged with reference to that also. — Since the speculative system aims at a profit and can not exist without it, and since it needs, further, a capital stock on which it must pay interest, it does not seem probable that it can furnish insurance at the same rate at which the purely mutual system could do it, which does not care for profit and needs no capital. It would not seem, then, that the former could compete with the latter. For why should a man pay a higher sum than necessary for a given service? And yet we see that as a matter of fact the speculative system is not only able to compete with the mutual system, but is continually gaining ground upon it. Why is this? In the first place, the premium in the former is fixed; in the latter it is variable. Most men, if they have to make periodically recurring expenditures for any purpose, prefer a definite to an indefinite sum, as they know then what amount they must save and have at hand. And most men prefer to have the sacrifice which insurance demands measured in advance by a fixed sum, which they gladly pay even though it be higher than the average rate of the mutual system. For in this way they have one less variable item in their expense-list, and escape the unpleasant after-payments whose amount can never be determined beforehand. Further, and what is more important, the speculative companies, in spite of their profits and of their capital stock, often succeed in keeping their fixed premiums at the same height as the average rate of the mutual companies and sometimes even reduce them lower. They make this possible when they organize their administration simply, judiciously and economically; when they proceed with great caution in the acceptance of insurances, exclude objects of great risk altogether, accept very valuable ones only at a part of their value, and limit themselves to a certain amount in any one place; when they invest their premiums profitably and reinsure in other companies, and thus make them liable also. Of course, speculative insurance has the advantage over small mutual companies, since in the latter the distribution is not extensive enough to make the premiums reasonable. In short, here, as in other matters, the service which another renders us as a matter of business in return for pay, is frequently cheaper than that which we perform for ourselves. Some other advantages are claimed for the mutual system, but they are more apparent than real, and in no case important enough to give it the preference over the speculative system. A glance at the previous course of development leaves no room to doubt that the speculative system, even where it has as yet gained no foothold, is destined to take the lead. But it is desirable that mutual companies shall continue to exist side by side with the speculative companies, since their competition can not fail to have a good effect upon the latter, and they will find a wider field opening up to them whenever the speculative companies in their pursuit of gain lay themselves open to the charge of abusing the interests of the insured. — V. *Branches of Insurance.* Insurance is divided into several different branches, according to the kind of accident insured against or according to the object insured. The branches which have won a firm footing are fire insurance, hail insurance, animal insurance, transportation insurance, life insurance, mortgage insurance, glass insurance, and re-insurance. The limits of the present article forbid more than a brief notice of the two or three more important branches. — *Fire Insurance* covers those losses of property which occur through the destructive agencies of fire. Not every conflagration gives to the insured a claim against the insurer. If the fire arose from earthquakes or other unusual natural occurrences, or if it was occasioned by war or riot, no restitution is made, and of course none is made to him who caused the fire on purpose or through very gross carelessness. On the other hand, not only are damages paid which are occasioned by the fire, but those also inflicted in attempts to save the property. Fire insurance may be subdivided into insurance on buildings

and on movable property of various kinds, including not only the furniture in a house but also instruments, machinery, supplies of agricultural commodities, etc. Some companies take both kinds of insurance, some only one kind. Certain objects are generally excluded from insurance, partly on account of their great risk, and partly on account of the difficulty of protecting the company from being cheated, such as powder mills, smelting works, glass factories, theatres, cash, bonds, stocks, etc. As in other insurance the premium varies with the value of the object and the degree of the danger. In the valuation of buildings the cost of rebuilding in case of total destruction is the standard. In the case of old buildings a deduction is generally made to allow for diminution in value from age. In the valuation of movable property the average price forms the extreme limit. Several circumstances affect the fire risk in buildings, such as the style of building, whether more or less fire proof; the business which is pursued in it; the commodities stored in it; the condition of the building and the purposes for which the neighboring buildings are used; the position of the building in reference to its distance from other buildings; finally, the condition of the fire companies and the means of extinguishing fires. Buildings are divided by the insurers into several different classes according to these circumstances, and the premium is graded accordingly. So far as movable property is concerned, the degree of risk is determined both by the kind of commodity and the character of the building in which it is stored. Full information on these points is absolutely necessary to a proper determination of the amount of the premium, and the applications for insurance to be filled out by the insured party should contain corresponding questions. The application forms are consequently of considerable importance, and the careful investigation of all statements made therein is a life-and-death question with the companies. This investigation is the business of the local agents who effect insurance in the names of the companies by which they are appointed. Very much depends, therefore, on the proper choice of such agents. The companies can be more secure if they require an official attestation to the truth of the statements in the application. Especial care must be taken to prevent the company from being exposed to loss by a too high valuation, or by insurance of the same object in several different companies. Over-insurance may be prevented, if the company never pays more than the loss actually suffered, and if the nominal sum is paid only in case it is equal to or less than the loss. Many institutions attempt to protect themselves by refusing to insure for more than a part of the value. This precautionary measure has the wholesome effect of leading the insured party to leave nothing undone on his part which may serve to prevent or diminish the injury; while, on the other hand, it has the great disadvantage that it does not fulfill the aim of insurance. A double insurance of the same object deprives the owner of all claim on either of the companies. As to the period of insurance, the mutual companies generally issue no policies for less than six months, and many of them not for less than one year. The speculative companies insure for one month or even less, but charge a higher premium for doing so, while they make, also, important reductions in premiums on policies which run for several years. After every fire which has destroyed insured property the company makes a careful investigation of the accident, not merely to ascertain the amount of damage done, but also to find out the cause of the fire, as in certain cases already mentioned, the company is under no obligation to pay the policy. — *Marine Insurance* is the most important form of transportation insurance. Its object is the partial or entire cargo of the ship and the ship itself. It insures against the accidents which may happen to a ship during the sea voyage. The danger of such accidents depends upon the length of the voyage and the time necessary to make it, upon the character of the route, the season, the condition of the ship, the crew, and the degree of security from piracy. An experience of several hundred years has established pretty accurately the average number of such accidents, and their causes in the various seas, and the influence of the season on their frequency. As to the condition of the ship, there are companies of underwriters in the chief commercial cities, particularly in London and Paris, which keep experts in most seaboard cities of any importance throughout the world, whose business it is to investigate every ship coming in as to quality, condition and seaworthiness, and send them the information. On the basis of this information they classify all the ships yearly. The registers they keep are open to all marine insurance companies for a small consideration, and as they all make use of them they are acquainted with the facts in regard to any ship applying for insurance. They thus have little difficulty in fixing the premium according to the risk. The premium varies, of course, in the first place as the amount of the policy, and the latter as the value of the insured commodities. In fixing the amount of the insurance, so far as the ship is concerned, not only is its value but also that of its equipments and the costs of fitting for sea taken into consideration. The amount of insurance on the cargo is measured by the invoice value of the commodities, plus the costs of transportation to the place of destination, plus the insurance premium and some other items, among which is often found an imaginary profit of 10 per cent. The amount of insurance must not exceed the valuation; if it should do so in any case the company is not liable for the excess. The liability of the insurer extends to "adventures and perils of the sea, men-of-war, fire, enemies, pirates, rovers, thieves, jettisons, letters of mart and counter-mart, surprisals, takings at sea, arrests, restraints, and detainments of all kings, princes, and people of what nation, condition or

quality soever, barratry of the masters or mariners, and all other perils, losses and misfortunes that have or shall come to the hurt, detriment or damage of said goods, merchandise and ship or any part thereof." But the insurer is not liable for losses occasioned by unseaworthiness, insufficient equipment, ordinary wear and tear, age, rottenness, or worm-eatenness of the ship, by the condition, decay or careless packing of the cargo, or by the fault of captain if he be owner of ship and cargo. The insurer is liable also to the insured for his share of the general average, by which is understood all injuries intentionally inflicted by the ship master on the ship or cargo or both, in order to save them from a common danger, and also all expenses incurred for the same purpose, for which ship and cargo are liable in common. If the ship should be laid under embargo by a belligerent nation, the owner has the privilege, after a certain length of time, to cede his rights in the same to the insurer and receive the insurance in full. — *Life Insurance* is a misnomer, since it is not the life that is insured, but a certain sum of money which the insurer must pay to the heirs of the insured after the latter's death. There is a marked difference between life insurance and other kinds of insurance. The insurance of houses and goods against fire is a contract of indemnity against loss, and in like manner an insurance on human life may be regarded as indemnifying a man's family or creditors or others interested against the loss of future income by premature death. But it does not necessarily take the value of such income into account, nor does it relate to any intrinsic value of the subject of insurance, which is the life of the insured party. Again, in fire or marine insurance the loss may be either total or partial. In life insurance the event insured against can not take place in any limited degree, and there is thus no partial loss. And again (in the ordinary kind of life insurances), the event is certain to occur, and the time of its happening is the only contingent element. In other kinds of insurance the events are wholly of a contingent character. The ordinary case of life insurance is that in which the service of the insured consists in an annual premium, and the payment of the sum follows upon his death. The insurance may be effected upon a single life or upon two united. The insurance upon a single life may be permanent, if it exists for its whole period, or temporary, if it is effected only for one or more years or against some particular danger (such as would occur in a journey) without any reference to time. The insurance upon two lives (survivorship insurance) is effected in such a way that the insurance is paid only on condition that the first mentioned outlives the other. Other forms of survivorship insurances occur in which the amount is paid to the survivors of a series after the death of any member. A person is permitted to insure not only his own life but also that of another, although it is taken for granted that he has some special interest in the life of the insured party, growing out of business or relationship. Life insurance assumes other forms also. The insured party may invest a certain amount of capital at the time of paying his first premium, or his service may be limited to a single investment of capital. He may contract that the sum insured him shall be paid to him during his life after reaching a certain age, or when some accident may happen to him by which he becomes unable to work. Insurance can be effected for another party in such a way that a certain sum of money shall be paid to him on reaching a certain age. Such insurances are effected by the children's providence associations and the dowry associations. The children's providence associations accept either single investments of capital or yearly contributions from parents, which they make, as a rule, in the early years of their children's lives, and insure to the children a certain sum when they have attained their majority. The payments made for children who die before they become of age are forfeited to the associations, and the latter are thus able to increase the amounts insured to the survivors. In a similar way are managed the dowry associations, except that in the latter case the money is paid on the marriage of the insured party. Many other forms of life insurance might be enumerated—over forty different kinds have gained a more or less solid foothold — but our limited space forbids pursuing the subject farther. — Without the assistance of an insurance office the ordinary individual would not be able to collect as large an amount of capital as he can by its aid. Even savings banks and other credit institutions, by means of which even small savings become profitable investments, can not supply the place of insurance companies. As a man does not know how long he will live, he can not tell how much he must save each year in order to leave his heirs a certain amount of capital But even if he could safely reckon on a long lease of life and should at an early period begin to save, it is questionable whether he would have strength of character enough to continue his savings in the way he began, and to resist the temptation to abridge or cease making them altogether and to consume what he had already saved. A man is too easily led to do one or the other when he has complete control over his own savings. One consoles one's self with the hope of soon being able to make up for lost time. Thus, after even a long life the fruit of saving is relatively very small. So much the more insufficient for the needs of the family must be the savings of him who is cut off early in life. Life insurance helps over all these difficulties. It secures to the individual a substitute for the guarantee of life which he can never have, by putting him in a condition in which the advantages connected with an average length of life are assured him, and by fixing his service with reference thereto; it keeps him from touching the savings accumulated, by depriving him of control over them; it prevents him from growing negligent in his economy by making him lose all he has

saved if he fails to pay one premium; it offers him, finally, in the insured amount a return for the sacrifices he has made, which is on the whole far beyond the average which any other plan would offer him. The pecuniary means of meeting their obligations are derived by the insurance offices from several sources. They come, in the first place, from the premiums which those pay yearly who maintain their policies, then from the money coming to them from temporary insurances, when the person has escaped the accident against which he was insured; from survivorship insurances, etc.; from the premiums of lapsed policies, and of those which they do not have to pay on account of violation of contract on the part of the insured (such as suicide, death in duels, execution, etc.); finally, from the income of premiums, etc., which they invest as soon as they are collected, so far as they exceed running expenses. — The service of the insured party, the premium, varies with the amount of the insurance, and the earlier or later occurrence of the contingent event. As this event is generally the death of the insured, it becomes of the highest importance to ascertain how many years are likely to elapse between the time of taking the insurance and the death of the party. The most important element in this calculation is the age of the party insured, as on an average a young person has a longer life before him than an older one. The insurance offices must, therefore, obtain exact information as to the expectation of life at different ages. This knowledge, without which its whole work would be unsound, is furnished to a satisfactory degree by statistics which can boast of greater success in this field than in any other, and has given life insurance a firmer foundation than any other form of insurance. Statistical observations on the rate of mortality at the various ages, and on the average duration of life, are tabulated in the mortality tables, which, beginning with a fixed number of persons of the same age, show for each year the proportion of deaths in that number and the expectation of life of the survivors. The first mortality table was constructed by Halley in 1693. Many others have since been published. The later ones, of course, are more valuable, since they are based on a larger number of cases, and because there has been a marked change for the better both in the rates of mortality and in the expectation of life within the present century. Many companies now use the seventeen offices' experience table, constructed in 1840, and based upon the experience of seventeen offices from 1762 to 1840, embracing 83,905 policies. With the aid of such tables the premium can be determined, so far as the probable time of the death of the insured is concerned, with almost exact mathematical accuracy, for all the different ages. The general rate of mortality is, however, affected by all sorts of modifications, such as the condition of health, the mode of life and the occupation of the different persons. It is necessary, of course, to take all these points into consideration in passing upon individual applicants. Weak and sickly persons, particularly those suffering from chronic diseases, as well as those engaged in dangerous occupations, are very properly excluded from insurance. As a consequence, not only the agents of the company but physicians also must be consulted in each case, and their decision considered. In recent times some companies have been formed to insure the lives of such as are ordinarily rejected, but it goes without the saying that such institutions rest on a very insecure basis and can not probably increase to any great extent. The minimum and maximum of insurance effected on one life by one company is often fixed by their rules, so as to prevent, on the one hand, the accumulation of small policies attended with a relatively great expense of administration, and on the other, the payment of many large sums at once which might endanger their solidity. — The *reserve* is an object of great importance to life insurance companies. Those who take out policies for life or for several years continue to pay the same annual premium which was fixed with reference to their ages on entering. They ought really to pay a lower premium at first, and as they grow older a higher one. The establishment of a uniform premium for the period of insurance which is calculated as the average of their yearly service, means, therefore, that in the early years they pay more, and in the later less, than the average rate of mortality would demand. It is necessary, therefore, for the company to save up the surplus received in the early years to cover the deficit of the later ones, when the risk increases. This accumulation is called the premium reserve. No solid institution with an eye to the future can afford to neglect it; it is one of the conditions of continued existence. — Since the great development of railroads the *Accident Insurance Companies* have grown rapidly. A company was established in London, in 1849, for insuring against the consequences of railway accidents. In 1856 the business was extended to all sorts of accidents, and there came into use a system of premiums graded according to the risk supposed to attach to various conditions and occupations of life. Many other similar companies have been established in nearly all civilized countries, and their business is growing rapidly. — *Annuity Insurance* is opposed to life insurance in two respects. While the latter insures the possession of new capital, the former converts capital on hand into yearly payments. And so, in life insurance the service of the insurer is not performed until after the death of the insured, while in annuity insurance it ceases at death. The early death of the insured is, therefore, as desirable to the office in the latter case as it is undesirable in the former. There are many different kinds of annuity insurance. The simplest form is that in which the payment of an annuity is assured until death to a person in return for the deposit of a fixed amount of capital. The

insured begins to receive the annuity at once or at some later period, usually after reaching a certain age. An annuity payable in the future is called a deferred annuity. The claim to an annuity of the latter kind can be acquired by yearly payments. The amount of the annuity depends upon the amount of capital invested, and the yearly payments (if any), upon the rate of interest, upon the time to elapse between the contract and the beginning of the annuity (in the case of deferred annuities), and, finally, upon the probable duration of the annuity, which, since it ends with the death of the insured party, is determined from the mortality tables. An annuity can be insured to a company of persons as well as to individuals. If it be given in such a way that the annuity of each member after his death is divided among the survivors until the last survivor receives the annuities of all, it is called a *tontine*. This system of annuities has been adopted by several companies. Annuity insurance enables the insured to receive a higher return on his capital, either immediately or in his later years, than the ordinary rate of interest would give him, or to secure to his family after death a considerably larger income than he could usually accumulate and leave them. He could not do this from his own resources, but the annuity office offers him this opportunity—at the cost, it is true, of the loss of his capital, which becomes the property of the office. The resources of annuity offices are in general the same as those of life insurance companies. — The other forms of insurance, although in some places well developed, are, compared with the preceding, unimportant. The guarantee of employers against the fraud or insolvency of their servants, has become of late years of considerable importance, carried on by the fidelity guarantee offices. Companies have been formed to insure against loss by hail, loss by cattle plague or horse diseases; to insure traders against loss from bad debts, money-loaners against loss from mortgages, etc., tradesmen against loss from breakage of plate-glass in shop windows, etc., etc. The practice of re-insurance has developed of late years into great importance. No one company, however large its resources, deems it prudent to undertake a risk to an unlimited amount in connection with any one locality or one kind of goods. An office might restrict its liabilities by refusing to insure to a larger amount than what it pleased to run the risk of, and although some offices have done so, yet the convenience of the insured and the interest of its own agents, to say nothing of other considerations, make it difficult for any office so to limit its responsibilities. It, therefore, issues a policy for the amount proposed to it, but reinsures a part with some other office or offices. Business to a very large amount is exchanged in this way, and there are some offices which professedly, and others which practically, live by the premiums paid over to them by other offices. Such a plan has many plain advantages for the public. It saves a man, among other things, all the trouble of hunting after offices willing to take heavy risks, since any one will take it. — VI. *The Economical Significance of Insurance.* It would be a chimerical idea to expect from insurance companies that they would undo the work of destruction, restore the destroyed values, and thus make good immediately the loss to the national wealth. No power on earth can do that. What has been destroyed remains destroyed; what has been done can not be undone. The only thing that we can get from insurance is a substitute for what has been lost. This substitute can come only from the stock of existing capital, and must therefore produce gaps elsewhere. The one loss can be made good only by other losses. The great significance of insurance, its inestimable service, consists in this, that it enables us to furnish a substitute without diminishing the capital employed in production. The premiums furnish the means of indemnity, and they are so small in proportion that they can be saved from the running expenses. Destroyed capital is, therefore, by the aid of insurance offices, replaced by small surpluses of income, by small savings from personal expenses And thus those far-reaching disturbances are avoided which the loss of so much capital would have caused in the national economy, since the individual injured would scarcely be able of himself to cover his loss without the use of his own or another's capital, and would, therefore, if not assisted, be compelled to limit his production. Of course, the accumulation of new capital is delayed by this method of indemnification, since the savings employed in paying premiums would often be invested. But a great point is gained if the existing capital is preserved unimpaired. The loss need not in that case affect the rate of interest on capital. Production suffers no limitation on its account, and there is, therefore, no diminution in the demand for labor—an unmistakable advantage for the laboring classes. And as the loss of invested capital may be prevented by a small outlay, insurance effects a material reduction of the industrial risk and consequently of the undertaker's profits, contributes thereby to an increase in the number of competing undertakings, and leads ultimately to lower prices of products. This is particularly true of commercial wares brought from a distance which could never be furnished so cheaply were it not for insurance. And thus production and consumption derive incalculable advantage from the way in which insurance companies procure the substitutes for the destroyed values. Without going any further into detail we may say that insurance has conferred the greatest immediate benefits on commerce, navigation and agriculture. Commerce and navigation could never have attained to their present wonderful development (a development of which antiquity and the middle ages never even dreamed) if transportation insurance had not stood by and taken upon itself the liability even into the most distant seas, for the danger which hourly threatened ship and cargo. As to agriculture, there

are two brancnes of insurance which exist for its sake alone—animal and hail insurance. The former protects a very considerable and valuable portion of agricultural capital, the latter protects the agricultural product through all the stages of its growth until its maturity and its harvest, upon which fire insurance continues this service until its consumption or its sale, while it secures, at the same time, the dwelling and working buildings of the farmer. But the advantage of insurance does not cease with what has been said, it reaches much farther. By replacing the lost capital and thus preserving production in its usual course, it contributes to the extension of credit which sets in motion the power of capital, makes it accessible to unpropertied brains, and increases production to the full extent of existing capital. By insurance the insured gains more credit, and the danger of giving credit is less to the creditor. This effect is visible enough in the case of owners of buildings which are insured. It is still plainer when credit itself becomes the object of insurance, as in mortgage insurance, which enables a landlord to exploit his credit to its extreme limit. Insurance does not limit itself, however, to the mere work of replacing lost capital; it appears in one of its chief branches—life insurance—as the accumulation of new capital. Of course, we might feel tempted to oppose to life insurance as the accumulator of capital, annuity insurance as the destroyer of capital. And yet in spite of the fact that the latter has some dark sides, and sometimes in the case of tontines degenerates into a mere game of chance, it has its unmistakable advantages, which make it in more than one respect a necessity. There will always be a great number of persons who will be much better provided for, much more effectually secured against poverty by means of an annuity than by a fixed sum of money. Of what advantage to a person unable to work, or to one economically untrustworthy, is the possession of a certain amount of capital if it is not large enough for him to live on the interest of it. He can not employ it himself, and is consequently much better off in possession of an annuity. If, moreover, the interest on the capital which a man possesses is not sufficient to support him, and, in lack of any other source of income, he is compelled to encroach on his capital, a systematic consumption of the same, such as is secured to him by an annuity, is certainly much more advantageous to him, because it secures him a higher rate of interest until his death, while without its assistance in the uncertainty of the length of human life he is exposed to the danger of consuming his capital prematurely and coming to want in his old age. Life and annuity insurance exercise, moreover, beneficent influences which extend beyond the sphere of economical life, and are yet indirectly of great importance to it. The father is thereby freed from the tormenting fear of leaving poverty and distress as a legacy to his family, or of seeing them suffer when he, on account of age, has become unable to work. By comparatively small annual payments which he can save from his income, or by a small investment of capital in such an institution, he can secure a round sum of money or an annuity which will raise those dependent upon him above the fear of poverty or will procure for himself a pension in his old age. This prospect increases his self-confidence, encourages industry and saving, keeps him from useless expenditure, and favors the growth of an economical sense. Life and annuity insurances, therefore, contribute essentially toward establishing happiness and content in the family, and to strengthen the family spirit—that pillar of all social and political order. This moral influence inheres indeed in all branches of insurance, since all insurance rests on the basis of self-help, which has an undeniably moral value, not only on account of the above-mentioned personal and material conditions which every one who wishes to take advantage of it must realize in and about himself, but also in view of the effects it has upon him. It raises him above the sad necessity of relying in misfortune upon the pity and charity of his fellow-men, and saves him from the humiliating feeling connected with it. Whoever receives alms from others has lost his independence and can no longer consider himself their equal. In the consciousness of equality and independence lies the richest source of moral improvement Insurance, by opening up the way to an effectual self-help in a wide sphere, becomes, therefore, a moral educator, and a political one as well, since a free state in order to continue must have self-responsible, self-helping citizens. But quite as striking as the moral side of this self-help is the economical side. It reveals to us insurance as a contrivance which counteracts pauperism with a marked success. In numberless cases pauperism springs from such misfortunes as are the objects of insurance, and whose consequences can be avoided by taking advantage of it. If there were a universal participation in the various branches of insurance the sacrifice which the support of the poor demands of society would be very much less, and the public support of the poor, which is of very questionable advantage, and, therefore, condemned by many economists and statesmen, would be largely unnecessary. The presence of insurance offices in such numbers as to make them accessible to all, would justify the state in refusing public aid in all misfortunes against which they insure, for the sufferer who has neglected to insure is responsible for his own loss. When we consider, further, that we owe to fire insurance a better condition of our buildings, all sorts of precautions against fires particularly in manufacturing districts, and essential improvements in the fire extinguishing systems (which are in some places in the hands of the insurance offices); that transportation insurance has improved the construction of ships and other means of transportation; as well as contrivances for saving lives and goods in shipwrecks; and that animal insurance has led to a better

treatment and a more careful management of animals, to greater attention to all kinds of animal diseases, and more frequent recourse to veterinary help; we can hardly doubt that insurance should be classed among the most beneficent and public-spirited devices which the mind of man ever conceived. — VII. *The State, and its Relations to Insurance.* The first question arising in this connection is, naturally enough, Should insurance be a public enterprise undertaken by the state or municipality? Insurance was first introduced into many of the continental nations by the government, and for a long time nearly all insurance was effected by the state. Even now many cities and states carry on some particular branches of insurance. The history of insurance justifies us in laying it down as a rule, with few exceptions, that the state should not attempt to perform the office of insurer. Wherever private institutions have been allowed to compete with public ones they have slowly but surely driven them from the field in spite of many obstacles placed in their way. Nor is this surprising. The state is not suited to prosecute speculative insurance, because it lacks all those qualities which are necessary to the profitable pursuit of an industrial undertaking. The zeal animating a private undertaker to attain the greatest possible results with the least possible expenditure, and to appropriate to his own use without delay for this purpose every technical improvement, is foreign to the state, nor has the latter the same watchful eye for the wants of the public as the former. Since the industry must be carried on by hired servants whose slack zeal needs constant supervision, everything which the state undertakes in the commercial or industrial field acquires a character of painful smallness and clumsiness; everything bears the stamp of bureaucracy instead of commerce. The state spends more and accomplishes less, and consequently it is at a disadvantage as compared even with those private associations which seek to satisfy their need of insurance by mutual institutions. For a private association has more freedom and less expense of administration. From which it is clear that those are seriously mistaken who expect a cheaper and better service from the state in such matters than from private companies. There are circumstances, however, we must admit, which not only justify but demand public insurance. If public spirit and a tendency to association are lacking in a people; if the desire for far-reaching undertakings has not shown itself, and at the same time an appreciation of the advantages of insurance has not yet grown up; in a word, if all the presuppositions of the establishment of insurance offices by private parties are wanting, then the state may wisely take the initiative and proceed with the institution of public offices. Otherwise, the nation might have to wait much longer for the introduction of these beneficent institutions. And yet, even in such cases, the state should aim at educating the people as soon as possible to such an extent that private enterprise would take the business off its hands. — It is interesting to notice the very different attitudes of various governments toward insurance. Continental states began, as a rule, with the closest and most detailed supervision of the insurance business. To examine their laws on the subject, their limitations, prohibitions, precautions, etc one would think that they were intended to make a dangerous enemy harmless, instead of being intended to control one of the most beneficent of human institutions. Continental progress has constantly been toward a broader liberty, toward less interference. England, on the contrary, and particularly the countries of the new world, began with the utmost liberty and have been moving toward a limitation and supervision of the insurance business. Neither party will ever reach the point from which the other started, nor can it be said that any state has yet reached the true policy in reference to public control of insurance. Our American states have tried numberless plans, all of which have proved to be complete or partial failures. Nor has any scheme been devised of preventing huge frauds from being perpetrated on the public in the name of insurance. Governments have not even been successful in securing full publicity. Government inspection is open to the serious objection that, while it is notoriously unsuccessful and inefficient, it yet lulls the public into a false security as to the stability and soundness of inspected companies. The attempts of our state governments to control the insurance business have often had the effect of embarassing and endangering perfectly sound companies and knocking the foundation of a solid business from under them. The legislation has been uniformly in the supposed interest of the policy holder. But, as often happens in legislation for a particular class, the matter is carried too far and results in injury where benefit was intended. Thus, any control which seriously increases the cost of insurance must redound, in the long run, to the disadvantage of the insured. Laws to prevent the forfeiture of insurances by the failure to pay premiums, and regulating the payment of surrender values and the grant of paid-up policies, are too favorable to withdrawing members and tend to weaken the companies by encouraging the retirement of the most healthy and profitable lives. In a word, the tendency of state supervision is "to interfere injuriously with honest and well-conducted companies and to afford but a feeble protection against those of a different class; to involve the state in the odium of failures which it is supposed to be its duty to prevent; to lessen the sense of responsibility among those who control the offices and the spirit of prudence and watchfulness among the public; and to place in the hands of public officials a power and influence which are apt to be abused and are always open to suspicion."—VIII. *Literature.* The literature of the subject is large and constantly increasing. The articles on insurance in the various general

cyclopædias contain brief and interesting summaries of information on special points. The article on *Versicherungsanstalten* in Bluntschli and Brater's *Staatswörterbuch* formed the basis of the present article, portions of it being simply an abridgment of the former. A very full summary of the literature on the subject in German is appended to the article just mentioned. All the standard works on political economy in German contain sections on insurance, treating it among the promoters of production. The special cyclopædias, in German, French, Italian and English, treat the subject with more or less completeness. Among the works in English the following deserve especial mention: the *Insurance Cyclopædia*, by Cornelius Walford, a work now in progress and covering the whole subject of insurance; the British *Blue Books*, containing full information as to all British companies; the *Reports of American Commissioners* in the various states; *Insurance Handbook*, by Cornelius Walford; the *Law of Fire Insurance*, by C. J. Bunyon; *Observations on the Rate of Mortality of Assured Lives*, by James Meikle; the publications of the institute of actuaries in England: and the various periodicals published in the interests of insurance in Great Britain, Germany, France and America. E. J. James.

INSURRECTION. Of all the trials to which political societies are unfortunately submitted before attaining their final constitution, the armed revolts attempted by minorities, either to obtain concessions from the ruling power, or to deprive it of its very authority, are not the least. When parties engage in strife with one another, insurrection is, so to speak, the last resource of the vanquished, and by its means force and audacity frequently triumph over right and reason. But if, on the one hand, history recalls instances of disastrous disorder, caused by popular revolt, it tells us also that, at periods of social transformation, the most certain elements of political progress have been produced many a time by insurrections. When despotism, thanks to the reaction which always occurs in a single day of these violent shocks, has not been able to strengthen itself, the bold attempts of minorities, who are forced to act against the laws, have the happy effect of robbing absolutism of all its prestige, and of hastening the realization of the conquests which public opinion had demanded in vain. — We repeat, it is only in transformation periods that these phenomena can prove beneficial. As much as we applaud them then, just so much must we mistrust or resist them when progress, guaranteed by the institutions themselves, can follow its normal course. Nothing, therefore, can justify insurrection in principle, neither recollections of the past, nor any laws the parties may invoke. Robespierre has pompously styled it "the holiest of duties"; it is in reality neither a right nor a duty, but at most, under given circumstances, a sad necessity. And these circumstances must be carefully studied, in order that the responsibility for the results may always rest upon the authority which provokes them, and not upon the men whom they let loose upon a society already threatened. We here anticipate a sort of displacement of rights, or inversion of their order, that is, the case in which the government, being assailed, itself sets the example of rebellion, by the arbitrary suppression of constitutional rights, and the promoters of an insurrection find themselves the natural defenders of the laws and institutions. — It is true, perhaps, that by this doctrine we still leave a wide door open to popular excesses. What party will not be ever ready to invoke, for the benefit of its passions, the exceptional circumstances which place on its side the merit of a grand initiative? What facilities do not bold agitators possess to lure the excited crowd on to their path, and urge them to a resistance so much the more energetic and violent as the means used consist entirely in working upon popular credulity and ignorance? It is natural for low minds to seek the realization of their hopes in the most brutal exercise of their rights. — But these fears will gradually disappear, for the favorable opportunities formerly left to turbulent or audacious minorities are made fewer every day by the concessions made to democracy, and especially by the introduction into all political constitutions of guarantees for the free expression of the popular will and of respect for the same. One might say that the masses can henceforth, in the struggles which may arise between themselves and the authorities, seek shelter under a more worthy rampart than the barricades of the highways, we mean the rights, every day more extended, whose peaceful and steady use has made of them an arm ever raised against arbitrary power and despotism. When embodied in constitutions, these rights paralyze revolutionary efforts and destroy beforehand the ambitious calculations of those who foment insurrections. — France is perhaps the country in which popular insurrections have occurred most frequently. After France comes Spain But in Spain, as all know, these uprisings have generally been of a military character, stirred up by pretenders or by chiefs of parties, the prime movers being officers of the army, opposing flag to flag, or waving the national flag at the very foot of the throne. Italy also has had her bloody pages, the saddest of which is one which dates from the epoch of her political reconstruction, and bears inscribed upon it the name of one of the most popular heroes of Italian independence. Insurrections are not unknown in Germany, nor even in Switzerland; Belgium is itself the fruit of a popular uprising. In Spanish America, examples are even of more frequent occurrence than in Europe. The South American republics, not firmly established or badly governed, found from the beginning that they had borrowed from European civilization the most lamentable excesses of political agglomerations. — So much for

what we call internal insurrections. There are others of which we will speak here. The reader will readily divine that we refer to those insurrections that are fomented by a whole people, and have for their object either to break a federal compact, or to abolish treaties which weigh down a vanquished nation. These occupy in history a place apart. They very frequently involve all political and social equilibrium, by calling into question again an organization which had been established at the cost of great labor and care. On the continent of Europe they have often led to the alteration of ideas of diplomacy and given rise to important questions of principle. The first of these questions is that of the enfranchisement of nationalities, which immediately provokes inquiry as to the right of intervention or non-intervention. — The principle of nationality can not be made the subject of particular observations in this article. (See NATIONALITY.) Let us merely state that it is in this principle that these national insurrections, which are to internal insurrections what riots are to revolutions, find their source. In like manner, we shall not dwell upon the principle of intervention, whose application may exercise a direct influence upon the results of an insurrectional movement. (See INTERVENTION.) In general, we think that all interference on the part of foreign governments in the affairs of a country where questions of partial enfranchisement or of restoration are being agitated, is blameworthy. If there be diplomatic action in favor of any cause, it is proper in certain cases, and the law of nations enjoins it whenever the rights of humanity and civilization are involved in the political interests of the debate. But, beyond this moral intervention, it is apt to lead to a breach of international pledges, respect for which forms the basis of political societies. — To sum up, the insurrectionary movements that have occurred in the past seem to have been, not unfrequently, explosions which a careful authority would have easily prevented, by making honorable concessions, or by allowing greater liberty to political life. When nations have been compared to the impatient and restive children of a family, over whom paternal severity is called upon to exert itself, it should have been added that none of these régimes in which no account is taken either of age or temperament, should have been applied to either one or the other. Nature which has its wants, has also its revolts. Thus it was that insurrections were nearly always the consequence of restrictions too long imposed upon the satisfaction of the wants of nations, and thus it is also that we see them nearly always preceded by the same phenomena. Let us hope, therefore, that the progressive extension of public liberties will entirely prevent the return of those catastrophes, formerly of periodical occurrence in certain countries; for liberty is ever the best preservative against excesses of every kind. The evils attendant upon liberty, carry with them their own remedy, and nations can be really educated only under a system which facilitates the combined action of all minds and forces. ERNEST DRÉOLLE.

INSURRECTION (IN U. S. HISTORY.) I. The constitution (Art. I., § 8, ¶¶ 11-16,) has given power to congress to declare and maintain war, and to provide for organizing, arming and calling forth the militia to execute the laws, suppress insurrections and repel invasions. The power has been exercised, 1, by the passage of the several general acts hereafter specified, and 2, by the suppression, through the president and the federal forces under his command, of two insurrections. (See WHISKY INSURRECTION, REBELLION.) — The act of May 2, 1792, authorized the employment of militia by the president to suppress insurrections, upon notification by a federal associate justice or district judge that the execution of the laws was impeded by combinations too powerful to be suppressed by the ordinary course of judicial proceedings. The act of Feb. 28, 1795, amplified the foregoing act by authorizing the president, on application of the legislature of a state, or of the governor when the legislature could not be convened, to call forth the militia of other states to suppress an insurrection against the government of the state. The act of March 3, 1807, provides that, "in all cases of insurrection or obstruction of the laws, either of the United States or of any individual state or territory, where it is lawful for the president of the United States to call forth the militia for the purpose of suppressing such insurrection, or of causing the laws to be duly executed, it shall be lawful for him to employ, for the same purposes, such part of the land or naval force of the United States as shall be judged necessary, having first observed all the prerequisites of the law in that respect." It is important, therefore, to remember that the "prerequisites" under this act were, 1, the notification of an associate justice or district judge that the execution of the laws is obstructed, or 2, the application of a legislature or governor. No further provisions against insurrection were made until 1861. — The breaking out of the rebellion brought out a state of affairs unprovided for by law. None of the governors or legislatures of seceding states were at all likely to call for federal interposition; the district judges in those states, as well as one of the associate justices, had resigned; and no associate justice appears to have notified the president that the laws were obstructed—at least there is no assertion of any such notification in the president's proclamation of April 15, 1861, calling for 75,000 militia. It is apparent, then, that the "prerequisites" for calling forth the militia, or employing the regular forces to suppress insurrection, had not been observed; and that the proclamation, though the war department's notification to the state governors based it on the act of Feb. 28, 1795, could not be defended by referring it to that or any of the other acts above referred to. — The procla-

mation, however, and the other steps to suppress the insurrection which were taken before the meeting of congress in July, have a different ground of justification in those clauses of the constitution which make the president commander-in-chief, and direct him to "take care that the laws be faithfully executed." His powers and duties under these clauses can hardly be more clearly stated than in the opinion of the supreme court in the case of The Brilliant cited below. "If a war be made by invasion of a foreign nation, the president is not only authorized but bound to resist force by force. He does not initiate the war, but is bound to accept the challenge without waiting for any special legislative authority. And whether the hostile party be a foreign invader, or states organized in rebellion, it is none the less a war, although the declaration of it be unilateral. * * * The president was bound to meet it in the shape in which it presented itself, without waiting for congress to baptize it with a name. * * * Whether the president, in fulfilling his duties as commander-in-chief, in suppressing an insurrection, has met with such armed hostile resistance, and a civil war of such alarming proportions, as will compel him to accord to them the character of belligerents, is a question to be decided by him." (See WAR POWERS.) — The unusual circumstances of the case, and the criticisms of some of the president's measures (see HABEAS CORPUS), induced the passage of the act of Aug. 6, 1861, whose third section approved, legalized and made valid all the acts, proclamations and orders of the president after March 4, 1861, "to the same intent and with the same effect as if they had been issued and done under the previous express authority and direction of the congress of the United States." This validation seems hardly more necessary in this case than in that of a neutrality proclamation; it was given more effectually and more properly by the act of July 13, 1861, restricting intercourse with the insurrectionary states, the act of July 29, 1861, authorizing the employment of the militia and land and naval forces to suppress insurrection whenever it should become impracticable, *in the judgment of the president*, to enforce the laws by ordinary process, and the various acts appropriating men and money for the support of the president in suppressing the rebellion. (See REBELLION.) The dividing line between the functions of the various departments of the government in making war and in suppressing an insurrection is not a bold one, and yet it is not difficult to trace it, except where it is obscured by party passion. — The power given to the president by the enforcement act of April 20, 1871, to suspend the privilege of the writ of *habeas corpus*, and to employ the militia in suppressing any combinations which, in the judgment of the president, should prevent the execution of the laws, and the provision of the same act that such combinations should "be deemed a rebellion against the government of the United States," were more objectionable on the question of expediency than on that of constitutionality; the strongest arguments against them were drawn from the bad character and untrustworthiness of many of the executive agents in the south, on whose report the provisions of the act were to be put into operation. (See generally, EXECUTIVE, CONGRESS, WAR POWERS, RECONSTRUCTION, CIVIL RIGHTS BILL.) — II. DOMESTIC INSURRECTION. The constitution (Art. IV., § 4) makes it the duty of "the United States" to guarantee a republican form of government to every state, and to protect each state against invasion and against domestic violence. No evidence of invasion is required; the application of the state legislature, or of the governor when the legislature can not be convened, is to be taken as evidence of domestic violence. As the duty is imposed upon "the United States," it is imposed not upon any one department alone, but upon all — upon the federal courts in their decisions, upon congress in its legislation, and upon the president in his execution of the laws. — It would be easy to name many forms and features of government which are not republican; it is not at all easy to define a republican form of government as intended by the constitution. The essence of it seems to be in the untrammeled existence of a legislative department chosen by popular vote. So long as this feature is present, the United States do not interfere to correct abuses, or what seem to be abuses, which the people of the state do not care to correct. To do so would be to keep the people of the state in a condition of pupilage far more emasculating and inconsistent with the idea of a republican government than the abuses from which they had been rescued. If the people of a state, as represented in their legislative assemblies or constitutional conventions, choose to limit the suffrage unreasonably, or to disfranchise for petty offenses, or to entrust the count of their votes to irresponsible boards, these are evils which involve their own punishment and ultimate correction. (See SUFFRAGE, RETURNING BOARDS.) So long as a state remains peacefully in the Union, and its state constitution or legislature does not assume to exercise powers prohibited by the constitution of the United States, to establish a state church, or to grant hereditary tenures of office, it is difficult to conceive of any alteration in their present forms of government which would be considered unrepublican or demand the active interference of the federal government. — When a state, by the action or acquiescence of a majority of its people, undertakes to sever its relations to the Union, the case is very different. As the controlling theory of the American system of government is that a state has no existence apart from the Union, the action of the people of the state is taken as a voluntary abrogation of their state government; it then becomes the duty of the federal government, in its various departments, to fulfill the guarantee of the constitution, and in reconstructing the state governments the law-making power

may rightfully reject any features which seem to it unrepublican. If there is any hardship in this, the blame must fall upon those who made the reconstruction necessary. (See RECONSTRUCTION.) — It is still more difficult to define "domestic violence." It is easy to see that such outbreaks as Shays' rebellion, which occasioned the insertion of this section (see CONFEDERATION, ARTICLES OF), or the railroad riots of 1877, are cases of domestic violence, and that such a struggle between two opposing parties for the possession of the state government as that which occurred in Maine, in 1879–80, is not; but it is difficult always to draw the line exactly between the two classes of cases. The general rule may be laid down that the federal government will not recognize the subversion of a *form* of state government, which it has once recognized as republican, until the subversion is accomplished according to the rules of the established form, and that it will support the established form of government against all irregular attacks upon its existence. But when the validity of the form of government is undisputed, and the conflict is between opposing parties for the control of it, the federal government will not interfere unless actual violence occurs, and then only to prevent anarchy and maintain the *status quo* until the people of the state can speak and decide. The rule is open to the obvious objection that evil men, in control of the machinery of a state government, might easily provoke violence by efforts to retain it after a defeat at the polls, or, when out of possession, might similarly provoke violence by illegal efforts to obtain it; but this is the common and underlying peril to all republican governments, and, when a state is unable to surmount it, it is unfit for a republican government. It would be unfair to quote precedents for or against the rule from the revolutionary period, hereafter referred to, which immediately succeeded reconstruction; it is sufficient to say that no state now appears to be thus unfit for republican government, and that the future prospects are for improvement, not for deterioration in this respect. — The "domestic violence" clause was practically a dead letter until after the suppression of the rebellion, and is only lightly touched upon in the treaties upon constitutional law published before 1870. The disturbances in Pennsylvania in 1794 were not aimed at the state government but at the government of the United States; they were therefore suppressed by the president's direct action, on the certificate of the federal judge, and without any call from the state authorities. (See WHISKY INSURRECTION.) In 1838–42 two appeals were made by governors, one from Pennsylvania, and one from Rhode Island. (See BUCKSHOT WAR, DORR REBELLION.) In the former case federal interference was refused; in the latter case it was held in readiness, though it proved unnecessary, and the power to grant it was maintained by all the departments of the government. The two cases deserve study as fair examples of the propriety and impropriety of federal interference. Throughout the war the legislatures and governors of states in sympathy with the federal government had no occasion, and those opposed to the federal government had no desire to call for federal interference. Throughout the period of reconstruction, 1867–70, there were no recognized state legislatures or governors in the unreconstructed disturbed states; but military assistance was furnished from Washington to federal marshals, whenever necessary, under the provisions of the reconstruction acts, the civil rights act, and the freedmen's bureau act. (See titles of acts named.) — From the completion of reconstruction until 1874 federal interference to sustain the reconstructed governments was in constant demand. In almost all the states a regular sequence of events took place: 1, the formation of a state government under which negro suffrage was permitted and former rebels were, in some of the states, disfranchised (see SUFFRAGE); 2, the election of a republican governor and legislature; 3, disorders in the election of the legislature for the purpose of securing a majority in that body for the impeachment and removal of the governor; and, 4, an appeal by the governor or legislature for federal troops to keep the peace. In Florida and Georgia the final step was not taken, as the republican administration was ousted peaceably. In many of the states there were variations in the process, usually from the utilization of the state courts in the political struggle; but the general course of events was as above given. — The process began in the first state reconstructed, Tennessee. From July, 1866, until December, 1867, frequent applications were made to Gen. Thomas by the governor for troops to keep order at elections and elsewhere, but these were refused, except as *posses* in aid of the civil authorities, since no insurrection was alleged. In 1869 the legislature passed under control of the democrats, and in February, 1870, the governor applied to the president for troops, on the ground that the legislature was unwilling to suppress violence. This, however, was designed rather to influence congress to again undertake the reconstruction of the state, and when congress refused to interfere, the application for troops was not renewed. — In July, 1870, Gov. Holden, of North Carolina asked for and received troops to suppress insurrection in two counties of his state, and in November of the same year Gov. Smith, of Alabama, informally obtained a platoon of federal soldiers to aid him in resisting the inauguration of the opposing candidate. In January, 1874, Gov. Davis, of Texas, applied for troops to aid him in preventing the meeting of a legislature which, he asserted, had been illegally elected, but the request was refused. April 19, 20, 1874, application for federal troops was made by both the rival claimants of the office of governor of Arkansas, but this was refused until the legislature met and decided in favor of Baxter. (See ARKANSAS.) In November, 1874, V. V. Smith, lieutenant governor of Arkansas, claiming to be governor because of

Gov. Baxter's submission to his supersedure by the new constitution, called upon the president for troops, but as he fled from the state immediately afterward, his request was ignored. Sept. 8, 1875, Gov. Ames, of Mississippi, called for troops, but was advised to call the legislature together and defend his state and constituents. — The two states from which federal interposition was oftenest called for during this period were Louisiana and South Carolina. The disturbances seem to have been caused mainly, in the former state, by the extraordinary, rigid and inquisitorial restrictions upon the right of suffrage in the original reconstructed constitution of 1868, and, in the latter state, by the preponderance of the negroes in the numerical vote and of the whites in the tax paying class. (See the states named.) Louisiana really led in direct applications to the president, the first having been made in July, 1868, and the step was then so unusual and so little understood that the legislature at first mistakenly addressed the application to the general of the army at Washington, ignoring the president; and Gen. Grant, in sending instructions to the commanding officer of the Louisiana department, felt obliged to detail at length the constitutional provisions and acts of congress covering the case. In 1872 the republican party of the state split, and the Packard-Kellogg faction, securing the support of the most influential federal office-holders in the state, secured with it the support of the federal government. From that time appeals for federal interposition became chronic, and until its final downfall the Kellogg government never claimed to be able to control the state without the support of federal troops. In September, 1874, it was suddenly and entirely overthrown by an armed force of its opponents, and the rival McEnery government took its place, but on the 15th of that month, by orders from Washington, the latter was expelled by federal troops and the Kellogg government was restored. Jan. 4, 1875, after the democrats had got control of the legislature, apparently by sharp practice, Gen. de Trobriand entered the hall with a force of federal troops, removed certain members whom the democratic majority had seated, and restored control of the body to the Kellogg party. Both houses of congress, by party votes, approved the president's action in the case. Finally, March 3, 1877, the retiring president notified the Kellogg governor, Packard, that "public opinion would no longer support him in the maintenance of the state government in Louisiana by the use of the military," and, as the incoming administration concurred in this belief, the Kellogg Packard government disappeared from Louisiana politics. — In February, 1871, the legislature of South Carolina called for and received federal troops to suppress insurrection in two counties of that state, and in October and November, under the enforcement act of April 20, 1871, the president by proclamation suspended the privilege of the writ of *habeas corpus* in nine counties until disturbances should cease. In October, 1876, Gov. Chamberlain renewed the application for federal troops, which thereafter maintained his state government until April, 1877. The result of the election for governor in November, 1876, was disputed, and in the lower house of the legislature the parties were so evenly divided that the control of the body depended upon the result in two counties. In these counties the democratic members claimed to be elected, but the returning board refused to give them certificates on the ground of violence and fraud in the election. The governor surrounded the state house with federal troops, who prevented the admission of the democratic members whose election was disputed. Thereupon the whole body of democratic members refused to enter, and two state governments appeared. One, the republican, had an undisputed senate and a disputed governor and house of representatives, and was supported entirely by federal troops, the other, the democratic, had a minority in the senate and a disputed governor and house of representatives, and was supported by the judiciary and tax-paying classes of the state. The withdrawal of the federal troops, as in the case of Louisiana above, resulted in a similar downfall of the Chamberlain (republican) government, April 11, 1877. — In all the states, except in the southern states during the abnormal period above referred to, there has always been a great and jealous unwillingness to call for federal assistance except in a case of extreme necessity. Even in the disorder following the great Chicago fire of October, 1871, the governor of the state took strong exception to the hasty action of the mayor of the city in calling in the aid of federal troops to maintain order instead of applying for state militia. This systematic policy has had the good result of maintaining the efficiency and importance of the militia as the usual state police, and of giving extraordinary effect to the occasional appearances of federal troops in aid of the state. The disorders attendant upon the great railroad strikes of 1877 were suppressed mainly by unaided state power; but when, as in Pennsylvania, July 18, federal troops were brought into play, the strongest and most triumphant mobs refused to attack them, and quietly retired before their advance. In a single instance, at Baltimore, some stones were thrown, in other cases the mere appearance of federal troops was sufficient to restore at least temporary order. Since that time the "domestic violence" clause has been as inoperative as before 1860 — 1. See authorities under articles referred to: *Martin* vs. *Mott*, 12 *Wheat.*, 19; *Metropolitan Bank* vs *Van Dyck*, 27 *N. Y.*, 400; *Prize Cases*, 2 *Black.*, 635; *The Tropic Wind*, 24 *Law Rep.*, 144, the acts of May 2, 1792, and Feb. 28, 1795, are in 1 *Stat. at Large*, 264, 424; the act of March 3, 1807, in 2 *Stat. at Large*, 443; those of July 13, July 29, and Aug. 6, 1861, in 12 *Stat. at Large*, 255, 281, 326. II. See Story's *Commentaries*, § 1807, Duer's *Constitutional Jurisprudence*, 340; Tiffany's *Constitu-*

tional Law, § 568; Cooley's *Constitutional Limitations*, 169; authorities under RECONSTRUCTION, and states referred to.

ALEXANDER JOHNSTON.

INTEREST is the product, the increase (*incrementum*), the return (*reditus*) from capital. When interest represents the sum paid at fixed periods by the borrower to the loaner of capital, it retains its generic name, or takes the more special designation of rent or income. The price charged by the proprietor for the use of land leased by him, is rent. The term income is more particularly applied to the product of capital employed in commerce, agriculture or manufactures. In brief, interest signifies equally the profit the capitalist derives from the direct employment of his capital, and the return he receives for granting its use to others for a certain length of time. — No difficulty can arise with respect to the profits of a capitalist who employs his own capital: the interest on capital is in this case blended with the product of his labor. If a field be cultivated, or a workshop used by its owner, he has to render no account to any one. The operation is in a certain sense a domestic one, giving rise to nothing requiring regulation. Whether the capital employed by its possessor returns 5 per cent. or 20 per cent., whether it is productive or unproductive, concerns only the producer—pertains only to the proprietor. Nothing in relation to it comes within the province of legislation, which only extends to matters which affect relations among men. But the moment the owner of capital so far relinquishes its use as to lease it, if it be immovable property, or to loan it at interest, if it be movable property, a contract is formed between the one who delivers and the one who receives. From this contract arise rights and obligations for each of the contracting parties, which it is for the law to determine for the advantage of both parties; and consequences also arise from it which it is the mission of political economy to observe, in order to deduce from them, as much for the benefit of individuals as of society, the lessons of experience. — I. LOANS AT INTEREST. Is it permissible to loan at interest? Can one legitimately derive a product from his capital, a revenue from his money? On this question, which no longer seems to be one, the world, until toward the latter part of the last century, was divided. Loans at interest had in their favor the constant practice of peoples, especially of those noted for their progress in wealth, commerce and industry; on the other side were the oracles of religion and the doctors of the law. Now that theology has become more humane on this point, and jurisprudence has relaxed its rigor, socialism has taken up the thesis of the abolition of interest. The sophism has only changed defenders. Instead of justifying this interference with capital on the ground of charity or in consequence of unenlightened views in regard to morality, appeal is now made to envy and the anarchical passions. — The (so-called) laws of Moses recognized the legitimacy of loaning at interest, for it was only prohibited the Jews in their relations with their own countrymen, who were considered as members of the same family; and credit transactions with foreigners, as well as commercial ones, were wholly free. The laws of Solon, made for an essentially commercial people, placed no restriction or limit on the employment of money. At Rome, the severity of the legislation on this subject only provoked disobedience. Capital, which was persecuted, became exacting in proportion to the risks to which it was exposed. Nowhere was theory more strangely in contradiction with practice. Cato, who compared usury (*i. e.*, interest) to assassination, was himself an avaricious and pitiless usurer; and the stern Brutus loaned at 48 per cent. per annum. — In the middle ages the civil and religious authorities were in accord in prohibiting loans at interest. This interdiction, already written in the capitularies of Aix la Chapelle, in 789, was perpetuated in French law until the revolution of 1789. But, during this long millenium, the observance of the legal precept was purely nominal. To evade it, recourse was had to subtleties without number. First the bill of exchange, and afterward the establishment of annuities, furnished the most simple and usual means. Later, people came to tolerate loans by note, discount, and every species of money negotiation between tradesmen. Sovereigns themselves needed to borrow, and were obliged to submit to the conditions of money-lenders. Everywhere the force of circumstances overcame the obstacle of antiquated and anti-social legislation. — The prejudice against loans at interest may be traced back to the time of Aristotle, and has its source in his writings. The following are the terms in which the Greek philosopher teaches the too-well-known doctrine of the sterility of money: "The acquisition of wealth being double, that is to say, at once commercial and domestic, the latter necessary and rightfully esteemed, the former not less justly despised as not being natural and not resulting from the sale of commodities, it is quite right to execrate usury, because it is a mode of acquisition born of money itself and not giving it the destination for which it was created. Money should serve only for exchange, and the interest of it increases it, as its Greek name sufficiently indicates. Here the fathers are absolutely like the children: interest is money which is the issue of money, and of all acquisitions, it is that most contrary to nature." The anathema pronounced by Aristotle against trade in money, extends, as may be seen, to every kind of commercial operation. He did not comprehend, though living in the midst of people pre-eminently commercial, the utility of the rôle commerce plays in society. He did not see that to bring nations into contact with each other, to open the ways to markets, to place products within the reach of consumers, was to give them value, was, in a certain sense, to produce

them. — In a treatise aimed against loans at interest, another Greek moralist, Plutarch, exclaims: "What! you are men, you have feet, hands, and a voice, and you say you do not know how to get a living! The ants neither borrow nor lend; yet they have not hands, or arts, or reason; but they live by their labor, because they are content with things necessary. If people were willing to be content with things necessary, there would be no more usurers than there are centaurs." Plutarch here alludes to the rich who expended money in excess of their income, and who ruined themselves by loans contracted to give free indulgence to passing fancies; but, even in those times, the debauchees and prodigals were not the only ones who borrowed. There were already industries which needed capital, and traders who had recourse to interest loans, or loans for a share in the profits to bring their operations to an end or to extend them. The treasures accumulated by saving acquired by commerce, or obtained by victory, were not always dissipated in luxury and in pleasures; they sometimes served to stimulate production and to develop wealth. Money was at that time an instrument of labor. The capitalists who loaned it for that use, rendered service to borrowers and to society. They had consequently a right to receive pay for this service. Plutarch, on account of his preoccupation with the abuses of loans at interest, failed to perceive their good results. — The fathers of the church who treated this question, only copied Aristotle and Plutarch. "The lenders," said St. Basil, "enrich themselves by the poverty of others; they derive advantage from the hunger and nakedness of the poor. To take interest, is to gather where one has not sown." St. Chrysostom, insisting on this argument, exclaims, in a style loaded with metaphors: "What is there more unreasonable than to sow without land, without rain, without a plowshare? All those who devote themselves to that damnable agriculture, harvest only tares. * * * Let us, then, cut off these monstrous children begotten of gold and silver, let us stifle this execrable fecundity * * *." St. Ambrose, St. Augustine and St. Jerome held the same language. The following is a dilemma of the latter, which, if it is inspired by charity, is hardly so by logic: "Have you loaned to him who had, or to him who had not? If he had, why loan to him? If he had not, why do you ask of him more, as if he had?" — It is easy to reply that if one loans to those who have, it is because they do not always hold all their resources at their full disposal, and a timely loan of money permits them to await the receipt of their revenues. As to those who possess nothing, by loaning them capital one gives them the means of making their labor productive; one places in their hand the lever of wealth. If they had no credit, they would be still poorer; and they should at least, in consideration of the unexpected good, pay for the use of the money they have borrowed. — Another doctor in the church, Gerson, the author of "Imitation of Christ," says: "It is better that there be some light usuries which procure help for the indigent, than to see them reduced by poverty to theft, waste of property, and selling their furniture and immovable property at a very low price." — The church also condemned sales on time, as a stipulation was made in them in regard to interest on deferred payments. This was, according to the schoolmen, "to sell time, which can not be sold, since God has made it common to all." Strange to say, this maxim of the canon law was first proclaimed by the council of Coventry, in England, the very country where the popular adage, "Time is money," was afterward invented. — But no one carried the prejudice against loans at interest (which, since the ninth century, had been stigmatized by the name of usury) farther than Luther, the originator of the religious reformation. His view of the subject is thus given in his "Table Talk": "The civil laws themselves prohibit usury To exchange anything with any one and gain by the exchange is not a deed of charity; it is robbery. Every usurer is a robber worthy of the gibbet. I call those usurers who loan at five or six per cent. To-day, at Leipzig, he who loans a hundred florins, asks forty for them at the end of the year as interest on his money. Do you think God will tolerate such a thing? There is nothing under the sun I hate so much as that city of Leipzig; there is so much usury, avarice, insolence, trickery and rapacity there." — More passion than knowledge entered into the judgment given by Luther. The Roman church had at that time relaxed its severity in regard to loans at interest. Its allies, the Florentines, had become rich by trading in money throughout Europe. In inveighing against bankers, Luther thought he was also inveighing against popes. Calvin showed better judgment, in not allowing himself to be turned from the examination of doctrines by considerations of party or of persons. He vigorously attacked the economic theory of Aristotle on the sterility of money. "Money, it is said, does not beget money. And does the sea produce it? Is it the fruit of a house, for the use of which, nevertheless, I receive a rent? Is money begotten, to speak properly, from the roof and walls? No, but the earth produces it; the sea bears ships which serve in a productive commerce, and with a sum of money a comfortable dwelling may be procured. If, then, more profit can be derived from money negotiations than from the cultivation of a field, why should not the possessor of a sum of money be permitted to derive from it any sum whatever, since the proprietor of a sterile field is permitted to lease it for a farm rent? And when land is acquired by the payment of money, does not this capital produce an annual revenue? What, pray, is the source of the profits of the merchant? His industry, you will say, and his diligence. Who doubts that money unemployed is useless wealth? He who demands capital, apparently wishes to

use it as an instrument of production. It is not then from the money itself that the profit comes, but from the use that is made of it." (Calvin's letters.) — Doctrines have as much influence as laws on the development of public prosperity. Protestant nations certainly owe to Calvin their superiority to Catholic nations, since the sixteenth century, in commerce and manufactures. Freedom to loan for interest gave rise in them to credit; and credit has doubled their power. — Not until two centuries later did Montesquieu dare, for the first time in France, to profess the same principles. "Money," says the author of the "Spirit of Laws," "is the sign of values. It is clear that he who needs this sign should hire it, as he does other things he needs. * * * It is indeed a very kind act to loan money to a person without interest; but we perceive that this can only be a religious precept and not a civil law. In order that commerce be successful, money must have a value. If money has no value, no one will loan it, and the merchant can no longer undertake anything. I err in saying that no one will loan it. The business of society must always go on: usury becomes established, but with the disadvantages always experienced from it. The law of Mohammed confounds usury with interest. Usury increases, in Mohammedan countries, in proportion to the severity of the prohibition. The lender indemnifies himself for the peril of the contravention"— Montesquieu here, under cover of his criticism of the laws of Mohammed, brings a charge against Christian society. Loaning at interest was still under condemnation in France, both by the canons of the church and the laws of the state, at the time when the "Spirit of Laws" appeared. A magistrate could less openly brave that double authority than any other citizen. Hence the artifice of the author. He applies his criticism to the past, or transfers it to the Orient. It is for French society to recognize itself in the picture, if it desires. The following reign relieved writers from that somewhat hypocritical reserve; and political economy, in the writings of Turgot, set forth principles with entire freedom. — The constituent assembly sanctioned these principles. The law of Oct. 12, 1789, by proclaiming the legitimacy of loans at interest, put an end to a controversy which had been prolonged for twenty centuries: "All private citizens, bodies, communities and mortmain people" (*i. e.*, those holding property which they could not alienate) "shall be able henceforth to loan for a fixed time, for interest stipulated according to the rates determined by law." The new law was written, in terms no less explicit, in article 1905 of the civil code, thus: "It is permitted to stipulate interest for a simple loan, whether of money or provisions or other movable property." — Since that time loans at interest have been in accordance with civil law in France. Is this likewise natural law? Can reason, based upon the principles of morality and public utility, approve what the law declares? The Catholic church itself no longer contests it. If any are still doubtful on this point, we would refer them to the fine dissertations of the Cardinal of Luzerne and Cardinal Gousset. And as to the jurists who still rely on the arguments of Pothier, they have only to read the learned and often eloquent refutation of them given by M. Troplong, in his "Treatise on Loans." But the thesis which jurisprudence and theology have abandoned, has become a revolutionary commonplace. Loans at interest could find no favor with the socialistic school, which has declared war on capital, and on whose banner is inscribed: "Property is robbery." The theological school, in its arguments against interest loans, showed itself inconsistent. While it forbade the capitalist to collect a monthly or an annual due for the money borrowed of him, it permitted the landowner to lease his land in consideration of a farm rent, and to grant the use of his house to a tenant for a stipulated sum. The prohibition consequently applied to the form of the investment and not to the investment itself. The capitalist was prohibited, not from investing his capital, but from investing it in a certain manner. For lack of having analyzed the nature and having followed in its course the circulation of wealth, and, in consequence, of taking the sign for the thing signified, and the precious metals for value, a sort of embargo was put on money. In virtue of a preconceived theory which represented money as a sterile metal, they really impressed it with sterility. — It is clear, however, that if the possessor of a sum of money has not the right to make it productive and to derive a revenue from it, the possessor of land could not, with any better right, lease it to a farmer to cultivate, in consideration of an income or rent from it. The earth, in fact, does not spontaneously engender a revenue any more than does money. Under both forms, capital is only the instrument of labor. He who receives it, must pay the price to him who leases it. The borrower owes the price in both cases, or he owes it in neither There is no way of getting out of this dilemma. — "Coined money," says M. Troplong very justly, "the creation of man and not of nature, is in turn utilized as a commodity, or as a sign of values, without there being any reason to cry out against this two-fold employment of it. It must submit to the condition of matter, which is to be a slave of man, and must serve all the uses and necessities that it can reasonably satisfy. So far, then, from disparaging the means of acquisition invented by the genius of man, in imitation of the natural and primitive means of acquisition, we should, on the contrary, recognize that this is the masterpiece of civilization, which opens to social activity new careers, new sources of labor, new and admirable means of promoting comfort among the classes who have inherited no wealth. Plutarch thought he was overwhelming the loaners by an irresistible argument, when he told them that they made something out of nothing. But, without knowing it, he gave the finest eulogy on

credit which derives wealth from sterility. Money is no more impressed with infecundity than everything around us; for there is nothing productive for man save what is fertilized by labor or utilized by necessities which pay for their satisfaction. What would the earth produce, save tares and thistles, without the plowshare? What revenue would a house give its owner, if the necessity of a dwelling did not oblige a neighbor to lease it? * * Money becomes productive by the need the borrower has of it, the same as a building becomes productive by the need the tenant experiences of occupying it. Money is sterile only when it remains unemployed. Hence we see the confusion into which the canonists fall, when, granting that money may be made productive by industry, they insist on saying that in interest loans, it is the industry of the borrower, which, keeping the money active, renders it productive, and that, since the lender has no part in that industry, he should have no part in the benefits it procures. But what matters it to the lender what use the borrower makes of the loan? * * It is about as if the lessor of property should have scruples about the legitimacy of his contract because the tenant who rented his house did not occupy it. * * The price the lender receives is not a part of the profit the borrower will make by his industry; it is the price of the transfer which the lender makes to him, for a certain time, of the ownership of a sum that he has declared will be useful to him: a price the legitimacy of which rests on the deprivation the lender imposes upon himself, and on the advantage alleged by the borrower, *usura propter usum.*" — What M. Troplong here affirms, with general assent, is exactly what socialism denies "He who lends," says Proudhon, "in the ordinary conditions of the trade of the lender, does not deprive himself of the capital which he lends; he lends it, because he has nothing to do with it for himself, being sufficiently provided with capital; he loans it, in short, because it is neither his desire, nor within his power, to give it value himself; because in keeping it in his hands, this capital, sterile by nature, would remain sterile; while, by the loan and the interest resulting from it, he produces a profit which enables the capitalist to live without labor." (From third letter to M. Bastiat.) — That eminent economist, M. Bastiat, whose early loss to economic science we deplore, has remarked that this argument attacks sales as well as loans. If it can be alleged that the possessor of a sum of money does not deprive himself of it by loaning it, why could we not say the same of the one who sells commodities which he possesses in too great abundance? The system of Proudhon would render every commercial transaction impossible, because there is not a single one which is not based on interest on the capital invested. — But we do not need to appeal to analogies nor to enter upon comparisons, to refute a theory based on a position outside of facts accepted by everybody, and in opposition to these facts. Let us go directly to the root of the sophism. Socialism claims that the loan should not bear interest while the one who loans does not deprive himself, and that the lender suffers no privation while the capital loaned would remain sterile in his hands. This is an absolutely gratuitous allegation. First, if the capital borrowed must not produce interest, I can not see why the capitalist should part with it in favor of the borrower. People keep money only to derive an income from it; and if money must remain unproductive, people will cease to loan it. This will be the end of credit. — But nothing appears to have a weaker foundation than this thesis of the necessary unproductiveness of capital in the hands of the capitalist. In one form or another, a capitalist always employs his money. He loans it at interest only when other forms of investment offer either a less return or one more uncertain; but in lack of a profitable loan, what prevents him from employing his money in agriculture, manufactures or commerce? It is surely lawful for him to buy land or a manufactory; and if he does not wish to put his own hand to the work, he can always take an agriculturist or a manufacturer as a partner, invest his funds in a joint stock association, or obtain shares in some marine enterprise or in railroads. In interdicting loans at interest, the socialists have forgotten to interdict association or to close the ways to human activity. — The socialists, however, more consistent in this than the canonists, prohibit rent of land as well as interest on money. For them, the productiveness of capital, as Proudhon does not hesitate to say, is a pure fiction. What is there, if one reasons in this way, real in the world? Will the socialists always have eyes only not to see? The earth, from one end to the other of the countries which civilization has touched with its wand, recounts the marvels of capital. Capital is everywhere present. It is the universal motor, the soul of industry; it is the trace of the sojourn or the passage of man on the earth, that which distinguishes culture from barbarism. The power of a people is measured by the extent of its accumulation of labor. A farm in Beauce, in France, of the same extent of land as could be bought in Canada or New Zealand for $800, would cost $80,000; and in an uninhabited country it can be had for nothing. Whence the difference in value? From the fact that the land which the colonists buy in New Zealand, for instance, is land yet to be tilled, land without capital; while he who acquires a domain in Beauce pays for the capital incorporated in it. The productiveness of soil enriched by fertilizers, improved by cultivation, provided with cattle and instruments of tillage, furnished with farm buildings and dwellings, and near to great markets—all these make the difference. — And should the owner of this wealth, which often represents the accumulated labor of many centuries, rent it for nothing, like land covered with bushes and

brambles, such as met the eyes of the first occupant? Not only would this be contrary to equity, but it would be physically impossible. A state of society in which proprietors who did not cultivate the soil with their own hands should be condemned to give it over, without compensation, to farmers who would derive the benefits of the labor previously expended on it, in addition to the profits from their own labor, would not be long in coming to an end. The abolition of rent would speedily entail the abolition of property. — The socialistic theory of exchange belongs to a purely imaginary world. At no period of history has it even begun to be applied. Suppose men reduced to their own powers in a newly forming society. As certain individuals prove to be more richly endowed by nature or make a better use of their faculties, there will necessarily be workmen who will produce more than others, whose products will not find their equivalents in exchange, and will form an excess, a reserve, a capital; hence inequality of conditions and of fortunes. This inequality, when it exists, is transmitted or may be transmitted. Property implies inheritance. When we recognize in man the right to dispose of the results of his labor, we are inevitably led to admit that he may dispose, by the same right, of the results of labor which have been accumulated by him or his ancestors—in a word, of capital. To arrest this natural direction of human activity, the *Banque du Peuple* is a poor invention. [An allusion to a "People's Bank" instituted by Proudhon for the suppression of capital. E. J. L.] It would not, in fact, be sufficient to abolish rent of money and rent of land; it would be necessary, by a more radical and more logical process, to go so far as to abolish property. Communism is the last term of that theory, in which a subtle mind has imperfectly succeeded in disguising the absurdity and violence of the ideas by the novelty and charm of the form. — II. Rate of Interest. The legitimateness of loans at interest is to-day recognized in the principal states of Europe. But while abandoning the ground of absolute prohibition, governments have not had the courage openly to avow the doctrines of liberty. Just as it is sought to protect agriculture and manufactures against foreign competition, it is claimed that the cause of the borrower may be defended against the lender, and of the poor against the rich, by fixing the rate of interest or limiting it by the establishment of a maximum. Whoever, in loaning, exceeds this legal rate, exposes himself to a penalty. Usury no longer signifies the interest on money. This word, modified from its primitive sense, takes an opprobrious meaning, and becomes a mark of infamy. To invest one's money at a rate the law discountenances, is called practicing usury, and is to commit a crime. — The laws which interdicted loans at interest have had their day; the laws which regulate the rate of interest will pass away in like manner. By examining the effects of this legislation, it is easy to show that it defeats its purpose. What is proposed to be accomplished by excepting money from the common rule of values, the level of which is determined by competition in the market? It is desired to prevent the price of that commodity from rising beyond measure, or, in other words, to oppose a barrier to the rise in interest. Now, observation teaches us that the more restrictions the laws have placed upon trade in money, in the past, the higher has become the rent of capital. The penalties against usury give rise to it or develop it; they are an added risk to those naturally connected with investments of capital. In compensation for this additional peril, the lender can not fail to demand a premium. The laws which augment the risk also discourage competition. The number of lenders and the amount of the disposable capital then diminishes, the number and eagerness of the borrowers remaining the same; and people are then astonished at the high price of the commodity, when they have done all they could to produce this condition of the market! — In ancient times, the peoples who allowed the greatest liberty in the investment of capital were also those who saw commerce and the industries flourish in their midst, and among whom borrowers obtained the most moderate terms from lenders. The nations, on the contrary, who gave no latitude to credit transactions, or security for credits, were obliged to submit to pay more dearly than others for money. The history of Athens and that of Rome present conspicuous and instructive types of this contrast. At Rome a debtor who did not meet his engagements when due became the slave of the creditor. At Athens the right of the creditor to the person of the debtor was abolished by the laws of Solon. Solon did not attempt to regulate the interest on money, and no trace of usury laws is found in the annals of that commercial republic. The rate of interest at Athens varied according to the circumstances and with the security offered by borrowers. The lowest rate appears to have been 10 per cent.: this was in fact a very moderate charge for movable capital, at a time when the income from land was 12 per cent. to those who did not work their lands themselves, and when maritime commerce, which attracted money as well as men, borrowed at from 20 per cent. to 36 per cent., and when the industries, employing slaves as workmen, returned fabulous profits. The interest on money was in proportion to the profits on labor; and here we see why the question of debts, that permanent cause of troubles in the Roman empire, never excited either commotions or political agitations in Greece. — In the early days of the Roman republic the rate of interest was not regulated by law. M. Troplong considers this latitude in regard to transactions as the cause of the oppression the people suffered from the patricians. But did the law of the Twelve Tables, which fixed the interest at 10 per cent. per annum, diminish the ravages of usury at Rome, and bring about a fall in interest? M. Troplong himself

cites from Titus Livy and Plutarch numerous instances which superabundantly prove the contrary. Montesquieu was not in error on this point. "As the Roman people," he says, "were daily becoming more powerful, the magistrates sought to flatter them by having such laws enacted as were most pleasing to them: capital was restricted; interest diminished and finally prohibited; bodily constraint was taken away; and at last the abolition of debts was proposed, whenever a tribune wished to render himself popular. These continual changes, either by laws or by plebiscits, naturalized usury at Rome; for the creditors, seeing the people their debtors, their legislators and their judges, had no longer any confidence in contracts. The people, like discredited debtors, could borrow only at high rates; and this was the more so, because, though the laws only occasionally interfered, the complaints of the people were continuous, and always intimidated the creditors. Thus were all honorable means of louning and borrowing abolished at Rome, and a frightful usury became established." — The results in modern times have been the same. The only nations or states in which the trade in money has been most regular and confined to reasonable limits, are the very ones where the greatest freedom in money transactions has been tolerated or authorized. It is sufficient to mention Genoa, Venice, Florence, Holland and England. Holland, in the seventeenth century, although its credit was weakened by war, borrowed at 4 per cent.; in England, the current interest was 3 per cent. toward the middle of the eighteenth century. Owing to their ability to give value to their capital, the Florentines and Milanese, in the sixteenth century, under the name of Lombards, took the place of the Jews, in a large way, and became the bankers of Europe. Freedom in the matter of interest favored the establishment of credit institutions. The foundation of the bank of England and that of Amsterdam were nearly a century earlier than that of the bank of France. — Moreover, the fall in interest and the development of commerce, in the states where there was the greatest toleration for credit transactions, appear to have followed step by step the progress of this liberty. Thus, in England, Henry VIII. had fixed the rate of interest at 10 per cent. Edward VI. absolutely interdicted loaning at interest. Elizabeth gave an impulse to trade by abrogating the statute of Edward and re-established 10 per cent. as a maximum rate, thus indirectly giving much latitude to traffic in money. — The statute of Queen Anne fixed the rate of interest at 5 per cent. per annum, and pronounced every contract void in which the interest should exceed this rate. In accordance with the usual practice of the English, who rarely act from general principles, this statute was long nominally in force after being allowed to become practically obsolete. Then it was abrogated by successive degrees, a part at a time. The act of the fifty-ninth year of George III. (1819) was the first attack made on the principle. It was enacted that a bill of exchange or a bill payable to order, which might be declared void because of usury, should be valid in the hands of one who had taken it in good faith. Then came the act of the fourth year of William IV. (1833), which, in renewing the privilege of the bank of England, abrogated the usury laws in the kingdom, so far as bills of exchange and notes payable to order on three months or less were concerned. The act of the first year of Victoria's reign extended the exemption to bills of exchange and notes payable to order, the term of which did not extend beyond a year; and the act of the third year of the same reign comprehended also all loan contracts made for sums which exceeded £10, provided the loan was not secured by a mortgage on real estate. — In consequence of the latter provision, landed property had now to pay higher than the current market rates for money, and was, therefore, at a disadvantage in comparison with manufactures and commerce. Such an inequality before the law could not permanently continue. In 1854 a law was enacted (17 and 18 Vict., ch. 90) repealing all existing statutes against usury, though not touching the statutes in reference to pawnbrokers. These were modified later (35 and 36 Vict., ch. 93). — The above-mentioned changes in the laws made to regulate the rate of interest appear to have been a result of the celebrated resolutions which were reported to the house of commons in 1818, in the following language. "1st, *Resolved*, that it is the opinion of this committee that the laws regulating or restraining the rate of interest have been extensively evaded, and have failed of the effect of imposing a maximum on such rate; and of late years, from the constant excess of the market rate of interest above the rate limited by law, they have added to the expense incurred by borrowers on real security, and that such borrowers have been compelled to resort to the mode of granting annuities on lives, a mode which has been made a cover for obtaining higher interest than the rate limited by law, and has further subjected the borrowers to enormous charges or forced them to make very disadvantageous sales of their estates. 2d, *Resolved*, that it is the opinion of this committee that the construction of such laws, as applicable to the transactions of commerce as at present carried on, have been attended with much uncertainty as to the legality of many transactions of frequent occurrence, and consequently been productive of much embarrassment and litigation. 3d, *Resolved*, that it is the opinion of this committee that the present period, when the market rate of interest is below the legal rate, affords an opportunity peculiarly proper for the repeal of said laws."—As to the effect of the repeal of these laws, unexceptionable official documents permit us to judge. In the year 1841 the bank of England took the initiative in that regard, and, in a country where it is customary to follow public opinion rather than to lead it, did not hesitate to give an

impetus to public thought. On May 13, its court of directors met and embodied the results of eight years' experience in the following declaration: "*Resolved*, That the modification of the usury laws at present existing has contributed greatly to facilitate the operations of the bank, and is essential for the proper management of its circulation." Parliament, on its side, determined to obtain evidence of the good or bad results of the partial repeal of the usury laws. The house of lords, in the year 1841, investigated the subject, and the testimony brought before it (published in 1845), casts much light on the question. — A distinguished economist, Mr. Norman, after having called attention to the fact that the bank of England, thanks to freedom of interest, had successively fixed the rate of discount, following the variations of the market, from 4 to 4½ per cent. on July 21, 1836; at 5 per cent. on Sept. 1 of the same year; at 5½ per cent. on June 20, 1839; and at 6 per cent. on Aug. 1 of the same year; terminated his deposition in these terms: "I have always regarded with surprise and admiration the way in which the mercantile pressure of 1839 was borne. It was very severe, and the number of failures of consequence was certainly small; and I can not help attributing in some degree the manner in which that pressure was sustained, comparing it with what had occurred on similar occasions previously, such as in 1826, to the state of the law which enabled capital and loanable accommodation to flow into those channels where it was most wanted and could be best paid for—in fact, into its natural channels." — One of the most eminent practical bankers, Saml. J. Loyd (afterward Lord Overstone), confirmed this opinion by the following explanation: "Had the law which fixed the maximum rate of discount at 5 per cent. been maintained in operation, it would have produced inconveniences of two kinds: in some cases, parties requiring the command of money would have been unable to obtain it, and would consequently have been subjected to many very serious evils, such as forced sales of their goods at ruinous prices, injury to their general credit, and, in many cases, actual suspension of their payments; in other cases, parties would probably have obtained the money by resorting to circuitous contrivances for the purpose of evading the law, which would necessarily have entailed upon them great additional trouble, discredit and expense." Mr. Loyd hence concluded that the act of 1833 had saved British commerce, in the pressure of 1839. — This was also the conclusion to which Mr. Samuel Gurney, one of the most able bankers and most revered men in London, finally arrived, who called attention to the fact that in 1818, when the state loans were the only ones exempt from the operation of the usury laws, and when considerable loans had been issued by the government, capital deserted the commercial market, which was subject to the legal limit, for the market of public funds; and commerce had to suffer much in consequence of the restrictions which fettered business. Mr. Gurney entered into detailed calculations which brought into relief the consequences of the two systems of restriction and freedom in the matter of interest. "The advantages of the relaxation in the law to the trading community," he said, "are that under every circumstance they are able to procure supplies of money and to carry on their business with facility. In the two or three last pressures which we have had, we have had very few failures. I will now take the other side. What is the disadvantage? It is that they have to pay this high interest for a limited time; the calculation of that disadvantage brings it to a very small sum. A firm of large extent may have under discount to the extent of £50,000, and have to pay 6 per cent. interest for that £50,000 instead of 5 per cent. for six months; this is the extent of loss, which comes to only £250. For that loss he gets the advantage of general facility, a less risk, as credit is much better preserved—advantages greatly beyond the loss. One other great advantage is the ability to borrow money upon the security of his goods, or sell them. If he borrow money upon his goods, it resolves itself into a calculation of a similar character; if he thus borrow £100,000, there will be a loss of £300 or £400; but if he is compelled to sell his goods, he can not, under such circumstances, at a less loss than from 10 per cent. to 20 per cent.; and therefore, on the one hand, he may have to lose some £300 or £400; but, on the other, if compelled to sell his merchandise, which he must do were he unable to pay more than the legal rate of interest upon a loan, the loss would be, under forced sales, of from £10,000 to £20,000." We might extend these quotations. The witnesses summoned, in the course of the inquiry, were, with scarcely an exception, unanimous. — Some persons have observed that, if merchants in high position gained by the repeal of the usury laws, the same was not true of those whose credit was less firmly established, and that usurious rates were demanded of this class. But what does that prove? That there was, apparently, a certain risk in lending. If the usury laws had been operative, the embarrassed merchants would not have found money, or they would have had to pay still more to procure it. In either case, failure was imminent. Thus much for the example of England: let us now pass to France. — Interest on money was certainly much higher at the time when legislation interdicted interest loans and burned Jews, than under the far more mild régime which authorized loans under the form of annuities, and fixed by law the rate at which loans could be made by alienating capital in this manner: it had become still lower, and commerce had become extensive at the time when Turgot wrote these remarkable lines: "It is a well-known fact that there is not a commercial place on the earth where the greater part of the commerce does not depend on money borrowed without alienation

of capital, and where interest is not regulated by a simple agreement, according to the greater or less amount of loanable money in the place, and the degree of solvency of the borrower. The rigor of the laws has yielded to the force of things; jurisprudence has been obliged to modify in practice its speculative principles, and people have long since come to openly tolerate loaning by note, discount, and every species of money negotiation between parties. It will always be thus whenever the law prohibits what the nature of things renders necessary." — The constituent assembly only half adopted the ideas of Turgot. The law of 1789 permitted loans at interest under any form, but it reserved to the legislator the right to fix, or at least to limit, the rate of interest. The civil code, promulgated in 1804, stipulated a similar reservation; these were mere preliminary and tentative changes, which prepared the way for the law of Sept. 3, 1807. — We say nothing of the intermediary régime. Some claim that the convention declared money merchandise, and that in consequence of that unlimited freedom, usury for some years invaded and ravaged the country. The laws of the convention were contradictory. At one time, to raise the price of the assignats, it interdicted trade in the precious metals: again, it removed the prohibition and left every one free to buy and sell gold and silver at their actual value. Interest, the rent of capital, only resumed its liberty as a consequence.* This liberty was the result of the toleration of the government, and not of a clear perception of a principle which it firmly proclaimed. But what matter is it whether the convention, in removing the barriers it had itself raised, removed also others or not, and rendered homage to political economy without willing it or knowing it? The events which occurred in the commercial world, during that period of anarchy and the disturbed times which succeeded it, prove nothing either for or against any system. — We are, however, inclined to believe that, notwithstanding the calamities which were the inevitable result of the civil disorders and of war, and although commerce, manufactures and credit were nearly paralyzed in France from 1793 to 1797, the toleration accorded meanwhile to pecuniary transactions bore more good fruit than bad. People have quoted the protests of some chambers of commerce, which complained at that time of the dullness of trade, the great numbers of failures and the cupidity of loaners. In reply we will say, without having regard to these particular cases, that the speech of Joubert, who proposed the law of 1807, itself shows that interest on money had generally fallen. But, were it otherwise, can any one really suppose that laws more restrictive would have procured money for trade at a low price, at a time when the risks connected with every negotiation or credit transaction were so great, and when confidence was so weak? — The legislators of 1804, more favorable to liberty than those of 1807, had left the way open. Article 1707 of the civil code provided that the interest agreed upon might exceed the rate fixed by law, whenever the law contained no prohibition to the contrary. This was directly to recognize that the value of money, like all other values, results from the state of the market and the terms arranged between parties. The legislators of 1807 shut this half-open door, by putting agreed-on rates of interest in the same line as legal interest. It may be well to quote here the language of a law which can serve as a starting point in the discussion. "Art. 1. The interest agreed upon shall not exceed 5 per cent. in civil matters [*i. e.*, those coming under the cognizance of what are known as *civil* courts, in France, in distinction from mercantile courts. E. J. L], nor 6 per cent. in mercantile matters, without retention. Art. 2. The legal interest shall be, in civil matters, 5 per cent., and in mercantile matters 6 per cent., also without retention. Art. 3. When it shall be proven that a loan has been made at a rate exceeding that fixed by Art. 1, the lender shall be condemned by the court before which the case is brought, to restore this excess, if he has received it, or to suffer a reduction of the principal of the debt, and he may even be remanded, if cause appear, to the court of correction, and, in case of conviction, condemned to a fine not exceeding half the capital he has lent on usury. If the result of the law process shows that the lender has practiced fraud, he shall be condemned, besides the above fine, to imprisonment for a term not exceeding two years." — The economy of the law of 1807 consists entirely in a small number of rules. It lays down as a principle that freedom of agreement in regard to rate of interest must be exercised only within the limit of the legal maximum. Provisionally, this maximum is fixed at 5 per cent. in civil matters, and at 6 per cent. in mercantile ones. — The law of 1807 makes usury a crime. But what is usury? Bentham said truly that it was not susceptible of definition. And in fact, if usury consists in loaning at a rate higher than that fixed by the legislature, one may be a usurer in England while loaning at a rate which would be permissible in France, and *vice versa*. In France the offense depends, not on the nature of the act, but on the quality of the lender. One is a usurer if he loans at 6 per cent. in civil matters, but ceases to be so if he loans at the same rate to one engaged in commerce. These inconsistencies in legislation prove that an attempt has been made to regulate that which, from its nature, evades legal rules. The authors of the law of 1807 perceived this; for, after having made the act of loaning at an interest in excess of the legal rate a crime, they did not affix any penalty. The court, in this case, can only sentence the lender to restore the excess. The sentence can

* "Not that the laws of the convention ever meant to proclaim the principle of absolute liberty in the matter of interest. It would be an error to suppose this: they only intended to remove the prohibitions on payments in money." (Troplong.)

only extend to a fine in the case of habitual usury, that is to say, when the offense becomes changed; when, instead of having to deal with parties whose bargains depend upon the variations of the market, the court finds before it a speculator who makes a business of seeking the most risky investments, those which serve as an excuse or pretext for unlimited profits. — The law of 1807 has only one kind of merit. In a country where there is too little general information on matters of political economy, and where anti-commercial prejudices have still much influence, it bears a certain relation to the average level of intelligence and the state of morals. In 1836 a motion was made by M. Lherbette aimed at the repeal of this law and the restoration of freedom in the matter of interest; but it failed because of the unenlightened opposition of the elective chamber. In 1850 the proposition of M. Saint-Priest to modify the law had no better success: the law which was enacted Dec. 15, instead of punishing the simple contravention of the law prescribing the legal interest, is only aimed against the habit of disregarding it, and confines itself to increasing the penalties. — The law of 1807 governs the trade in money in all the countries of Europe which have adopted or imitated the French civil laws. To examine into the effects it has produced in France, is then to obtain the elements which may serve to give the most general view of the question. The law of 1807 did not, as we know, bring about a fall in the rate of interest, which is, notwithstanding the solidity of the operations, much higher in France, in every scale of credit, than in England, Holland and Belgium. The absolute prohibition it contains has not prevented the loaner, wherever there were risks to be incurred, from stipulating for excessively high interest which was legally usurious. That has been accomplished in a contraband way instead of openly. But the troubles from it have been only the greater; for the interest must include, besides the premium for the risk arising from the small degree of solvency in the borrower, that of the risk arising from contravention of the law. — The *mohatra*, so much branded by Pascal, has reappeared, and the usurious loan has been disguised under the form of a sale. In other cases the fraud has been accomplished under the form of a donation; besides the legal interest, the lender has required a supplementary interest, under the title of gift. Sales with privilege of redemption have also served to conceal usury, which has, besides, taken place under cover of an exchange. But the most usual as well as the most simple form has consisted in stating in the loan contract, or on the notes given to the loaner, a sum higher than that which the borrower had received. —The defenders of the system sanctioned by the law of 1807 themselves recognize that this law, far from uprooting usury, has perhaps aggravated it. Usury, it has been said, is devastating French rural districts; and it is certain that the debts of small property-holders had much to do with the socialism of the central and eastern departments of France in 1849 and 1850. — A representative of the upper Rhine, M. Cassal, cited in the tribune curious examples of frauds practiced in Alsace to evade the provisions of the law of 1807. "The usurer," he said, "no longer proceeds in this fashion: 'I lend you one hundred francs in consideration of ten francs.' Nothing like that is written. A note of a hundred francs is made, but only ninety of it are given. Care is taken that it be done with no witnesses present, and then you have the provision of article 1322 of the civil code, which establishes a legal presumption in favor of the creditor who has a writing. In this case itself it is very difficult to prove usury. More frequently sales with power of redemption occur: property is bought for the consideration of one hundred francs, and only ninety are paid; and when the debtor wishes to obtain his property again, he is obliged to pay back the sum stipulated in the contract as price, and happy is he, too, if the purchaser will consent to restore him his property. In this case, also, the stipulations of article 1325 of the French civil code are exactly fulfilled: you have no witnesses, and it is impossible to prove usury. When one of these men loans at 5 per cent. on a simple note, there is much reason for mistrust; the lender has evil designs. When the note falls due, the debtor can pay; but the creditor promises to wait. When the time comes that the latter knows the former has no money, he becomes pressing, prosecutes, hounds the debtor, forces him to make an assignment, lays down orders, and, finally, compels the unfortunate to pay what is called the *interest of patience*. Then he takes everything the former can give: fifty francs, a pair of sabots, a batch of bread, per week. But all this is the A B C of usury. The usurer but rarely makes his bargain in his own name. The borrower sometimes does not even know him; the business is done through an intermediary, a sort of broker, who, ordinarily, has nothing to lose, not even honor, who also takes brokerage, and thus increases still more the interest on the money. When loans are made, the first step is to ask for security. This security is the person who signs the note and carries it to the borrower, or *vice versa;* the intermediary likewise signs the note, and it is sometimes covered by three, four or five signatures before reaching the real lender. The usurer is then in the position which, in the language of the law, is called 'a third carrier in good faith.' The aim of the business is to make some kind of a bargain: in primitive times, a trade in flocks or herds; later, in real estate. This is how it is effected. Sometimes one lends a sum, always by an intermediary, on a simple note or an obligation acknowledged before a notary, and on the other hand, he has a field or other real estate sold to him at an extremely low price. Care is taken, however, that the matter be so arranged that the lesion of the seven-twelfths may not be reached. These men, who thus exploit French rural districts, have divided the territory: each one has his chosen

portion to exploit, and it is rare for another to permit himself to go there to do business. You comprehend then that they are perfectly well acquainted with the value of the estates, better than the peasants themselves. Consequently there may be usury of 100 per cent. or 200 per cent. without the cognizance of the law. At other times, and this is far more serious and more common, they force the borrower, giving him meantime the funds for the purpose, to buy a piece of land or some other commodity at a very high price. Here they do not take the trouble to put as large a sum as possible into the contract: they put the property at double or triple its value. Let them succeed in making a man contract a debt, and nothing can save him; he is soon dispossessed of his property. I know entire villages which do not contain two solvent private citizens." — Looking at this social condition, one would think he was living in the middle ages. Is it necessary, in order to remedy this, to make the penalties greater and to increase the legal restrictions? M. Cassal, who is not, however, an economist, but who has had a near view of the evil, does not think so. "I know the country usurer well enough," he said, "to apprehend that our law (that of 1850) instead of producing the extinction of usury, may perhaps produce the contrary effect, by closing the purse strings and shutting out all credit. Usury is the only means, the single source of credit to the countrymen; and if that source dries up, I fear they may be more miserable than before." — The defenders of restrictive laws in the matter of interest would do well to reflect upon this remarkable avowal. They think they have replied to all objections when they say: "If the borrower is not sufficiently solvent for loans to be granted him at the legal rate; if an additional premium is necessary to cover the risk—well, people will not lend to him at all." Shall credit be thus obliged to stop rather than exceed the level of interest which the legislator has supposed legitimate? But credit can no more be arrested in society than the circulation of blood in the human body. For the one as for the other, motion is life. You say that loaning at high interest will in the long run ruin the borrower. This is possible; but he will be ruined without usury, if he does not find a way to borrow what he needs to meet his obligations when they fall due! — The capitalist who speculates upon the temporary distress of the borrower is a wretch. Science has no intention of sheltering such under her mantle. If usury extends to direct or indirect fraud, there are laws to punish it. But let no one attack the freedom of mercantile transactions, under pretext of preventing usury. Provided the loaner and borrower are free to make a bargain, the contract should be valid. It matters little at what rate the investment be made: the interest of money is naturally subject to one law alone, that which determines that the price of things, instead of being fixed arbitrarily by the civil power, results from the essentially variable relation between supply and demand. There is but one way to abolish usury, and that is to extend to property the benefits of credit institutions, and accustom proprietors punctually to fulfill their obligations. For the rest, the relation of demand to supply so bears upon the contracting parties, that governments, when they wish to borrow, are themselves subject to it. Whenever it was necessary to contract public loans, the French government took good care not to appeal to the law of 1807. In difficult circumstances it has borrowed at 7 per cent. and even at 8 per cent.; and instead of then considering the capitalists who undertook the loan at these high rates as usurers subject to the penalty of the law, it sought to attract them by all means in its power. Not to speak of the profits they have made by loaning to embarrassed governments, have not bankers obtained all the marks of distinction which could flatter their vanity? Have they not been covered with *cordons* and admitted to the ranks of the aristocracy? — Thus the state itself sets the example of violation of the law. It seems that the legal rate of interest is obligatory on every one except itself. To loan at 6 per cent. to private individuals, is to expose one's self to the severity of the courts; to loan at 6 per cent. to the state, to cities, to departments, is to merit public gratitude. Who can henceforth take seriously this pretended crime of usury, which is not such for states, but is such in private transactions?—This is not all. In testimony of the powerlessness of the legislator when he attempts to do violence to the nature of things, the French law of 1807 was obliged, in fixing a maximum rate of interest, to admit of exceptions and establish categories. Thus, loans on property security, on pledge, on provisions, and discount, escape its rules. The same observation applies to commissions charged by banks, and to the premium given to brokers who answer for the persons to whom they sell merchandise; as well as to those commercial practices which are so many additions and supplements to the interest stipulated in the money loans. — III. Loans which exceed the Legal Rate. The loan on pledge (or pawn), which entails at once numerous risks and considerable expenses of administration, is one of those which can be made only at a relatively high interest. All the pawnbrokers in Europe would be ruined in a few months, if they were compelled to loan at a rate corresponding to the price current of money in the market. The exception which has been made in their favor, or rather, the freedom in regard to interest which is allowed to be the rule in their case, has been favorable to those who patronize these institutions. To speak only of the *mont de piété* at Paris, the interest asked of borrowers has constantly diminished since the last century: it was 5 per cent. per month in the year III. (1795–6), 2½ per cent. per month in the year VIII. (1800–1), and 1¼ per cent. in 1831. As the rent of money becomes lower in the general market of capital, the pawnbroker will lend at a

lower interest to necessitous families. — As to the loan of provisions, which the law of 1807 does not govern, and in which one may always, by the terms of article 1907 of the civil code, exceed the legal interest, jurists have found a reason to justify that exception, which, if they were disposed, might be made to apply equally well to loans of money. "How can we think," says M. Troplong in his "Commentary on Loans," "that the legislator could have intended to impose the same rate of interest on loans of provisions as on money? How can we suppose that he would have taken no account of the risks, which are much greater in the loan of provisions than in the loan of money; in the loan of provisions, we say, where an abundant harvest at the time of payment may take away so much of the value of the thing lent in time of dearth? Would he have condemned the system followed in all ancient nations by legislators and economists, of fixing the interest on provisions higher than the interest of money? We think, then, that there would be nothing illicit in an agreement which should obligate the borrower of a hundred measures of oil, grapes, or apples, to repay a hundred and ten or a hundred and fifteen at the following harvest."— When one borrows money, it is not the metal exactly which one wishes to possess, but the value it represents. Under the form of money or under the form of provisions, the lender delivers capital: capital is the object of the contract. From the essential point of view, which is that of value, there is no difference. In vain has it been objected that the value of grain was variable; for the same objection would apply to the value of money. Who does not know that the power of the precious metals was much greater in the time of Charlemagne than in the reign of St. Louis; in the time of St. Louis than in the reign of Louis XIV.; and in the reign of Louis XIV. than in our day? No doubt money presents a more fixed and certain measure of value from one year to another than wheat; but from one century to another the advantage of fixity and constancy passes to the wheat. The price of cereals is, in fact, the light by the aid of which we find our way in studying the economy of society in the past. — Under one form as well as another, the rent of capital depends on its abundance or rarity compared with the urgency of the demand. It is not the nature of the loan which can raise the premium; it is the situation of the borrower. Why did the legislator of 1809 allow the rate of 6 per cent. in mercantile bargains, while he imposed the minimum limit of 5 per cent. in civil matters? Apparently, that difference of interest signifies that the risks are greater in one case than in the other, and that the trader who invests his funds in uncertain operations does not give the same security for payment. Why does M. Troplong recognize in the lender of provisions the right to demand from 10 to 15 per cent. interest, if not because the certainty of payment is less in transactions of that nature? Starting there, to be consistent, one step more should be taken: the principle should be separated from the example, and one should say that the premium on the risk, which is one of the elements of interest, increases naturally in proportion as the certainty of reimbursement diminishes. In loans at interest, the premium on the risk acts as a sort of insurance on capital; this is why there are no reasons for refusing to allow it in the loan of money, when it is allowed in the loan of provisions. Credit is naturally personal. There exists no such thing as one rate of interest belonging to provisions and a different interest belonging to the precious metals. It is because those who borrow provisions generally place themselves in a more hazardous situation, that high interest is demanded of them. But a good number of borrowers to whom money is loaned personally merit still less confidence; why should it not be permitted to stipulate with them a premium for insurance, commensurate with the perilous chances they cause one to incur? The principle is admitted in wholesale contracts. Do you suppose that there is not, as M. Sainte-Beuve has so well said, any such debtor whose solvency makes the loaner run as much risk as he would incur from tempests? To sum up, either the exception made in the case of the loaner of provisions has no *raison d'être*, or the considerations which have determined it tend invincibly to liberty in the rate of interest, under a general law. —On the question of discount the subtleties of jurisprudence are freely exercised. Certain jurists rank it in the category of sales; others, in that of loans. "The banker who discounts," says M. Troplong, "only makes a loan. Accustomed to trade in money and notes, he only purchases a credit; and as 10,000 francs, payable in one year, are not worth 10,000 francs payable now, he gives a less price than the nominal one. This price is calculated on the time to run, on the solidity represented by the signature of the one who signs it, the value of that signature, the place, etc. Discount is only the difference between the nominal and the real value. I have said that the banker buys a credit; I add that, on his side, the borrower buys a present sum for a sum not due. In all cases, the borrower who sells his credit does not contract the obligation of returning the same thing, characteristic of the loan; his obligation is, to deliver the chose and guarantee its payment. On the other hand, the banker becomes proprietor of the effect, with the same title as if he had bought any other article; he uses it as he pleases, and has nothing more to do with the one who assigned it to him except so far as pertains to the security."—We see that if the rate of discount escapes in France the rules laid down by the law of 1807, it is not through respect to a theory which takes its point of support outside of realities. The legislator has yielded to the force of things, either by formally accepting or by tolerating usages which he could no more modify than destroy. — M. d'Esterno has cited, in the *Journal des Economistes*, curious examples of loans at a high

rate, which are negotiated, to the mutual satisfaction of borrower and lender, in the department of Saône-et-Loire. "There are," he says, "small farmers who buy, in May, cattle for labor, and sell them again in November. If they buy them for cash, they pay 600 francs for them, for instance, but, as they only pay 300 francs at the time of getting them, and promise the other 300 at the time when they count on having sold them, they consent to give 50 francs more for that accommodation. This transaction is usual, and it is repeated in the case of other animals, hogs, for example." Thus, farmers who would probably not consent to borrow at the rate of 7 per cent. upon mortgage, willingly borrow under that form at 33 per cent. The transaction has no relation to the current rate of interest; but it is within the ability and convenience of the parties who contract. That is sufficient to explain it. Credit institutions, by furnishing circulating capital at lower rates to property owners and farmers, will alone be able to supplant this custom. — Contraventions of the law of 1807 are especially frequent, and occur with impunity in civil matters. One has only to consult the notaries to be convinced that, if mortgage loans were confined to the strict limits of the legal rate, there would be to-day, outside of Paris and the range of the capital, few serious and effective loans. By means of accessory agreements, immediate deductions, and various compensations, people succeed, while inscribing only the legal rate in loan contracts, in winning and retaining capital in liens on real estate. — As a general statement, it may be said that the only loans which the restrictive laws affect, are the large transactions in which an habitually low price for money renders that intervention at least useless. Those, on the contrary, which escape the action of the legislative enactments, and of the law of 1807 as well as the others, consist of transactions of slight importance and in which a high rate of interest is invariably found to be stipulated This is true, especially of loans in retail trade and for a short term of credit. Those who loan by the week figure largely in that category. Those who loan by the day are a class of capitalists that should not be forgotten, and who, notwithstanding the high interest they obtain, render real service. — "In the Paris provision market," said M. Aubrÿ in his speech against the proposition of M. Saint-Priest, "a well-known trade in money is carried on: one keeps a shop of five-franc pieces, that is to say, a certain variety of a banker keeps an office in the market and delivers to merchants of the four seasons and to vegetable gardeners a five-franc piece. With this five-franc piece the small trader buys provisions and food which he goes and sells about the city. At the end of his day's work he returns; he has often earned two or three francs with the aid of that five-franc piece. Do you suppose it is hard for him to pay the banker who furnished him the instrument of labor the sum of 25 centimes from his day's profits? * * In this case the interest of the money is 1800 per cent. Some people wished to enter complaint in the name of the law; but the magistrates of the bar of Paris were obliged to recoil before the numerous and incessant cries of the opposition; this resistance derived its strength from the good sense of the people and the benefits of liberty "— It would seem that an investment by which money brings 1800 per cent. would call in the competition of capitalists, and that this competition would lower the rent of capital. Yet the loans which have taken in the French language the name of "loans by the little week" remain at a rate that varies little. The reciprocal advantages of the borrower and lender would not suffice to explain the permanency of so high an interest in these investments. To understand it we must consider the risks to which capital is exposed. The ambulating tradesmen are an essentially nomadic portion of the population: it is the business to which those have recourse, who, for the time being, can do no other, or whose indolence makes them shun labor. From such customers one can not expect great scrupulousness in the fulfillment of their obligations. Five-franc-piece bankers are those who most frequently become bankrupt The petty dealer, who often spends in drink the day's earnings, consumes both capital and profits. To escape the surveillance and pursuit of the creditor, the debtor has only to migrate from one occupation to another, in the infinite circle of petty trades which spring up and multiply in the streets of Paris. The capitalist lends to strangers, to people who have neither a sou nor a trunk, and without other guarantee than their interest to meet punctually their obligations so as to create for themselves a species of credit, an interest which all do not comprehend. If the debtors were punctual and scrupulous, the creditors, renewing their capital eighteen times a year, would very quickly make their fortune. Many, however, become ruined; and the sphere of these transactions does not appear to enlarge, which proves that there is in them a commingling of good and bad chances. — And now, I ask, are not the laws which restrict liberty of interest judged, when we see that, for one transaction at 6 per cent. which they prevent in the average sphere of credit, they tolerate or do not prevent a little lower down the scale of loans, numberless public operations every day, in which the usury extends to 1800 per cent. per year? — IV. Basis of Interest. It is time to abandon the historical controversy to examine the foundation of interest. Three principal elements co-operate to determine it: the rent of capital; the premium on the insurance to cover the risk, and, in a great number of cases, the charge for commission; and the salary of the intermediary who puts the borrower in communication with the lender. The rent of capital, the instrument of labor, the motor which sets commerce, agriculture and manufactures in motion, is the principal element in interest. How is its rate determined? and what is its measure? Has this element anything fixed, which depends not on places,

time or persons? or must it vary with circumstances and according to individuals? There is, we know, no such thing as unchangeable value; the notion even of value, arising as it does from the idea of relation, implies change. The rent of capital, like the price of all things, must vary under the action of demand and supply; and the law of demand and supply is itself subordinated to all the vicissitudes of production as well as of consumption, not to speak of the influence which progress or decline in means of transportation may exercise. One may not, then, prejudge what the rent of capital should be; but should confine himself to stating what it is. The observation of facts must rule in this matter. No doubt it is recognized in studying the economic history of peoples, that the rent of capital diminishes as wealth increases. But it should also be remarked that, through that incontestable tendency to a fall, the oscillations of interest become more frequent in proportion as commercial relations, developed by increased comfort and intelligence, come to multiply. The rent of capital varies, perhaps, less, in that descending progression, from one century to the following one; but from one year to another, it changes more. Credit, which formerly seemed to have nerves of steel and a hardened epidermis, has contracted the impressionable nature and delicate temperament of the sensitive. One can then determine the rent of capital only approximately, under given circumstances and while these circumstances continue. The system which would make the government regulate the rate of interest, to remain true and not deviate from the facts, would require the rate to be revised each month, each week, and, in some cases, each day; but a rule that required incessant alteration would not be a rule. This system is then condemned either to unchangeability of interest which is contrary to justice, or to an incessant change which would be the negation of law. As to the theories whose pet chimera is a fixed and in some sort normal interest, we will speak of them only to recall a few facts. The bank of France attempted to put them in practice, by maintaining the rate of discount at 4 per cent., in times of pressure as in periods of prosperity; but its resistance was finally overcome: in 1847 it was obliged to raise its rate of discount to 5 per cent. in order to arrest the export of specie; and in 1852, not to remain outside of the business world, it reduced it to 3 per cent. — The second element in interest is the tax for insurance or risk. This may be considered as still more variable than the preceding, and is certainly more difficult to estimate. The rent of capital is, as it were, the *real* part of interest, the part which is regulated by the value of things, the state of the market; and insurance is the *personal* part. The risk changes not only with the circumstances, but also with the situation and character of the borrowers: it is almost nothing in loans made on bills of exchange or notes payable to order which have several good indorsers; it is considerable in the case of a borrower who gives only his guarantee, and the lender raises the premium for the risk in proportion to the lack of solidity in the guarantee. This weakness of the guarantee may be diminished by the confidence of the lender or increased by his mistrust. This is an element to be taken into account, which, because it is personal on both sides, touches closely upon the arbitrary. "He who loans his capital," says M. Aubréy, "with risk of losing it in whole or in part, renders a greater and consequently better remunerated service than he who loans his capital without risking anything; this is what constitutes the difference between the lessor of real estate and of personal property; because the capital of the one always preserves its identity easy to establish, and is often secured by privileges and mortgages, while, on the contrary, the capital of the other is capable of being consumed by use and absorbed without return, as interest and principal; this is also the difference between the civil and the commercial loan, as well as the loan on pledge (pawn-loan), between obligations on short time and on long time, between maritime contracts and land contracts." The extent of the service is not measured by the extent of the risk; but he who consents to loan his capital, without the certainty of recovering it when due, is right in demanding of the debtor a premium for insurance against this danger: this is not a remuneration, it is simply a compensation, a guarantee. But whether remuneration or guarantee, in doubtful cases a prudent creditor would not dispense with this supplement to the rent of capital; yet it is not always sufficient to preserve him from ruin. When M. Proudhon said that the interest of money represented the risk, the chance that might befall, *alea*, he then exaggerated the truth, he took the part for the whole, he left out of account the very basis of interest, which is the rent capital gives. But even this shows that he took account of one element which all legislation has disregarded. — The socialist school, in the theory of gratuitous credit, substitutes for the premium on the risk, a sort of mutual insurance which unites all those making exchanges in the bonds of universal solidarity, and which makes every member of society bear his part in the consequences of the bad speculations or bad chances of all. This is not distributive justice: for the people who offer securities are put in the same category as those who offer none. The socialists make the moral being which they call society intervene in human affairs in exactly the same way as the ancients had their gods engage in them. Society, as they picture it in their romances, distributes subsistence and even wealth to all individuals; all the difference consists in having the manna come from the bank of the people, or the phalanstery, instead of descending from heaven. The people's bank having failed, and the phalanstery having aborted, we have to examine if it is possible, in the ordinary course of transactions, to establish any test or measure whatever of

the risk. This element of interest obeys no rules, even for a day, even for a given case; it is an affair of opinion, a question of individual chances. There is nothing in it which one can generalize sufficiently to establish an economic principle, or a legal regulation. The element of risk interposes still greater obstacles than does the element of rent, to any attempt to fix or limit the interest on money. — The third element of interest is thus defined by M. Aubréy, who, as a banker, could speak from acquaintance with the subject: "The instruments of labor only reach the laborers through intermediaries; this is the consequence of progress. Capital in the form of money, being an instrument of labor, is as much under the law of division of labor as capital in any other form. As every one knows, capital is put in motion and circulates by the aid of motive agents called banks; labor improves and prospers by reason of the activity and abundance with which capital circulates in these great reservoirs; but every one should also know how much accumulated wealth, moral power and dignity of character is necessary, properly to direct these credit institutions Now just these rare and valuable qualities, and this difficult and necessary labor in credit institutions, are remunerated by a charge for commission, which increases the interest on the capital furnished. M. Proudhon, in his people's bank, does not contest the legitimacy of this charge; for, when he decreed gratuitous credit, he reserved a discount of from 1 per cent. to 2 per cent. for expenses of administration. Is it possible to determine the measure of this third element? Evidently not. There are credit establishments of different kinds. The banker whose operations extend to millions in a day, takes only a very small commission and yet makes much money, while the petty dealer, who operates only with some thousands of francs, or with five-franc pieces, may charge a very high commission and yet earn but little; though he may give the same measure of his time and labor as the banker." — The above definition is neither complete nor altogether correct. Although it no more belongs to the government to regulate this part of interest than other parts, we must recognize that this contains an element more easy to estimate and less fluctuating. The institution of banks of circulation and discount has reduced the commission charge to small proportions, wherever their influence extends; yet even the state has a share in it, under the form of the stamp duty it puts on their notes. The commission charge of the intermediary bankers is often blended with the premium for risk: it is thus, for example, at Paris, where a discounter, for giving the third signature, and rendering a commercial bill acceptable at the bank of France, takes a premium or duty of 1 per cent., ¾ per cent. or ½ per cent. — In analyzing the elements of which interest is composed, we have seen that there is not one which gives a sure basis for estimating it. This has led M. Lherbette to say: "If you think there is a fixed, invariable basis for interest, why do you make it vary according to circumstances? and if you believe, on the contrary, that its basis is variable, why do you fix upon a rate from which the contracting parties shall not be allowed to vary according to the particular circumstances in which they find themselves and which they will understand better than you? In any case, if you determine to fix it, it will have to be continually modified; for circumstances constantly change; it would be necessary to establish mercurials for money as for bread." [The *mercurials* were registers of the price of grain and some other necessary provisions, and were formerly required to be kept in a public place in the market towns of France. E. J. L.] Even that would not be possible. The tax on bread embraces two or three qualities, of which it fixes the price by consulting the price of grain of corresponding quality; but the tax of interest does not depend on such simple calculations: in its case the rate in the mercurial would have to include as many qualities as there are particular situations, or individuals having recourse to credit. In the domain of credit, the list of classes is infinite: and this will infallibly baffle any pretension to a rule. Freedom in the matter of interest results not less from the powerlessness of the restrictive system than from the right which belongs to the contracting parties to dispose of their property as they think best. The experience of the past is here the most direct auxiliary of principles. — It is henceforth a recognized fact, thanks to the intelligence of our time, that interest on money is a legitimate value; why, then, should other conditions be imposed on it than on other values? When merchandise is in the warehouse or brought into market, its price is freely discussed between the buyer and seller; both find this method to their advantage; and the seller would carry away his goods as well as the buyer his money, if any one pretended to dictate to them the conditions of sale and purchase. In the matter of guarantees, both spurn the intervention of the state, and think themselves better off with free competition. Is there the least reason at all serious why trade in money should be excepted from the general law of trade? Sometimes society enjoys a tranquillity favorable to business, while again it passes through periods of monetary pressure in which every enterprise becomes difficult, and the activity of labor seems paralyzed. Money is sometimes scarce and sometimes abundant; the rent of capital must then vary, like any other value, according to circumstances. As to borrowers, they are not all equally solvent: on the contrary, they occupy, according to their morality, their reputation, and the competence they enjoy, various degrees in the scale of securities. Shall one say to a lender: "Whatever be the state of society, tranquil or disturbed; whatever be the abundance or scarcity of money; whether capital moves in full security or under the pressure of great anxiety; you shall loan your money on the same

conditions and to all"? That would be unjust and absurd; one of two things would inevitably happen: either the prohibition would not be regarded, or capital would be refused, and society would have to manage as it could, to live without credit. Let us change the hypothesis. If a limit may be imposed on the profits of money capital by establishing a maximum rate of interest for money, why may not a maximum be fixed for every species of revenues, all kinds of transactions, and every sort of merchandise? If it is forbidden to lend above a certain rate of interest, why should it not be prohibited to sell above a certain price? The people have a much greater interest in not paying a high price for wheat in time of scarcity, than in finding loans at a low rate of interest. If money capital must not bring its possessor more than a certain per cent. yearly, why should the profit from capital in machines, land or manufactures be unlimited? Suppose I lend my neighbor $20,000, with which he purchases a spinning mill which gives him an annual return of 50 per cent.; why should not I be permitted to obtain what interest I can for my capital, when the borrower who receives this capital from me is free to derive any profit he can therefrom? — It is claimed that the interest of money is an exception to the general rules of trade. M. Paillet said that property rights must yield, the same as others, to public utility; and he compared the prohibition to loan above a certain rate, with the interdiction to build within the line of fortresses, with expropriation for the public good, with the prohibition to clear land, with all measures, in short, which society takes to protect the weak against the strong. Political economy does not contest the right of society; but it denies its applicability in this case. What public interest requires the state to regulate the rent of money? We find none. In a theocratic government, where the state is everything and does everything, that would perhaps be conceivable. The priests in that case fix the price of provisions, the form of garments and the number of ablutions. People are not astonished to see them interfere in the system of industries, when they behold their authority reaching even to the domestic hearth. But since the industries have come forth from their swaddling bands, and citizens of the same state can freely trade with each other, it is the interest of each and all that trade in money should be as free as in other commodities. What would the ability to buy and sell products signify, without any other rule than the price resulting from the relation between demand and supply, if capital, which begets the products, were subject to different conditions on the market? Competition determines the rent of capital as well as the price of merchandise; and that alone can bring about and surely will bring about a fall in the rate of interest. Only chimerical or violently-disposed persons demand other methods. — The adherents of the doctrine of *the balance of trade* thought that money, instead of representing the capital in circulation, was the capital itself of each country. This is why they subjected money negotiations to special rules. It was with this feeling that M. Jaubert, who reported the law of 1807, said: "If commerce gives itself up to speculations in interest, it goes out of its way, and will in the end arrest the progress of industry." As if capital, or rather accumulated labor, was intended for anything else than to serve as a motor, and to procure profits for those who possess it. Communities live by tradition as much as by progress. We increase in stature because we rise on the shoulders of our fathers. Capital prepares the way for labor. The regulation of interest, as we know from the experience of our predecessors, is of no more service to labor than it is to capital. If it makes the latter unproductive, it prevents the former from development. But this system has consequences still more fatal to society than to the individual. It was decreed in France, by the law of 1850, that the maximum interest should remain fixed at 5 per cent. in civil matters. But that did not satisfy either M. Pelletier, who demanded money at 3 per cent., nor M. Proudhon, who aimed to reduce it to zero. The moment the people get the idea that it belongs to the law-making power to determine the rate of interest or to fix a limit to it, we are exposed to all the demands of anarchy. When the people, complaining rightly or wrongly of the hard times, come to demand a reduction in the annual interest, by what right can opposition be made? Will it be said, "We can not"? The legislators would then falsify their own action Will they respond, "We will not"? That would be opening the way to revolution. The people would withdraw to the Aventine Hill, claiming abolition of debts; or, perhaps, to avoid paying them, or to pay them in paper money, they will send to the legislature, as certain departments did in 1849, socialistic revolutionists. Regulating interest by legislation is the first step of society toward bankruptcy; for it is the substitution of arbitrary law for the right to make agreements freely. — Freedom in the matter of interest is proper for all peoples who have attained their majority and who are governed by laws of their own making: but it is especially appropriate in republics. Where the right of a citizen to take part in governmental affairs is recognized, he can not, without injustice and contradiction, be denied the power to regulate as he pleases his own affairs; to buy, sell, lend or borrow on such conditions as the market offers. The component parts of the sovereign power can not be held in tutelage. It is ridiculous that the law should stipulate for them as for aliens or prodigals put under an interdict. Let them not be called upon to deliberate on the nature and direction of the government, if they are judged incapable of comprehending and defending their true interests; or if that honor is accorded to their independence and intelligence, let the horizon of sovereignty be at least extended to private transactions and the domestic hearth. — The United States probably owe some measure of their prosperity to

the comparative freedom in the matter of interest. In New York discount has sometimes been taken as high as 18 per cent. per annum. At San Francisco money has been worth 4 per cent. or 5 per cent. a month. What matters it, after all, if those who borrow at this rate employ it so as to make still greater profits? — The rate of interest is generally in proportion to that of profits. Where industrial investments bring 12 per cent. to 15 per cent., it would be foolish to claim that one ought to borrow money at 4 per cent. to 5 per cent. The trade in money would, in fact, cease, if it could not take place under conditions similar to those prevailing in other industries. When, on the contrary, capital employed in agriculture and manufactures brings a return of 5 per cent. to 6 per cent., a moderate interest, say from 3½ per cent. to 4 per cent. is generally sufficient for the capitalist. Where the profits from agriculture are considerable, as in many of the western states, the remuneration of labor and of capital is high. Interest is high as well as wages. In Great Britain, on the contrary, where manufacturers, in order to become rich, must operate on immense quantities, the profit being very small on each fraction, capital obtains only a moderate interest. The abundance produced by the treasures accumulated by industry makes capital less in demand there than labor. — Harmony of these diverse functions in society can only result from liberty. It is liberty which has caused the growth of manufactures and has given wings to commerce. Liberty can alone regulate the interest of money, to the satisfaction of everybody. Capital can have no other master than itself; and its tyranny will be best avoided by not seeking to reduce it to slavery. A just balance will here arise from the relations naturally established between men and not from the laws they may be tempted to enact. — BIBLIOGRAPHY. *A Tract against the High Rate of Usury, etc.*, by Sir Thomas Colepeper, London, 1623, 4to; *Interest of Money Mistaken*—or, a treatise proving that a fall in interest is the effect and not the cause of the wealth of nations, London, 1668, 4to—(this treatise was written against the work by Child, who had maintained the opposite opinion); *Brief Observations concerning Trade and the Interest of Money*, by Josiah Child, London, 1668, 4to; *Usury Explained and Condemned by the Holy Scriptures and by Tradition*, by Father Thorentier, Paris, 1673, 12mo; *Treatise on the Practice among Merchants of dealing in Bills and Money Loans*, by a doctor of theology, 1684; *Treatise on Money Negotiations and Usury*, by Father Thomassin, Paris, 1697, 8vo; *Usury, Interest and the Profit derived from Loans*, or the ancient doctrine opposed to the new opinions, by J. Arthur de la Gibonays, Paris, 1710, 12mo; *Treatise on Commercial Loans*, by a doctor of the theological faculty at Paris, 1736; *Treatise on Commercial Loans*, or on legitimate and illegitimate interest on money, by Abbé Étienne Mignot, Paris, 1738, 1759, 1767, 4 vols., 12mo; *Dissertation on the Legitimacy of Interest on Money current in Trade*, by J. B. Gastumeau, Hague, 1750, 12mo; *An Essay on the Governing Causes of the Rate of Interest*, by Joseph Massie, London, 1750, 8vo; *Discourse for and against the Reduction of Interest on Money*, by Abbé J. P. de Gua de Malves, 1757, *Dialogue between Bail and Pontas*—a theological dissertation on usury; *Theological Dissertation on the Practice of Commercial Loans and on the three Contracts, against the author of the Dialogue between Bail and Pontas*, with a critical examination of the Letter of a Merchant on Loans, by Pierre Lecoq, Rouen, 1767, 12mo; *Recent Letters to a Friend on Usurious Commercial Loans*, by Abbé de la Porte, Amsterdam and Paris, 1769, 12mo; *Theological, Economical and Civil Principles in regard to Usury*, by Abbé de la Porte, Paris, 1769–72, 4 vols., 12mo; *Treatise on Usury*, serving as a reply to a letter on this subject, published in 1770 under the name of Prost de Rayer, and to the anonymous treatise on the same subject, by Étienne Souchet, Cologne, 1769, Paris and Berlin, 1776, 12mo, *Legitimacy of Legal Usury, in which its utility is proven*, by J Faiguet de Villeneuve, Amsterdam, 1770, 12mo; *Remarks on the Treatise on Usury and Interest* (by Abbé de La Forest, 1769), *with an Analysis of the Reflections on Commercial Loans* (1771), to serve as a supplement to the theological dissertation on usury, by Pierre Lecoq, Amsterdam, 1775, 12mo; *Means of extirpating Usury, or a Project for the establishment of a Public Bank for loaning upon all kinds of Property*, by a lawyer in the parliament (H Prévost de Saint Lucien), 1776–8, 12mo—(the establishment of the *mont de piété* was attributed to the effect produced by this book); *The Theory of Interest on Money derived from principles of Natural Law, Theology and Politics, against the abuse of the imputation of Usury*, by J. L. Gouttes, Paris, 1780, 12mo; *The Defender of Usury Confounded, or a Refutation of the Theory of Interest on Money*, by Abbé de la Porte (with a collection of the ordinances against usury, by Maultrot), Paris, 1782, 12mo; *Observations on Interest Loans in Commerce*, by the Abbé Prigent, Paris, 1783, 12mo; *The Defender of Usury Confounded once more by the Author of Principles of Usury, a Refutation of the Theory of Interest on Money*, by the Abbé de la Porte, Paris, 1786, 12mo; *Usury Laws*—or, an exposition of the impolicy of legal restraints on the terms of pecuniary bargains, by Jeremy Bentham, 1787; *The new Patrons of Usury Refuted, including the last defender of Calvin on the same subject*—a work dedicated to the states general, by the Abbé Rougane, Paris, 1789, 12 mo; *Memoir on Loaning at Interest*, by J Turgot, 1789; *Considerations on Loaning at Interest*, by M. * * * (Baron Ambroise Render), Jurist, Paris, 1806, 8vo; *Memoir honored with a Prize by the Academie du Gard, on this question: To determine the principle of Interest on Money, and its relation to Morals*, by J D. Meyer, Amsterdam, 1808, 8vo; *Elucidation of Loans, Usury and Trade in Money*, by Abbé Remi Pothier, Rheims, 1809; *Considerations on the Rate of Interest*, by E. B. Sugden, London,

1817, 8vo; *Report by and Evidence taken before the Select Committee of the House of Commons on the Usury Law*, London, 1818, folio; *Dissertation on Commercial Loans*, by Card. C. G. de la Luzerne, Dijon, 1823, 3 vols., 8vo; *Dissertation on Contracts for Annuities*, followed by some observations on two decisions on the matter of usury paid at Paris, by Cardinal Caprara, (Pagès, 1816), Lyons, 1823; *Reflections on the Speech of the Chairman of the Commission for the Reduction of Interest*, by P. Pelegrin, Paris, 1824, 8vo; *On the Rate of Interest on Money, and its Reduction*, by A. J. E. Baconnière-Salverte, Paris, 1824, 8vo; *Explanation of a simple Means of reducing the Rate of Interest on the Public Funds in France*, by André D. Laffon de Ladébat, Paris, 1825, 8vo; *Dissertation on Loans at Interest*—an explanation of the circumstances which justify taking interest, by Abbé E. Pagès, Paris and Lyons, 1826, 8vo; *Treatise on Usury in Civil and Commercial Transactions*, by F.-X. P. Garnier, Paris, 1826, 12mo; *Usury Considered in its Relations to Political Economy, Public Morals and Legislation*—or, the necessity of repealing the Law of Sept. 3, 1807, and modifying Art. 1907 of the Civil Code, by Ch. Lucas, Paris, 1829, 8mo, pamphlet; *Discussion on Usury*, where it is demonstrated that moderate usury is neither contrary to the Holy Scripture, nor to natural law, etc., by Abbé Mastrolini, (translated into French from the 4th Italian edition, by the Canon of Annecy, and supplemented by a collection of the decisions of the Holy See on usury), Lyons, 1834, 8vo; *Investigations made by the English Parliament in* 1838 *and* 1841 *on the effects produced by the Laws in regard to Usury; Monts de Piété* (pawnbrokers' shops) *and Banks which loan on Pledges*, by M. A. Blaise, Paris, 1843, 1 vol., 8vo; *Observations on the Usury Laws*, by J. B. Byle, Serjeant at Law, (London?) 1845; *Gratuitous Credit*—a discussion between Bastiat and Proudhon, Paris, 1850, 1 vol., 16mo; *Obstacles to Credit*—considerations submitted to the commission of the legislative assembly, who examine the proposition of M. de Saint-Priest on usury, by J. Beauvais, Merchant, Paris, 1850, 8vo, pamphlet; *Manual for Debates on Usury, Crédit Foncier* (*i e.*, loans secured by mortgage of real estate), *Finance, etc.*—a summary of the labors of the greatest thinkers, applied to France by a system immediately practicable, by Albert Polonius, Paris, 1850, 1 vol., 8vo; *The Question of Usury*, by Saint-Priest; *Report of the Commission appointed to examine the Proposition of M. Felix de Saint-Priest on the Crime of Usury*, by M. Paillet. The *Moniteur* of those times contains the speeches of MM. Aubrÿ (of the Vosges), Sainte-Beuve, Lherbette and Léon Faucher; in favor of the proposition by MM. Paillet, Saint-Priest and Corsan. Other writers have treated the subject of usury incidentally, among whom may be named Plutarch, *Against Borrowing for Interest;* Saumaise, *Four Treatises on Usury*, in Latin; Dumoulin, *On Usuries;* Voodt, *De Pœnore;* Scaccia, *Questions;* Montesquieu, *Spirit of Laws;* D. Hume, *Essay on the Interest of Money* (1752); Pothier, *Loans, Contracts of Sale;* M. Frémery, *Studies in Commercial Law;* Thieriet, *Dissertation on Loans at Interest.* To the above should be added: *Some Considerations of the Consequences of the Lowering of Interest and Raising the Value of Money*, by John Locke, 18mo, London, 1692; *An Essay on the Law of Usury*, by Mark Ord, Hartford, 1809, 8vo; *Interest made Equity*, by J. R. M'Culloch, N. Y., 1826; *A Summary of the History and Law of Usury*, with an examination of the Policy of the existing System, by J. B. Kelly, 8vo, Philadelphia, 1853; *The History of Usury from the Earliest Period to the Present Time*, together with a brief statement of general principles concerning the conflict of laws in different states and countries, and an examination into the policy of Laws on Usury, and their effect upon Commerce, by J. B. C. Murray, Philadelphia, 1866, 8vo; *Labor and Loans at Interest*, by Ch. le Lièvre, Paris (?); *Labor and Usury in Ancient Times*, by Ch. le Lièvre; *Loans at Interest*, by L. F. Vignon; *A Treatise on the Law of Usury, Pawns or Pledges, and Maritime Loans*, by R. H. Tyler, Albany, 1873, 8vo; *Free Trade in Money the Great and Principal Cause of Fraud, Poverty and Ruin: Stringent Usury Laws the best defense of the People against Hard Times, etc.*, by J. Whipple, Boston, 1878, 8vo, paper; *Encyclopedia of Commerce*, article *Interest*, by Smith Homans; Appleton's *Encyclopædia*, Johnson's *Encyclopædia*, *Encyclopædia Britannica*, article *Interest*. See also Poole's *Index to Periodical Literature*, under *Usury* and *Usury Laws;* also Saml. Jones Loyd's *Testimony on Banks of Issue before the Select Committee of the House of Commons in* 1840, queries 2841 and 2842; J. S. Mill's *Political Economy*, book iii., chap. xxiii.; H. D. Macleod's *Principles of Economics*, vol. i., pp. 215–219; *Science of Wealth*, by Amasa Walker, book iv., chap. vi.; Roscher's *Political Economy*, book iii., chap. iv.; *Usury Laws: their Nature, Expediency and Influence*—opinions of Jeremy Bentham and John Calvin, with review of the existing situation and recent experience of the United States, by Richard H. Dana, Jr., David A. Wells, and others, (Econ. Tracts, No. IV., series of 1880–81, N. Y., Society for Political Education); *Essay on the History and Legislation on Usury*, by Liégeois, Paris, 1863; *Interest on Money and Usury*, by M. Sabrau, Paris, 1865; *Freedom of Money*—official investigation into the project of repealing the laws which prohibit usury, by M. Dulae, Paris, 1865; *Usury and Finance in relation to the Law of* 1807, by M. Gorse, Paris, 1865.

LÉON FAUCHER.

E. J. L., *Tr*

INTEREST, after the Historical Method. Several distinct yet fundamentally related inquiries arise with respect to interest. What are the causes that determine in a given age and country its general or average rate? What are the causes that determine its tendency to rise, to fall, or to remain stationary in the progress of society? What are the causes that determine its temporary

fluctuations?—The causes determining its average rate have differed essentially in different ages and even in different parts of the same country in the same age. At a primitive social stage interest was unknown, and when the practice of exacting it emerged, it was considered immoral and generally prohibited by law. Archbishop Whately incorrectly defined man as an exchanging animal; exchanges did not take place in the earlier communistic stages of human progress. For a similar reason man can not be defined as an animal that pays interest on loans. The owner of superfluous wealth was in primitive times considered bound to lend it or give it gratuitously to any one in need; a distinct conception of individual proprietary right not having been developed. It was not until late in the reign of Henry VIII. that the payment of interest was legalized in England; a maximum rate of 10 per cent. being at the same time fixed. Before this act the receipt of interest was branded as usury, and contrary to both the common law and the canon law; although social exigencies, stronger than law, had in the later middle ages firmly established the practice of paying it, subject, however, to very different conditions throughout the country generally on the one hand and among mercantile people in the principal towns on the other.—Throughout the country generally, there was but little accumulation in the middle ages. If we take the produce of taxes as evidence, the pecuniary value of the whole movable property of England during the thirteenth and fourteenth centuries never amounted to a million. So late as 1523, it was estimated in parliament that all the movable wealth of the kingdom, money included, was under the value of three millions. A case, indeed, is reported in one of the year books of the reign of Edward III. from which it would appear that a deceased person had left goods and chattels to the value of 200,000 marks (£133,333), of which his widow claimed a moiety; but the amount is incredible, and is probably ascribable to some mistake of a copyist in the numerals. But if there was little accumulation, there was still less loanable capital. The great mediæval landowner was commonly needy, and his accumulations, if any, took the form not of loanable capital but of castles or manor houses, cattle, sheep, horses, arms, clothing, together with some plate and jewelry. One of the most instructive inquiries in economic history relates to the forms of accumulation in different states of society and different countries, and their causes; and it is an inquiry closely connected with variations in the rate of interest. One can without difficulty understand that the feudal lord built strong and imposing dwellings for power, consequence and security; and his possessions in cattle may also be easily explained. They were the natural produce of his land, and they fed a host of dependents in his hall. But if he rarely amassed money, it was not that the love of money was not strong in his breast, but because it was so scarce that even a thrifty noble with immense landed estates found it hard to procure. From the reign of Edward I. to the accession of Henry VIII. the entire amount of silver loaned in England was below £1,200,000, and the drain of money to the continent, especially by the papal court, during that period, was relatively enormous. Hence there was little money to lend in the country. Land, houses, cattle, sheep, and such kinds of property, movable or immovable, did not constitute loanable wealth. Loans, too, could not be effected by means of credit; the actual intervention of coin was necessary, and few persons had sums by them to put out at interest. The risk of the penalties on usury, and the rigor of the terms extorted by lenders under various covert devices, contributed to the difficulty of procuring loans, but the scarcity of money was a principal cause of the exorbitant rates of interest prevailing throughout Europe in the middle ages. Payments even to mercantile people in London itself were sometimes made partly in skins for lack of coin. Had banking and instruments of credit made it possible to effect loans without money, much lower rates of interest might have prevailed in spite of the penalties on usury. Hence the fall in the rate of interest in England, in the latter part of the sixteenth century, was undoubtedly caused in a great measure by the increase in the accumulation of money and the greater quantity entering the loan market after the influx of the precious metals from the mines of Potosi and the new coinage of Elizabeth's reign. In later times the growth of a system of credit has added so vastly in effect to the amount of loanable capital, that, unless in critical times when credit collapses, the quantity of loanable coin has no appreciable influence on the rate of interest, and would hardly be missed from the loan market.—It should be added, with respect to mediæval interest, that the customs of trade at length established in the commercial towns a rate with which the ordinary tribunals did not interfere. In England, in the reign of Edward III., the customary rate in London was 10 per cent., or half the customary rate of profit. We find here the emergence of the condition which in modern times has become the dominant one determining ordinary interest, but which in the middle ages operated only among the small number of trading people in towns, namely, the rate of commercial profit. The ordinary borrower in old times did not borrow to make profit, but because he was in immediate need of money to pay his debts. In modern times the fluctuations of interest are often caused by borrowing, irrespective of profit, on the part of persons or governments in immediate want of advances; but unless in critical states of trade, or on other extraordinary occasions, modern borrowing is chiefly on the part of people in business seeking to make profit on the capital thus obtained, and the interest they can pay is accordingly limited by the profit they can make. Thus, one of the fundamental differences between the causes determin-

ing mediæval and modern interest is, that the greater part of the capital lent in our age is lent to producers, and the main source of interest is the profit they make on production. There are still some unproductive private borrowers, and governments may pay interest out of taxes, but the general rate is determined by a commercial or industrial standard. — There is no other country in the civilized world in which the modern movements of interest, and the conditions affecting them, can be so advantageously studied as in the United States. Here the causes governing the rates in both old and new countries, and the course they follow as social and economic progress advances, can be investigated together. For, relatively speaking, the eastern states form an old country, the western states a new one; and again in the latter we can observe new regions at different stages of early development. The salient facts as regards interest are, in the first place, in the eastern states an average rate of interest not much above that prevailing in the chief countries of Europe; secondly, in the newest regions of the west an extraordinarily high rate, which has sometimes reached 25 per cent.; thirdly, a fall of interest in these new regions after cultivation and industrial development have gained considerable ground. To understand the significance of these economic phenomena we must take in connection with them some others no less remarkable. Wages, too, are found at their highest point in the new regions of the west at the beginning of their industrial career; they are lowest in the long settled eastern states; and they begin to decline in the western states when the first stage of their development has been passed. The explanation of the concurrent phenomena thus exhibited in the movements of interest and wages is simple. With the aid of the scantiest supply of capital the first Californian gold diggers might count on winning, on an average, an ounce of the precious metal, equal to sixteen dollars, a day. The first farmers could raise enormous cereal crops by merely plowing and sowing; and horses and herds, which they had only to take possession of, covered rich natural grass lands. Out of such returns both high wages and high interest could easily be afforded, and the scarcity of capital enabled lenders to exact a considerable proportion of the whole produce. But when the cream, as it were, had been skimmed by the first comers, both capital and labor had to content themselves with a poorer and harder earned yield. Gold was no longer to be won by mere digging, and needed deep and costly mining. The soil was found to require irrigation after a few crops had been raised, and even manure came into request. Not a herd was to be seen on the plains that was not marked with an owner's name. Capital was no longer scarce, but the returns were comparatively scanty. Nature did less and less to assist the advance of each successive wave of immigrants, until the difference between the productiveness of capital and labor in the new state and the old eastern states became one only of degree, not of kind. — It is objected, however, to this simple explanation of the phenomena of the coexistence of extraordinary high interest and extraordinary high wages in new and naturally prolific regions, and of the decline of both as such regions are peopled, brought under cultivation and developed by capital, so as to begin to display the features of long settled and advanced states, that the productiveness of labor and capital, that is to say, their wealth-producing power, is not less but greater in old than in new countries. In old countries, it is argued, the subdivision of labor is carried to a much farther point and directed with much greater skill, and their wealth is such that they not only support a large unproductive population, but have a numerous and rich idle class, whereas in new countries in their earliest stage every one is a producer. The richest states of America, it is pointed out, are not the western but the eastern, and the richest state in the world is Great Britain, with natural resources far inferior to those of Mexico or Brazil But the single fact that labor and capital desert Great Britain for new countries affords conclusive proof that they are more productive, and therefore find more remunerative employment, in the latter. The wealth of England is no doubt greater than that of any new country, but a great part of its wealth is made not in England but in the very new countries in question. And the total wealth of England would be much less than it is, were the returns to English capital no greater in any other region than in England itself. England is rich because, on the one hand, it reaps harvests all over the world, and gathers the produce together into its granaries, and because, on the other hand, the aggregate capital it employs in production transcends calculation, although part of it yields but scanty returns from poor soils and inferior mines. A million might return 25 per cent. to the Californian corn grower and only 5 per cent. to the farmer in Middlesex, yet if for every million in California, there be a hundred millions in Middlesex, with London in its midst, Middlesex may have a revenue equal to that of twenty Californias; no inconsiderable fraction of it being, perhaps, actually drawn from California. — In these facts we find also a refutation of the theory that the appropriations of land and the growth of rent are the causes of the decline of interest in new countries in proportion as cultivation, industrial progress and population advance. When the farmer and the miner are compelled to resort to much more laborious and costly methods than those by which they gathered the first fruits that Nature laid at their feet, wages, profit and interest must decline, whether land be appropriated or not, and whether there be or not some fortunate owners of virgin soil and rich deposits of gold, from which a large rent can be drawn. There might be no rent, were all the more fertile soils and mines so exhausted that capital and labor were driven altogether to parts

of the new state which the earlier immigrants had passed by with contempt, but the absence of rent would not prevent a fall of both wages and profit, and of the interest which the lender of capital derives from the gross profit it yields. To call the rise of rent the cause of the fall of interest, is to mistake the effect for the cause. As population advances, land with inferior natural powers or advantages is resorted to, and superior fields for the employment of labor and capital can thus afford a rent. Whether this rent is appropriated by the central government, or belongs to the first settlers, wages and interest must fall. It is true that were the government to become the sole landowner, its revenue in rent might enable it to dispense with taxation, thereby setting trade free from fiscal burdens and fetters, and so raising indirectly the return to labor and capital. But this would be the result of the absence of taxes and restraints on production and commerce, not of the absence of rent. — The general rate and movement of interest thus depend mainly on the profit which the capital employed in production holds out, and the movement will be downward as resort to less productive natural resources becomes requisite, unless science and art supply the deficit created by the failure of the bounty of nature In the infancy of their development new countries afford a rate of interest which will never again be attained in later stages of their career, but whether interest must continue to decline throughout every stage of social advancement, is a question that can not be decisively answered, because the resources of science and art and the future powers of production of the human mind are beyond prediction. The human mind is a source to which capital may look for profit after some of the chief material sources at present known shall have begun to fail. — Although, however, the rate of profit determines the limit or maximum of interest, because the managers or employers of borrowed capital can not pay more than they make by its use and must reserve part for their own remuneration, it does not determine either the proportion of gross profit that interest absorbs, or the temporary fluctuations of the latter, which often bear no relation to profit. The proportions of profit falling to the share of lenders as interest depends on the amount of loanable capital, on the one hand, and the demand for it on the part of both productive and unproductive borrowers, on the other hand. A high rate of interest tends to diminish the number of persons engaged in business and employing their own capital, and therefore increases the supply of loanable capital; while a low rate forces a greater number of capitalists to employ it themselves and to add the remuneration of management to interest, and thereby diminishes the supply feeding the loan market. — Temporary fluctuations of the rate of interest result from a variety of causes, of which the chief is the state of credit. In ordinary times considerable loans are for the most part effected without the intervention of money in the proper sense of the term, but when credit collapses, nothing but cash is an available medium. The need of loans on the part of traders in difficulty becomes at the same time more and more urgent in proportion as credit contracts, so that at such periods the interest even people in business are ready to offer may bear no relation to the rate of profit in commerce. There are occasions, too, on which an urgent demand on the part, not of people in trade but of governments, is the chief condition operating on the loan market, and trade profit here again supplies no standard by which to estimate the terms on which loans are effected. Many other causes produce sudden divergences of interest from the rate which the standard of commercial profit would fix. The supply of money at call, for instance, may be abundant, and loans for a few days be obtained at little above 1 per cent., while the rate of discount on advances for three months may exceed 3 per cent. — It must not be forgotten that the profit which trade offers is, after all, speculative only; it holds out, not a certainty, but a probability or expectation. The interest, therefore, which lenders of capital can look for is likewise speculative or probable only. Nevertheless this speculative interest is the principal condition governing the rate on the safest investments, such as the government stocks of countries like the United States, Great Britain and France, and determining their price in the market. If a man has drawn a ticket in a lottery which gives him an even chance of winning $100, the ticket is worth $50, and he is not likely to part with it for $40. In like manner, if he has a probability of making 20 per cent. on an investment in trade, he will give only half the price for government stock that he might have given were 10 per cent only the expectation, on equal probability, held out by trade.

T. E. Cliffe Leslie.

INTERESTS, Moral and Material. Man can not do without bread, and the expression of this daily need forms part of the short prayer which Jesus himself taught his first followers; but it is equally true that man does not live by bread alone. He is composed of two elements, soul and body, intellect and matter; and this duality of his nature involves a duality of desires and appetites, one belonging to his soul, the other to his body; hence also that duality of interests which are qualified as *moral* and *material*, the former tending to the more and more complete satisfaction of certain spiritual wants, and the latter to the acquisition of the greatest possible amount of physical well-being. — Moral interests are to-day understood to mean the practical advantages which result from the progress of sound public education and advancement in the philosophical and moral sciences; and by material interests are meant the developments made by human industry and the conquests which the progress of the natural and physical sciences necessarily

secures for it. These two kinds of interests are then, in their final analysis, the two terms of the great synthesis expressed by the word *civilization*. Hence, it is in this same sense that it has been said that "the two great means of advancing civilization are to propagate morality and industry, in order to render customs more benevolent and competency more general;" and moral civilization has been defined "the sum of the faith, laws, manners and virtues of a people, that is to say, the very end of the existence of nations;" and material civilization "the progressive development of trades and arts purely manual, or of industry."—Bossuet says, in speaking of the Egyptians, whom we may style civilization's first-born, "they knew from the first *the true end of politics, which is to render life comfortable, and the people happy.*"—No one says to-day, with J. J. Rousseau, that "everything is good when it leaves the hands of the Creator, but everything degenerates in the hands of man;" no one any longer maintains, with him, that man necessarily recedes, in a moral point of view, every time that he makes a step forward in the way of material civilization. No one now refers us back to savage life as an ideal of happiness, from which we are to be every day farther and farther removed; and the golden age which the poets showed us in the past, at the beginning of the existence of our race, is henceforth to be seen only in the future, as the end and recompense of man's efforts through the ages. Indeed, moral and material interests are not contrary one to the other, nor even essentially distinct. It is not true that the easy life, as Bossuet says, or the prosperity and morality of a people, are exclusive of one another, and that material well-being is developed only at the expense of public morality. It can not be truthfully said that men become morally corrupt in proportion as their condition improves materially, and that their civilization, so brilliant on the surface, is at bottom nothing but rottenness. This has been already absolutely demonstrated by the distinguished economist, de Molinari. — "In the first place," says this illustrious writer, "the history of civilization proves that those branches of human knowledge which contribute to the moral improvement of mankind, develop no less rapidly than those which tend to increase his material prosperity. Religion, for example, has, through the course of ages, improved and refined itself, and thereby exerted a more efficacious influence over man's morals. In this respect how far superior is Christianity to paganism! And can we not easily perceive a progress even in Christianity? Is not the Christian religion of to-day a more perfect instrument of moral development than it was at the time of St. Dominic and Torquemada? Do not the philosophical sciences, and especially political economy, succeed every day more effectually in rendering men more moral by showing them more and more clearly that the observance of the laws of morality is an essential condition of their happiness? In the second place, ought not material progress, far from being an obstacle to the moral development of the human species, contribute, on the contrary, to hasten it? Should it not, by rendering labor more fruitful, diminish the intensity and the frequency of the temptations which urge him to violate the laws of morality in order to satisfy his material appetites? Besides, these inductions, drawn from the observation of our nature, are confirmed by experience. The records of crime prove that the poor, other things being equal, are guilty of a greater number of crimes than the rich; they prove also that base criminality and crimes diminish in proportion as comfortable circumstances become more general in the lower walks of life The objection of a pretended demoralization of the nation occasioned by the development of material well-being, is therefore at variance with observation and experience."—In fact, we can not see how the improvement of the conditions of our terrestrial existence, the invention of gunpowder, the discovery of printing, the innumerable applications of steam and electricity—we are at a loss to imagine how all these marvels of material progress, which have renewed the face of the earth, can be of themselves and virtually causes of corruption and moral decline. Is it not rather whatever binds man to the earth, whatever renders him dependent upon man, that is to say, slavery, that renders him brutal and degraded? Is it not whatever frees him from the fetters of matter, whatever emancipates him, that is to say, liberty, that elevates him and renders him capable of perfection? Does not the philosophy of history show that every revolution accomplished in the domain of industry is followed sooner or later by a corresponding moral progress? We say sooner or later, and it is in these words we must seek an explanation of the apparent contradictions which the gradual development of material and moral interests sometimes presents. This development is not always simultaneous and immediate on both sides. Moral progress, rendered possible by material progress, does not always go hand in hand with it; it delays sometimes, and it has its periods of interruption, but it infallibly follows material progress. To cite only one example, does any one believe that railroads, those powerful agents of equality and sociability among men, have already borne all the fruit that their establishment and actual extent render it possible for them to bear? Certainly not; but these are merely temporary inequalities, which will, when the time comes, be changed into brilliant harmonies. — If we but cast a glance at the comparative state of nations during the different phases through which they pass during even a single century, we shall readily appreciate, as in a tableau, this unequal but parallel and sure march of the progress of the human mind, this general equilibrium, which never fails to show itself, sooner or later, between the material and the moral interests of each country and of different na

tions considered in their entirety. We often hear our age reproached with its "worship of material interests," as if material interests were not worshiped in all ages, or as if our times alone were guilty of selfishness, thirst for gain and love of pleasure. We find these reproaches even in writers who, some pages further on, undertake to demonstrate that man is everywhere and always the same, that his surroundings change, but not his passions; and they support their doctrine by other analogous truths, which are the best refutation of our pretended exceptional perversity. For, as every one knows, the "worship" of material interests necessarily goes hand in hand with corruption. Now, we ask any one that has ever opened a volume of history, whether material interests and corruption are more prevalent in the nineteenth century than they were in the time of Louis XV., or of the regent, or of Louis XIV., or of the league, or of Louis XI., or when priests did not know how to read, or, finally, than among the Romans and Greeks. While writing these lines, facts crowd into our memory which demonstrate that men's passions have remained the same, that their expression alone is modified, and, thanks to the progress of education, improved. — In fact, the only difference there is between the past and the present is, that we have one additional means of restraining men's passions, or of moderating them, or of forcing them to conceal themselves. And it must be remarked that, *in default of a higher motive*, it is better that men should conceal their vices out of human respect, or for any similar reason, than flaunt them boldly before the eyes of all. The community is thus spared corruption by bad example at least; and besides, restraint is thus put upon one's self, and the number of one's defects lessened. This means is public opinion. There has existed a public opinion at all times, but its action was very restricted. There were at first very few educated men, and between the opinions of the learned and the ignorant there was an abyss. The invention of printing, the creation of a daily press, the diffusion of education, have increased a hundred-fold the force of public opinion. Public opinion has become a check upon evil, a stimulant to good, and as the average of education has been raised, which means that education is enjoyed by millions of individuals who were formerly left groping in superstition, and in the fanaticism which springs therefrom; as the average of education has been increased, we say, men know better how to distinguish good from evil, and this knowledge is frequently all that is needed to determine their choice. — This century is reproached with the worship of material interests! But this worship has never existed in a less degree than now. Material interests can never be suppressed. So long as we have material wants, we shall have material interests, and if the progress of the sciences renders it possible to more than satisfy these interests; if physics, chemistry and mechanics multiply wealth, so much the better, for wealth increases education, and education strengthens morality. Our opponents think they have closed the discussion when they have spoken of stock-speculations and luxury; but did not our forefathers dabble in stock-speculations? It is true that they did not speculate in railroad stock in the time of Cicero. As to luxury, you will find it in the stone age, for what else but luxury are those rude designs that embellish the ancient relics of this period? Luxury and art go hand in hand, and just as poetry preceded prose, so also has art preceded science. Who knows but that our most important inventions are due to the need we feel of embellishing what surrounds us. — To sum up, if vice unfortunately abounds in our day, it is certainly less wide-spread than formerly. No matter what may be said to the contrary, our age is more disposed to sacrifice material to moral interests than any that has preceded it, for formerly the very name of virtue was unknown to the uneducated masses; in the middle ages, the idea of fatherland was but very little diffused; the political passions that play so important a part in our time were scarcely known; in fine, the very idea of moral interests is modern. An epoch should not be judged by certain prominent and exceptional facts; we must examine it in its entirety, deliberately and impartially. We allow ourselves to be too much impressed by certain kinds of opposition, and take certain sayings too literally; it is not possible that we are worse than our fathers; sound reason and facts concur in refuting such assertions; but everything imposes upon us the duty of using every effort to make our children better than we are ourselves.

MAURICE BLOCK.

INTERIOR, Department of the. While every European government has long had its ministry of the interior, or department of internal affairs, it was not until 1849 that the United States established what is called in the title of the act (though nowhere else), the home department. Up to that time the important functions now exercised by the secretary of the interior were distributed among four other departments of the government: the secretary of state had charge of patents, copyrights, the census, and public documents; the secretary of the treasury had the business of the public lands, mines and mining, and judicial accounts; Indian affairs were in charge of the war department, and the business of pensions was divided between the secretary of war and the secretary of the navy. All these varied departments of the public business (except copyrights), to which were added by subsequent laws the bureau of education, the Pacific railways, the public surveys, the territories, and the charge of certain charitable institutions in the District of Columbia, were assigned to the secretary of the interior by act of March 3, 1849. (9 Stat. at Large, 395).— The secretary of the interior is appointed by the president and

senate, salary $8,000, and is by custom, though not by law, one of the seven members of the cabinet. He is required to make an annual report as to the public documents received and distributed under general laws, and he makes frequent special reports to congress, on call of either house or otherwise, concerning the business of any of the half-dozen bureaus subject to his supervision. All communications to the president or to congress from the heads of these bureaus are required to pass through his hands.—There are in the interior department, besides the clerical force attached to each bureau, an assistant secretary of the interior, salary, $3,500; a chief clerk, salary, $2,750; and 103 clerks, laborers and watchmen, drawing, in aggregate salaries, $115,190 per annum. There is also an assistant attorney general for the interior department, with five clerks, whose salaries aggregate $9,450 per annum. The secretary's office has seven divisions, each with a chief and clerks attached, these are known as those of appointments, of disbursements, lands and railroads, Indian affairs, pensions and miscellaneous, public documents, and stationery and printing. The vast extent and variety of the public business which passes through the office of the secretary of the interior demands executive abilities of the highest order in the head of that office. The rapid territorial development of the country, the public geological and mineralogical surveys, the sales, settlement and surveys of the public lands, the legal relations of the transcontinental railroads to the government, the care of the great Indian population with the purchase of their supplies, the execution of treaties with the tribes and the constantly recurring removals of the aborigines, the enormous business of pensions for army and navy service, the great and rapidly increasing business of patents for inventions, the census office with its periodically recurring and complicated labors, the custody and distribution of the vast series of public documents, the charge of hospitals and asylums at the seat of government; these and other weighty public interests demand a comprehensive skill, wide legal and general knowledge, and prompt capacity for business scarcely paralleled by any other department of the government service. While the heads of the various bureaus in the interior department have entire charge in detail of the business belonging to their offices, the secretary of the interior has the ultimate decision of all questions involving government action, with few exceptions. The secretary has also the power of appointing the clerks and subordinate officers in most of the bureaus, thus constituting a large patronage. All patents issued in the name of the United States must be signed by the secretary of the interior.—The multifarious business of the department of the interior, originally concentrated into one extensive building near the centre of Washington city, has expanded so prodigiously as to require many of its bureaus and more than half its official employés to be colonized in other localities. The bureau of education has its offices opposite; the geological survey is established at the National Museum; the pension bureau occupies a large building on Pennsylvania avenue; and the various divisions of the census office are distributed in rented buildings elsewhere.—The following is a list of the secretaries of the interior from the first, with the time of their respective appointments:

1.	Thomas Ewing	March 8, 1849
2.	Alex. H. H. Stuart	Sept. 12, 1850
3.	Robert McClelland	March 7, 1853
4.	Jacob Thompson	March 6, 1857
5.	Caleb B. Smith	March 5, 1861
6.	John P. Usher*	Jan. 8, 1863
	"	March 4, 1865
	"	April 15, 1865
7.	James Harlan	May 15, 1865
8.	Orville H. Browning	July 27, 1866
9.	Jacob D Cox	March 5, 1869
10.	Columbus Delano*	Nov. 1, 1870
	"	March 4, 1873
11.	Zachariah Chandler	Oct. 19, 1875
12.	Carl Schurz	March 12, 1877
13.	Samuel J. Kirkwood	March 5, 1881
14.	Henry M. Teller	April 6, 1882

* Reappointed.

A. R. SPOFFORD.

INTERNAL IMPROVEMENTS (IN U. S. HISTORY), a party question in the United States from 1820 until 1860. There has been very little objection to internal improvements where the jurisdiction of the improved property passes to the United States, as in case of lighthouses, forts, etc. The opposition has been to improvements where the jurisdiction has remained in the states, as in case of canals, rivers, harbors, etc.—I. 1789–1820. Under the articles of confederation each state exercised the right to control commerce, to levy duties, and to expend the proceeds at its discretion, with the proviso that the imposts or duties should not be levied upon the property "of the United States or either of them," should not conflict with treaties of the United States already concluded or provided for, and should not prevent the transfer to other states of goods imported.—In the convention of 1787, Sept 15, after the control of commerce had been given to the federal government, a provision was offered that "no state shall be restrained from laying duties of tonnage for the purpose of clearing harbors and erecting lighthouses." It was at once suggested that there were other purposes for which tonnage duties might conveniently be levied by the states; and the provision was altered to the more general form, "no state shall, without the consent of congress, lay any duty of tonnage." It was then incorporated into article one, section ten, paragraph three, of the constitution as it now stands. (See CONSTITUTION.) The intention of this provision is very evident, if we consider its original form, as above given, the geographical position of the states which then composed the Union, and the practice under it for thirty years. Every state, at the time, had seacoast, a seaport or seaports, and ocean commerce, more or less important. It was not until 1791 that Vermont, the first entirely inland state, was admitted. The original intention of the

constitution, then, was that each state should control entirely the improvement of its own seaports, levying for that purpose duties upon the commerce which should enter them; but that the consent of congress should first be obtained, in order to guard against abuses — This was for many years the invariable practice. Whenever a state wished to improve any of its seaports or navigable rivers, its legislature passed an act to levy tonnage duties upon the commerce of the place to be improved; an act of congress approved the levy, for a limited time, and gave it validity; and the proceeds were expended under the direction of the state. One act of this nature, passed by Maryland in 1790, was continued in force until 1850, by successive "assents" of congress. There is no instance during this period, nor, indeed, until the act of March 3, 1823, hereafter referred to, of the expenditure of the national revenues for the improvement of rivers and harbors. Two "assenting" acts of congress are cited among the authorities, as instances of the practice during this period; the whole number (34) is too large for special reference to each. All the "internal improvements" provided for on the coast during this period were those in which the jurisdiction remained in the United States, such as "lighthouses, beacons, buoys, and public piers," for which congress appropriated money steadily after Aug. 7, 1789. These appropriations required as a prerequisite that the states should cede the sites of lighthouses, etc.— Since the original thirteen states ratified the constitution, no other states fronting on the ocean have been admitted, excepting Maine and Florida on the Atlantic, and California and Oregon on the Pacific. During the remainder of this period nine new states were admitted, all of which were growing rapidly, and none of which touched the Atlantic. This rapid influx of inland representation into congress soon began to work a change in the original conception of the powers of that body as to internal improvements. It seemed unfair that states which possessed seaports should be allowed to provide for internal improvements by levying duties, to be paid ultimately by inland consumers, while inland states should be left to make their necessary internal improvements at their own expense. In 1806 this idea took shape in a provision for a great turnpike road, to be built at national expense. (See CUMBERLAND ROAD.) It was to penetrate the western states and be the means of transmitting emigrants and mails in peace, and troops in war. Its constitutionality was variously defended upon the ground of the powers of congress "to provide for the common defense," "to establish post roads," and "to pass laws necessary and proper for carrying into execution" the foregoing powers; but the system found then, as it has always since found, a solider justification in the idea of "an equal division of benefits." In this instance the division recognized both the northwest and the southwest, for the bill for the Cumberland road was balanced by a bill for opening a road through Georgia on the route to New Orleans. From this time for thirty years bills for the construction of roads through the various territories were passed in great abundance. In congress it was first suggested by Henry Clay in the senate, Jan. 12, 1807, that a quantity of public land should be appropriated for the construction of a canal around the falls of the Ohio; and a bill for that purpose passed the senate, Feb. 28, but was not considered in the house. March 2, a senate resolution called on the secretary of the treasury for a plan for opening roads, canals, etc., at national expense. April 4, 1808, Gallatin submitted a voluminous report recommending a system of roads to cost $16,000,000. It was not acted upon. — From the beginning the constitutionality of appropriations for the construction of roads was warmly denied, and by none more steadily than by the successive presidents, Jefferson, Madison and Monroe. All of them refused to be convinced that the building of roads in different parts of the country was such a matter of "general welfare" as to justify the expenditure of the public moneys. All of them, however, approved the advisability of such measures, if they could be constitutionally effected, and urged an amendment to the constitution, to give congress the doubted power. (See CONSTITUTION, III., B. 3.) But in deference to the scruples of the presidents the roads were built through the territories, or, where they passed through a state, were constructed under a compact with the state, and by its consent. — During the war of 1812 the American armies on the frontiers labored under great disadvantages, owing to the almost entire want of efficient means of transportation. One consequence was, a great development of the idea of internal improvements, and its extension to include canals. In the great state of New York it took shape in the construction of the Erie canal. (See NEW YORK; CLINTON, DE WITT.) In congress a bill to set apart the bonus and government dividends of the national bank (see BANK CONTROVERSIES, III.), as a fund "for constructing roads and canals and improving the navigation of watercourses," passed the house Feb. 8, and the senate Feb. 27, 1817. Among its warmest advocates was Calhoun, who had introduced the proposition both in this and in the previous session, and who defended it on the broad ground that "whatever impedes the intercourse of the extremes with the centre of the republic weakens the Union," and that it was the duty of congress to "bind the republic together with a perfect system of roads and canals." Henry Clay, however, had been the real father of the scheme, and he never deserted his offspring. March 3, 1817, in the last moments of his official life, President Madison vetoed the bill, for the reason that congress had no constitutional power to expend the public revenues for any such purpose. An effort to pass the bill over the veto failed. The new president, Monroe, in his first annual message,

while admitting the great advantage to be derived from a good system of roads and canals, declared it to be the settled conviction of his mind that congress did not possess the right to construct it. The attempt was therefore dropped temporarily, with the salvo of a house resolution, passed March 14, 1818, that congress had power to appropriate money for the construction of roads and canals, and for the improvement of watercourses. — II. 1820–60. The pronounced success of the Erie canal, and its evident bearing upon the prosperity of the state of New York, gave a new impetus to the internal improvement idea. Appropriations had already been made by congress for the preservation of exposed islands, and occasionally army officers had attended to the removal of annoying obstructions in navigable rivers. March 3, 1823, the first act for harbor improvement at the expense of the United States was passed by congress. It seems to have been due, in great measure, to an expression in President Monroe's veto of the bill for the preservation of the Cumberland road, May 4, 1822. He had vetoed it because of its attempt to assert jurisdiction by establishing turnpike gates, tolls, and penalties for their infringement; but he acknowledged a considerable modification of the opinions given in his first annual message. While his own opinion still was that an amendment to the constitution was necessary to give congress the power to construct a general system of internal improvements, he now held that congress had the power to appropriate the public moneys at its discretion; and that though it was in duty bound to select objects of general importance, it was not the province of the president to sit in judgment upon its selections. This idea was more fully exemplified in the act of April 30, 1824, appropriating $30,000 for the survey of such roads and canals as the president should deem of national importance, and in the act of March 3, 1825, ordering a subscription of $300,000 to the stock of the Delaware and Chesapeake canal. — The inaugural address of the new president, John Quincy Adams, warmly commended Monroe's internal improvement policy, and promised an adherence to it. Through his term of office appropriations for this object increased in number very rapidly; the board of engineers appointed under the act of April 30, 1824, was steadily engaged in pushing forward the surveys for new improvements; and every annual message of the president laid special stress upon the importance of this feature of the government's operations. This part of the "Adams and Clay policy" was one of the great moving causes which led to the new development of two opposing parties, and the overthrow of Adams at the election of 1828. (See DEMOCRATIC PARTY, III.; WHIG PARTY, I.) — In his first annual message President Jackson condemned the constitutionality of an internal improvement system, but advised the adoption of an amendment to allow congress to apportion the surplus revenue among the states. The first session of congress under his administration did not agree with his views. Internal improvement bills, aggregating $106,000,000, were reported by the committees, and the probabilities were in favor of the passage of very many of them. The first important one which reached the president was the bill to authorize a government subscription to the stock of the Maysville and Lexington turnpike road, in Kentucky. May 27, 1830, the bill was vetoed in a message which summed up all the objections to the internal improvement system. The bill was not carried over the veto. May 29, two similar bills were passed. The president got rid of these by a "pocket veto." (See VETO.) — The Maysville road veto ranged the president distinctly against the internal improvement system. Throughout the remainder of his two terms of office few acts were passed for this object, and these were vetoed. But through that feature of the presidential veto by which the president is compelled to sign or veto an entire bill in gross, without the privilege of vetoing particular provisions (see RIDERS, VETO), appropriations for detached improvements in great number were every year included in the general appropriation bills. The president was thus compelled either to approve the objectionable minor features of the bill, or, by vetoing the whole bill, begin a war of annoyances with congress. This is the form which appropriations for internal improvements have ever since regularly taken. — This change in the method of appropriations should be remembered in connection with the following table of appropriations for internal improvements under different administrations, as collected by Wheeler, cited among the authorities: Jefferson, $48,400; Madison, $250,800; Monroe, $707,621; Adams, $2,310,475; Jackson, $10,582,882; Van Buren, $2,222,544; Tyler, $1,076,500. — The two new national parties at once began the system of nominating conventions which has ever since obtained. (See NOMINATING CONVENTIONS.) The first convention of the national republicans (see WHIG PARTY, I.) asserted, in one of its resolutions, that "a uniform system of internal improvements, sustained and supported by the general government, is calculated to secure, in the highest degree, the harmony, the strength and the permanency of the republic." In 1836, 1839 and 1848 the whigs adopted no platform; in 1844 they approved the distribution scheme, hereafter referred to; in 1852 they finally approved the conjunction of protective tariffs and internal improvement known as the "American system." (See WHIG PARTY, II.) Their opponents were not ready to formulate a platform until 1840; from that time until 1864 they quadrennially condemned the internal improvement system in every form. Practically, however, "internal improvement," in its original form, died with the Maysville road veto. After that time the whigs had but one opportunity, after the election of Harrison, to enforce their views,

and then they chose the "distribution scheme," hereafter referred to, instead; and the democrats, while condemning an internal improvement *system*, saw no objections to voting for isolated improvements in the general appropriation bill. Aug. 3, 1846, President Polk vetoed a river and harbor improvement bill which both houses had passed, and it failed. March 3, 1847, the last day of the next session, a bill for certain improvements in Wisconsin was passed and disposed of by a "pocket veto"; but at the opening of the following session the president sent his reasons for refusing to sign it, in a special message. The house, by resolution, declared that congress possessed the power to appropriate money for internal improvements; and with that the matter slept again until 1854, excepting that the house, in March, 1849, passed a river and harbor bill, which was not acted upon by the senate. In the session of 1853-4, President Pierce vetoed two bills, one for the appropriation of 10,000,000 acres of public lands to the states for the relief of insane paupers, and one for the improvement of rivers and harbors. Dec. 30, 1854, he gave his reasons for the latter veto in a special message, whose arguments were those of President Polk in 1847. This phase of the question of internal improvements then slept until 1870. — DISTRIBUTION. In 1829 Jackson had suggested a distribution of surplus revenue among the states, provided an amendment for that purpose could be ratified. In the following session a house resolution was passed for the distribution of the proceeds of land sales among the states. When the project next appeared, it had become a whig measure. April 16, 1832, Clay introduced a bill in the senate to provide for the distribution of the proceeds of public land sales among the states. It passed the senate, and failed in the house. At the opening of the next session, the president's message advised the reduction of the price of public lands to a nominal amount, or the cession of the lands to the states in which they were situated. On the other hand, Clay again introduced his bill, Dec. 12, 1832, which was debated, and passed both houses, March 2, 1833. It was not signed, and a special message of Dec. 4, 1833, assigned cogent reasons for the refusal to sign it. The bill appropriated 12½ per cent. of the proceeds of public land sales to the seven states last admitted (excluding Maine) for "objects of internal improvement or education," and 87½ per cent. to all the states according to population, to be distributed as the legislatures should deem proper. The objections were, in brief, 1, that the bill violated the compacts by which the original states had ceded their claims to the United States (see TERRITORIES); and 2, that congress had no power to appropriate the public revenues, directly or indirectly, for internal improvements. The bill was not passed over the veto. — The sales of public lands grew suddenly and enormously after 1830. For the previous ten years they had averaged about $3,000,000 annually; in 1836 they reached nearly $25,000,000 (see BANK CONTROVERSIES, IV.), and Calhoun estimated that at the end of the year the country would have $66,000,000 surplus in the treasury. He therefore introduced, May 25, 1836, an amendment to a bill to regulate deposits of public moneys in state banks (see INDEPENDENT TREASURY), providing that at the end of each year the money remaining in the treasury, reserving $5,000,000, should be "deposited" with the several states, in proportion to their representation in congress. The act became a law June 23. The president signed it with the greatest reluctance, and only in consideration of the amount of paper money already in the treasury; and his "specie circular" of the following month (see BANK CONTROVERSIES, IV.) seems to have been his method of cutting the Gordian knot, wiping out a paper money surplus, and checkmating Calhoun's distribution bill and internal improvements together. It ultimately had greater consequences. The first installment of the "deposit" was paid in January, 1837; the second in April, both in specie or its equivalent; and the third in June, in paper. By that time the "panic of 1837" had burst upon the country, and the fourth installment, in October, was never paid. The act of October 2, 1837, postponed it until 1839, when the treasury was in no better condition to pay it, and the law was repealed. The amount "deposited" was $37,000,000, which has never been recalled. — The return of the whigs to power with Harrison's election was marked by the passage of the act of Sept. 4, 1841, to distribute the proceeds of public land sales among the states. In this case, however, the distribution was to be suspended as soon as, and as long as, the duties on imports should rise above the maximum fixed by the compromise tariff act of 1833, which was to expire in June, 1842. Before this last date arrived, the conflict between Tyler and the whig party had become flagrant, and the majority in congress were disposed to put a new pressure on the president. June 27, 1842, they passed an act for a provisional tariff, raising the duties above the compromise maximum, and yet retaining the distribution clause. Tyler had obtained the opinion of the attorney general that the compromise duties would remain in force after July 1, in default of the passage of a new tariff act; he therefore vetoed the bill, June 29. Aug. 5, a tariff bill, still including the distribution clause, passed both houses by narrow majorities, 25 to 23 in the senate, and 116 to 112 in the house; and Aug. 9 this bill was vetoed. (See CENSURES, II.) Aug. 27 congress yielded and passed the tariff bill without the distribution clause, and three days later it became law. Thereafter the distribution of public revenue or of proceeds of land sales among the states was no more heard of. — IN THE STATES. Space will not permit any full treatment of this division of the subject, for which the reader is referred to the authority cited below. The success of the Erie canal in New

York state had prompted other states to imitate its design. Most of the state constitutions adopted from 1830 until 1850 contain either directions or permissions to the legislatures "to encourage internal improvements within the state." Where such enterprises were undertaken in states whose interests were agricultural, not commercial, and whose people were impatient of abstinence from the present enjoyment of capital for the prospect of possible future profit, the state's irresponsibility in courts of law led to but one result, "repudiation," a term whose first application in this sense is ascribed to Governor McNutt, of Mississippi, in 1841. European capital, tempted by high interest, and undeterred by any thought of "repudiation," flowed rapidly to the United States after 1830. The state debts, which were but $13,000,000 in 1830, reached $50,000,000 in 1836, and about $100,000,000 in 1838. When, after the crash of 1837, foreign capitalists undertook to withdraw, they found it easier to get their capital into state securities than to get it out. On one pretext or another, and sometimes on no pretext at all, a number of states repudiated, in whole or in part, their internal improvement debts, and, as they were irresponsible in their own courts, and, by amendment XI (see CONSTITUTION) irresponsible in the federal courts to citizens of other states, creditors were without recourse. (See also MINNESOTA.) The worst cases, at this period, were Maryland, Louisiana and Mississippi in the south, and Pennsylvania, Indiana, Illinois and Michigan in the north. Most of these have since paid or "accommodated" their debts. — The unwillingness to allow foreigners to brand all the states, separately or collectively, as "repudiators," was the parent of a proposition to assume the state debts for internal improvements. It was formally introduced in congress in July, 1842, met with warm opposition, and fell through in the following year. (For further information see STATE DEBTS, under the article DEBTS.) — III. 1850–82. LAND GRANTS. A grant of 5 per cent. of the public land sales within the state had regularly been made to new states at their admission, the consideration being the exemption of the remainder of the public lands from taxation. Grants had been made also for state capitals and for universities. In 1850 began the system of grants of specified amounts of public lands to states for the encouragement of railroads. The first grant of this nature was by the act of Sept. 20, 1850, for the benefit of the Illinois Central railroad, coupled with a grant for the Mobile and Ohio railroad. Its inside history will be found in Cutts' work, as cited below. The number of acres, 2,595,053, was the largest granted by any single act until 1860. — The growth of the Pacific states, the difficulty of communication with them, and the vast extent of the intervening unsettled country, made very evident both the necessity of a Pacific railroad and the impossibility of constructing it by private capital. Before 1855 government surveys had ascertained practicable passes through the Rocky mountains; and in 1860 both political parties had declared, in their national platforms, in favor of the completion of the work by the federal government. The outbreak of the rebellion, and the necessity of a closer military connection with the Pacific, made the need for the road immediate and imperative, and it was begun by act of July 1, 1862, in favor of the Central Pacific, Kansas Pacific and Union Pacific railroads. The number of acres granted to railroads in every part of the country has grown enormously since that date; they will be found in the land office report cited below. The largest grants to single corporations have been 47,000,000 acres to the Northern Pacific railroad, and 42,000,000 acres to the Atlantic and Pacific railroad. The amount of bonds issued to the various Pacific railroads, interest payable by the United States, was $64,623,512. The grant of lands directly to corporations interested began with the act of July 1, 1862; before that date the grants were made to the states for the benefit of corporations. — RIVER AND HARBOR BILLS. After the veto by President Pierce of the river and harbor bill which was passed in 1854, this species of appropriation lapsed until 1870. Improvements which were imperatively needed were classed under "fortifications" and similar heads. The cessation of expenditures under this head, however, was far more than balanced by the appropriations for postoffices, custom houses, and other public buildings in various parts of the country. These increased until, in 1873–4, they amounted to $12,341,944. — In 1870 a river and harbor appropriation was made, amounting to $2,000,000. From this time appropriations of this nature were no longer covered up in other appropriation bills, but took distinct rank for themselves. In 1873 the appropriation rose to $5,286,000, and they have since generally remained above that amount, as follows: 1873–4, $7,352,900; 1874–5, $5,228,000; 1875–6, $6,648,517.50; 1876–7, $5,015,000; 1877–8, ——; 1878–9, $8,322,700; 1879–80, $9,577,494 61; 1880–1, $8,976,500; 1881–2, $11,451,300; 1882–3, $18,743,875. This last increase in the appropriations provoked a veto by President Arthur, Aug. 1, 1882, but the bill was immediately passed over the veto. In such a mass of appropriations it is impossible that there should not be very many objects well worth the care of the national government; but, with every allowance, the amount of absolute plunder in the total must have been enormous. In debating one of these bills a member of congress declared from personal knowledge that one "river," for which an appropriation had been inserted, could be fitted for commerce only by being paved or macadamized; and this instance was certainly not an isolated one. In many cases the coveted appropriation is only to "secure the work," and compel succeeding appropriations to eight or ten times the original amount to complete it. Many appropriations are inserted, not upon their merits, but by "log-rolling," by an under-

standing among a number of members that each will vote for the appropriations demanded by all his associates. In fact, most of these appropriations are not for the public benefit at all, but for the personal interests of the legislators, for the re-election of a congressman often depends upon his success in "bringing money into the district" through the river and harbor bill, or the erection of public buildings. In this manner congress has probably squandered in twelve years money enough to have built a railroad from the Mississippi to the Atlantic, whose running expenses could be paid by the similar appropriations for the future. It is hard to say which of the two methods of getting rid of surplus revenue would be most demoralizing to the people. — See CONFEDERATION, ARTICLES OF, VI, IX; 5 Elliot's *Debates*, 548; 1 *Stat. at Large*, 184, 190 (assent of congress to acts of Maryland legislature), 1 *Stat. at Large*, 54 (first lighthouse act, Aug 7, 1789), authorities under CUMBERLAND ROAD; Adams' *Life of Gallatin*, 351; 2 Adams' *Writings of Gallatin*, 72; Tanner's *Memoir on Internal Improvements* (1829); 5 Benton's *Debates of Congress*, 665, 711; 3 *Statesman's Manual* (edit. 1849) xxviii., (Madison's veto) II. For this period in general the best authority is 2 Wheeler's *History of Congress*, 109; 1 *Statesman's Manual*, 491 (Monroe's Cumberland road veto); 3 *Stat. at Large*, 781 (act of March 3, 1823); 4 *Stat. at Large*, 23 (act of April 30, 1824), 124 (March 3, 1825); 2 *Statesman's Manual*, 719 (Maysville road veto); 3 Parton's *Life of Jackson*, 285, 340; 3 *Statesman's Manual*, 1635, 1711 (Polk's vetoes); 1 Webster's *Works*, 169, 347; 2 *ib*, 238; 4 *ib*., 247, 252; 5 *Whig Review*, 537; 1 Colton's *Life and Times of Clay*, 428, 1 Benton's *Thirty Years' View*, 102, 130, 167, 275, 362; 2 *ib*., 125, 171; Cluskey's *Political Text Book*, 540; Bradford's *History of the Federal Government* (see its index); Cutts' *Treatise on Party Questions*, 41; Gillet's *Democracy in the United States*, 132 DISTRIBUTION. 12 Benton's *Debates of Congress*, 124, 765; 2 von Holst's *United States*, 181, 454, 2 Calhoun's *Works*, 620; 5 *Stat. at Large*, 52, 201, 453 (acts of June 23, 1836, Oct 2, 1837, and Sept. 4, 1841); 2 Benton's *Thirty Years' View*, 36; 4 *Opinions of the Attorneys General*, 60, 63; 14 Benton's *Debates of Congress*, 443, 456. IN THE STATES. The best authority is 2 B. R. Curtis' *Works*, 93, being his article "Debts of the States" from the *North American Review*, January, 1844. III. Cutts' *Treatise on Party Questions*, 187; 9 *Stat. at Large*, 466 (act of Sept. 20, 1850); *Reports of the General Land Office* (1873); the same in substance is more easily accessible in Spofford's *American Almanac* for 1878, 237, and in Appleton's *Annual Cyclopædia* for 1871, 674. The first Pacific Railroad act of July 1, 1862, will be found in 12 *Stat. at Large*, 489; a convenient summary of Pacific Railroad legislation is the long preamble to the act of May 7, 1878 (20 *Stat. at Large*, 56); *Report of the Secretary of the Treasury* (Dec. 5, 1881), 25; Major H. M. Robert's *Index to Reports on River and Harbor Improvements* (Art. "Appropriations"); Porter's *West in* 1880, 585 (and Map).

ALEXANDER JOHNSTON.

INTERNAL REVENUE OF THE UNITED STATES. Under the constitution congress has power to lay taxes, duties, imposts and excises. This provision includes every species of taxation, direct and indirect, specific and ad valorem; poll taxes, taxes on property, income, business, licenses, imports and tonnage. The only limitation placed upon this taxing power is that these taxes shall be uniform throughout the United States, and that direct taxes shall be apportioned among the several states which may be included within the Union, according to their respective numbers. In practice the national government has obtained its revenues from taxes on imports, and has resorted to internal imposts only when such have become necessary. The term "internal revenue" has been restricted in its meaning to such revenues only as are collected under the internal revenue bureau connected with the treasury department, and does not include all revenues that are, properly speaking, from internal sources, that is, from sources other than duties levied at the frontiers upon foreign commodities. Thus, moneys arising from the sale of public lands, from patent fees, or the revenues of the postal service, are not generally known as "internal revenue." As will be seen, a large number of taxes, direct and indirect, have been under the management of this bureau, which did not exist until 1862; so that no more exact definition of this branch of the public revenue system can be framed — At the close of the revolution, to raise money by any internal taxes was hardly thought of. It is true that the provision in the constitution shows that the possibility of having recourse to such taxes was not overlooked; but in the then existing temper of the people it would have been impolitic, if not impossible, to put in operation any system of excises. Hamilton, in No. XII of the "Federalist," writes: "The genius of the people will ill brook the inquisitive and peremptory spirit of excise laws. The pockets of the farmers, on the other hand, will reluctantly yield but scanty supplies, in the unwelcome shape of impositions on their houses and lands, and personal property is too precarious and invisible a fund to be laid hold of in any other way than by the imperceptible agency of taxes on consumption"; and again he writes: "It has been already intimated that excises, in their true signification, are too little in unison with the feelings of the people, to admit of great use being made of that mode of taxation"; and he goes on to show that the possessors of land would not, in all probability, bear the burdens of any internal taxes. So strong was the prejudice against excises, that it was twice moved, in the New York convention for adopting the constitution, that the power of laying excises be prohibited to congress. Nor can this feeling against such taxes be

referred only to a prejudice inherited from England, for there was a sound economic reason which effectually prevented the application at that time of internal duties and taxes. An elaborate system of internal taxes supposes a country well advanced in manufactures and general wealth, and at the close of the revolution the economic condition of the people and of manufactures was not such as to invite taxation. The country was impoverished by the long war, trade was confined within narrow limits, and manufactures were few in number; and forced, as many of them were, into an unhealthy existence, they could ill endure any increased burdens in the shape of taxes. On the other hand, the resources of the country had been severely strained by the war, there was no central government, and when such a government did exist, one of its first acts was to bolster up these manufactures by tariff duties on imported manufactures. — But an excise was soon proposed. In 1790 a measure for taxing distilled spirits of domestic manufacture was introduced into congress, but the opposition it at once aroused was sufficient to defeat its passage. The legislature of Pennsylvania instructed its representatives in congress to oppose the passing of an excise, "the horror of all free states"; and in a petition to congress the inhabitants of Westmoreland, Pa., claimed that to convert grain into spirits was as clear a natural right as to convert grain into flour. The proposed taxes would weigh heavily upon the farmers of the western counties of Pennsylvania. Owing to the distance of the markets and the great difficulty and expense of transporting such a bulky commodity as grain, the farmers were in the habit of converting their grain into whisky, and transporting it in that shape. Mr. Breckenridge, in his "History of the Western Insurrection," states that the still was the necessary appendage of every farm, where the farmer was able to procure it. And this petition from Westmoreland recites that "for these reasons we have found it necessary to introduce a number of small distilleries into our settlements, and in every circle of twenty or thirty neighbors one of these is generally erected for the accommodation of the neighborhood."— In the following year, under the advice of Hamilton, a like measure was introduced, and, after a bitter contest, was passed, March 3, 1791. Under this act spirits distilled from foreign materials (molasses) were taxed at a somewhat higher rate than those from domestic materials (grain and fruit), the discrimination amounting to from two to five cents per gallon, according to proof. There was also a difference made in the taxes imposed upon spirits distilled in cities, towns or villages, (nine to twenty-five cents per gallon), and those distilled in other places, (at the option of the distiller he could pay a yearly tax of sixty cents per gallon upon the capacity of the still, or nine cents for each gallon distilled). Notwithstanding the low duties charged, the opposition to it was very determined. The tax bore with great severity upon the distillers in the western part of Pennsylvania, at that time very thinly populated, for with them money was very scarce, and as trade was carried on by barter, spirits served as money. The most determined opposition came from that quarter. In May, 1792, with the hope of allaying in some degree the discontent, the rate of excise was somewhat reduced, and a further concession was made by giving to the distiller the alternative of paying a monthly instead of a yearly rate, with liberty to take out a license for the precise time he intended to work, and to renew it for a further term.* And at the same time, with a view to possible resistance, measures were taken to provide for calling out the militia; thus curiously fulfilling a saying made sixty years before by an Englishman, "we know what a general excise is, and can not be ignorant that it hath an *army* in its belly." But the concessions made were not enough, and in September of the same year Washington issued a proclamation admonishing all persons to refrain from unlawful combinations tending to obstruct the operation of the excise laws; and it is worthy of note that he struck out from Hamilton's draft of this proclamation the sentence, "these laws were dictated by weighty reasons of public exigency and policy." But the open resistance to the measure (whisky insurrection, which forms an important chapter in the political history of this country) was soon put down. The general dislike, however, to the excise prevented an early and complete organization of the excise system. As late as 1795 the law had not extended to Kentucky and Tennessee, and the tax was but imperfectly collected in North Carolina; nor until that year was the system put in full operation in any part of Pennsylvania. However, the government had carried its point, and had not only established its right to impose an excise, but shown its power to enforce such a tax. — In 1794, under a fear of renewed hostilities with England, but ostensibly to defray clerk hire in the department of state, a fee was charged for all patents issued for inventions and discoveries; and to provide means for paying the interest upon money borrowed to pay the expenses attending the intercourse of the United States with foreign nations, internal duties were laid upon carriages for the conveyance of persons; upon licenses for selling wines and foreign distilled liquors by retail; upon snuff (eight cents per pound) and refined sugar (two cents per pound) manufactured in the United States; and on sales at auction (¼ per cent. of the purchase money arising from the sale of any right, interest or estate, in lands, tenements or hereditaments, utensils in hus-

* What good use was made of this alternative is shown by what Gallatin wrote in 1801; that, owing to improved methods of manufacture, distilleries had reduced the tax to three cents per gallon, and in a short time, by further improvements, would reduce it to three-fifths of one cent per gallon.

handry, farming stock, or ships and vessels; and ½ per cent. of the purchase money arising from the sales of any other goods, chattels, rights or credits). The proceeds of these taxes, together with what accrued from the postoffice, land sales, and dividends on bank stock, formed the only sources of the internal revenue of the government. Of these, the land sales, postage on letters, patent fees and taxes on distilled spirits were permanent taxes, or commensurate with the existence of the debt for the payment of the interest of which they were pledged; and the dividends from bank stock were commensurate with the duration of the property in the stock. The other taxes were only temporary taxes, and were to continue no longer than till the end of the session of congress next after the expiration of two years from the respective times of passing the laws which established them, though their operation was extended in 1795. It should be noted that the debate upon this measure assumed a sectional character. Thus it was claimed that the tax upon tobacco fell almost wholly upon the middle and southern states; and as to the carriage tax, it was stated that there was not a single vehicle in the state of Vermont, and but two in the whole state of Connecticut, which would be subject to that tax. In his report for 1795, Hamilton says of these taxes, when discussing the advisableness of extending their operation, which was done: "It is believed that there can not be devised objects of revenue more proper in themselves, or more generally acceptable to the people. Whatever interested parties may allege, it seems self-evident that there can hardly be a reasonable question, except as to the best mode of collection. The objection that part of them falls on manufactures, has no weight. The manufactures on which they fall are *complete luxuries*, and *completely established;* consequently fit objects of revenue. The increased duties on the rival foreign articles are a full protection to the manufacture. Whatever may be the appearances in the infancy of the tax, it is certain, in principle, that it will finally fall on the consumer, as generally as duties on imported commodities." — Yet in spite of this able defense of his policy, the results of these taxes, when viewed in 1796, after an experience of from two to four years, did not prove their fitness to the circumstances or disposition of the people. The tax on spirits was openly resisted and secretly evaded; the tax on carriages produced but little on account of an uncertainty whether it was a direct or an indirect tax, a question which was finally settled by the supreme court of the United States; the drawback allowed upon exported snuff was so high as to act as a bounty, and so large were the quantities exported that the drawback paid exceeded the amount of collections, and this law was soon suspended. The sugar tax was productive, because, owing to the high import duty on sugar, the domestic manufacturers almost wholly supplied the home demand. Mr. Gallatin, in 1796, estimated the annual produce of all these internal taxes at $416,000. — In 1797 congress laid duties on stamped vellum, parchment and paper. Of this tax Mr. Gibbs, in his "Administration of Washington and Adams," writes: "The stamp act, although a very necessary one, as a certain means of raising money, had the misfortune of being exceedingly unpopular; certain disagreeable associations being connected with the name, which gave a handle to the opposition to work upon those who did not understand the relations between taxation and representation. It also, curiously enough, furnished a cause of jealousy to the president, who, from some reason, supposed it to exalt the powers of the secretary of the treasury at his expense." These stamp duties were however continued, but only as a temporary expedient, and yielded a moderately large revenue. — In the following year, when the relations between France and the United States were far from friendly, in order to put the country in a state of defense, a direct tax of $2,000,000, the first of its kind, was apportioned among the states. It was proposed that this tax should be assessed to individuals as follows: 1, on dwelling houses, which were distributed into nine classes according to the value, and taxed uniformly in each class; 2, on slaves, and 3, on lands, to be taxed at such rate ad valorem in each state as, with the sums assessed on houses and slaves, will produce the entire amount of the sums apportioned to the respective states; and, in anticipation of the amount of this tax, the president was authorized to borrow $2,000,000. — But with the accession of Jefferson to the presidency, an attack was made upon the system of internal taxes, and on his recommendation the act of April 6, 1802, to repeal all internal taxes, was passed, with outstanding, uncollected duties amounting to nearly $700,000. This sacrificed a large portion of the revenues of the government, but from 1802 to 1813 no internal duties on articles grown or manufactured in the United States were imposed. These taxes were to be laid only in the last resort, and were classed with loans, as extraordinary resources, and during that interval when a larger revenue was needed, the duties on imports were increased. In 1808, when a war cloud was impending, Gallatin wrote that no internal taxes, either direct or indirect, were contemplated, even in the case of hostilities carried on against two great belligerent powers; and he only expressed the general feeling of the people, who were strongly prejudiced against internal duties. — This early attempt to impose internal duties has thus been dwelt upon at length because it served as a model for later systems. The opposition that it engendered was not due so much to the taxes laid, for there could be no doubt that most of the subjects were eminently fitted for taxation, as on account of a strong prejudice against the method of collecting. In order to prevent fraud and evasion of excises, a body of officials must be kept up, with powers of entering and searching the houses of those who deal in excis-

able commodities. The tax gatherer comes into direct contact with the tax payer, and in the strict performance of his duty creates a strong prejudice against himself, and renders himself odious to the people. Jefferson said, in his annual message of 1805, with his customary exaggeration, that the internal taxes covered the land with officers, and opened "our doors to their intrusions, beginning that process of domiciliary vexation, which, once entered, is scarcely to be restrained from reaching successively every article of produce and property." Herein is shown the true ground of popular dislike to internal or excise duties. — The existing revenues of the national government were wholly inadequate to meet the increased expenditure occasioned by the war of 1812, and in order to meet the deficits of 1812 and 1813 recourse was had to loans and issue of treasury notes. But it was soon seen that the revenues, including these loans, would not prove sufficient, and early in 1813 the foundation of a system of internal revenue was laid, by imposing those taxes which had been recommended by the experience of a former period, and which included a direct tax as well as excises. Again were these taxes, known as "war taxes," regarded as temporary, and their operation was to cease one year after the termination of the war; but with the exception of the tax on refined sugar, and the stamp duties on bank notes, bills of exchange, and other notes, they were afterward extended and pledged to the payment of the interest and principal of the national debt, or until they might be replaced by other taxes equally productive. All of the old taxes were imposed, excepting a tax per gallon on distilled spirits, which was replaced by a license tax to distillers. It was estimated that these taxes would produce a revenue of $3,500,000 annually, but this could not be had until the year following the passage of the act, and the inconvenience thus occasioned was commented upon by the secretary of the treasury in his report for 1815. "It may, perhaps, be considered as a subject for regret, and it certainly furnishes a lesson of practical policy, that there existed no system by which the internal resources of the country could be brought at once into action, when the resources of its external commerce became incompetent to answer the exigencies of the time. The existence of such a system would probably have invigorated the early movements of the war; might have preserved the public credit unimpaired; and would have rendered the pecuniary contributions of the people more equal as well as more effective. But, owing to the want of such a system, a sudden and almost exclusive resort to the public credit was necessarily adopted, as the chief instrument of finance. The nature of the instrument employed was soon developed; and it was found that public credit could only be durably maintained upon the broad foundations of public revenue." But in spite of loans and taxes the public revenues were not adequate, and in the middle of 1814 the national government found itself seriously embarrassed, a situation which was rendered more precarious by a decrease, due to the war, in the product of duties, and by a sudden suspension of specie payments by the banks throughout the country, which was followed by all the evils of a variable currency. A special session of congress was called, and further loans authorized; the annual direct tax was doubled, and its operation extended to the District of Columbia; the duties on carriages, auctions, licenses and the rates of postage were increased; new taxes were imposed, and for the first time in the history of the nation taxes were laid upon domestic manufactures other than spirits, snuff and sugar. Specific taxes were laid on iron and candles; and ad valorem taxes on hats and caps, umbrellas, playing cards, leather and plate, beer, ale, harness and boots. Household furniture was taxed according to its value, and gold and silver watches paid duties. The necessity of the treasury being pressing, a loan was raised on the pledge of the direct tax and the excises on distilled spirits. With the return of peace steps were at once taken to revise the existing taxes In 1821 the estimated deficiency, due in great part to unliquidated war claims, was only $3,500,000; and as the revenues were $4,000,000 in excess of the requirements of the government in a time of peace, it was thought that the country should not be burdened any longer than was absolutely necessary with war taxes. In 1816 the direct tax was reduced one-half, and in the following year every internal tax was repealed. From 1818 to 1861 no direct tax of any kind, duties of excise, or other internal tax, was in operation in the United States. Though it was at times proposed to lay such taxes, it was never actually done, and whatever resources were required were obtained by modifying the tariff, customs and land sales forming the permanent sources of revenue. — Not until 1861 was an elaborate system of internal revenue imposed upon the country, for the two attempts we have just described were remarkably simple and included few articles And again was a recourse to internal taxes an outcome of necessity, and was regarded as a temporary measure. With the outbreak of the rebellion, and the various expedients then taken to raise the necessary revenues, we enter upon one of the most curious, vast and complex experiments in taxation ever attempted, and one so burdensome in its results as to afford a most striking proof of the wonderful elasticity and vigor of the national resources, because it caused no permanent injury to the productive capacity of the nation. An enormous debt was created in a very few years, and its creation was accompanied by heroic measures to extinguish it. Loans, customs and internal taxes were made use of to an extent hitherto unknown in this or any other country, and this too while the country was engaged in a long and exhausting war. Internal taxes had remained unused for nearly half a century, and were known

to the people only by tradition; in the changed conditions of the country there was little in past experience that could serve as a guide, and there was no opportunity afforded to study the systems of other countries; there was no existing machinery for assessing and collecting such taxes; and finally, in the excited condition of public opinion it was uncertain how such a system, if imposed, would be endured by the people, for it was feared that such a measure would only alienate from their allegiance to the central government the people of some states up to that time loyal. The first movements were made cautiously and tentatively. Money was required to carry on the operations of government and to support the charges of the war, but it was a very delicate matter to decide in what manner this money should be raised, for never before had the country stood in need of such resources. In the first years of the war almost entire reliance was placed upon loans to supply extraordinary demands, and it was not until 1863 that internal taxes were recognized as an essential part of the settled revenue policy of the government. But even before that year it had been clearly seen that some great alterations in the sources of government revenue were required. Import duties were largely increased, heavy loans authorized, and the "act to provide increased revenue from imports, to pay the interest on the public debt" included sections which contained the germs of the present internal revenue system. It provided for an annual direct tax of $20,000,000, to be apportioned among the states—a tax which was assessed and collected only in the first year after the passage of the act—and also for a tax of 3 per cent. upon the excess of all incomes over $800. It is a curious fact that these provisions should have been attached to an act providing in its title for an increase of customs duties only, and it can only be explained by supposing that it was from doubt on the manner in which a direct tax or an income tax as separate measures would be received, or to avoid any disputes on the income tax, that being essentially a direct tax, and would, under the constitution, have to be apportioned among the states as there directed. However, this incongruous measure was passed, but its practical enforcement was postponed until the following year, and it was seriously expected to employ state machinery in its collection, in this way avoiding any contact between a tax collector of the national government and the tax payer. The demands of the government rapidly increased, and it was soon seen that no half measures would prove sufficient. The act known as the internal revenue law was passed July 1, 1862, which is a complete code of taxation, and one of the most extraordinary which any country has ever seen. Under this law was organized the bureau of internal revenue, and provision was made for the machinery necessary to collect the taxes imposed by the act. To show the general scope of this law, it may be stated that it provided for taxation upon trades and occupations; upon sales, gross receipts and dividends; upon incomes of individuals, firms and corporations; taxes upon specific articles not consumed in the use; stamp duties; taxes upon various classes of manufactures; as well as taxation upon legacies, distributive shares and successions. — The extent to which taxation was carried under this and subsequent acts can not be better expressed than by the words of Sydney Smith written forty years before. "Taxes upon every article which enters into the mouth, or covers the back, or is placed under the foot; taxes upon everything that is pleasant to see, hear, feel, smell, or taste; taxes upon warmth, light and locomotion; taxes on everything on earth, and the waters under the earth; on everything that comes from abroad, or is grown at home, taxes on raw material; taxes on every fresh value that is added to it by the industry of man; taxes on the sauce which pampers man's appetite, and the drug which restores him to health; on the ermine which decorates the judge, and the rope which hangs the criminal; on the poor man's salt, and the rich man's spice; on the brass nails of the coffin, and the ribands of the bride: at bed or board, couchant and levant, we must pay." This is no exaggeration of the system imposed by the act of 1862. — In other countries the systems of excises and internal taxes have usually been the product of long experience, and have been frequently modified so as to be adapted to the economic condition of the country, its population and material prosperity. Being moreover of slow growth and of long standing, and, generally speaking, subject not to violent alteration but to gradual modification, they fall more equally upon the people, and are less burdensome than would be an entirely new system, ill-adapted to the condition of the people, and subject to frequent and violent alterations. For time is required to allow the conditions of an industry or occupation to adapt themselves to a tax; and in time it is the tendency of a tax to diffuse itself, and to bear with less weight upon the commodity or person primarily taxed. But at the time of the passage of the internal revenue law the necessities of the government were so pressing that no regard was paid to any of the principles of taxation, to the experience of other nations, or to the conditions of trade and industry and their consequent ability to bear a tax; and there is no knowledge of economic doctrines displayed in the debates in congress upon this and subsequent measures. The country, from being very lightly taxed, passed at once under a system of excessive and burdensome taxation. Processes were taxed as well as products of industry, taxes were laid upon all labor, upon all tools by which work was to be done, and upon all classes and conditions of men. Every branch of trade and industry, every kind of manufacture, raw materials and net results, alike bore the burden of taxation. "No other nation," said the London "Economist," "would have endured a

system of excise duties so searching, so effective, so troublesome." System there was none. "The one necessity of the situation," writes Mr. Wells, "was revenue, and to obtain it speedily and in large amounts through taxation, the only principle recognized—if it can be called a principle—was akin to that recommended to the traditionary Irishman on his visit to Donnybrook Fair, 'wherever you see a head, hit it.' Wherever you find an article, a product, a trade, a profession, or a source of income, tax it!"—A system of taxation so comprehensive and minute in its details, in which the exemption of any article from taxation was the exception rather than the rule, imposed with so little thought and discrimination, was naturally found to be unsuitable in many particulars to its purpose, and was subject to frequent alterations and modifications. At least one revenue bill was passed at every session of congress, and within the period 1861-7 more than twenty-five such bills became laws. The pendency of such a measure furnished frequent opportunities for numerous amendments, some of them not important in themselves, but by changing the language, rendered valueless many precedents and regulations of the bureau and well-considered decisions of the courts. For the first years after the passage of the internal revenue law the action of congress was directed to its increase, and new objects of taxation and additional sources of revenue were sought for; and not until the close of the war was there any movement looking to its decrease. —These many changes in the internal revenue laws naturally produced great uncertainty in their application, and consequent injury to trade and industry, confusion in the revenues, and inequality of taxation, for an uncertain or arbitrary tax is an unequal tax. So that it was impossible to estimate with even a near approach to truth what these taxes would yield. Nor was there any stock of economic knowledge or accumulated experience to assist in framing such estimates. And in support of this statement the following incident may be noted. Secretary Chase, in his report for 1863, states that, with a view of determining his resources, he employed a very competent person, with the aid of practical men, to estimate the probable amount of revenue to be derived from each department of internal taxation for the previous year (1862). The estimate arrived at was $85,000,000, but the actual receipts were only $37,000,000.—Among the effects of the practical application of this law may be mentioned the following: 1. Many industries found themselves too heavily burdened by the taxes imposed upon them, and were forced to choose between the alternative of producing at a loss, or of ceasing to produce. While the instances are few in which trades were actually taxed out of existence (for an example see article DISTILLED SPIRITS in this work), yet owing to the effects of the war, and the alterations in customs duties and internal taxes, the conditions of production were disturbed, and every branch of trade and industry was to some extent affected. In many branches there was a forced reduction in the production of from 30 to 75 per cent. One of the first recommendations of the revenue commission in 1866 was to entirely exempt the manufacturing industry of the United States from all direct taxation (distilled and fermented liquors, tobacco and possibly a few other articles, excepted). 2. Duplication of taxes. In imposing a general excise tax upon all manufactures, it necessarily entailed a system of duplication of taxes, for the finished product of one manufacture is the raw material of another, and is almost always itself an aggregate of several distinct and separate manufacturing processes. Some examples of this duplication of taxes may be cited. "It was formerly the practice of umbrella makers to manufacture the main constituents of their product as one business; but now the business of an umbrella manufacturer is rather to assemble the various constituents of an umbrella or parasol, which are made separately, and in different parts of the country. Thus, for example, the sticks, when of wood, are made in Philadelphia and in Connecticut, part of native and part of foreign wood, on which last a duty may have been paid. If the supporting rod is of iron or steel, it is the product of still another establishment. In like manner the handles of carved wood, bone or ivory, the brass runners, the tips, the elastic band, the rubber of which the band is composed, the silk tassels, the buttons, and the cover of silk gingham or alpaca, are all distinct products of manufacture; and each of these constituents, if of domestic production, pays a tax, when sold, of 6 per cent. ad valorem, or its equivalent. The umbrella manufacturer now aggregates all these constituent parts, previously taxed, into a finished product, and *then pays 6 per cent. on the whole.*" And another example is found in the manufacture of books. Every separate item which entered into this manufacture—paper, cloth, boards, glue, thread, gold leaf, leather, and type material—paid from 3 to 6 per cent. in the first instance, and then 5 per cent. on the whole combined; and this not on the *cost*, but on the *selling price*. So that the finished book, and its constituent materials, paid from twelve to fifteen distinct taxes before they reached the reader. This recalls what was said of Amsterdam, that in that city a dish of fish with its sauce, before it was served up to the table, paid excise "thirty several times." 3. As every tax is so much added to the cost of production, the cost to the consumer was greatly enhanced by this load of taxation, and to this is in part due the great rise in prices; for the government actually levied and collected from 8 to 15, and in some instances as much as 20, per cent., on the finished industrial product. 4. The frequent changes in the taxes created a spirit of speculation, and rendered uncertain the revenue from those sources to which these changes applied. On July 1, 1864, when the advance in the

tax on distilled spirits, of from sixty cents to one dollar and fifty cents per gallon, took effect, there were in store, in anticipation of this advance, at least forty millions of gallons, or a quantity that was believed to be sufficient to supply the wants of the country for at least a year in advance. From July 1, 1864, to the time of the first report of the commission, the receipts of the government from distilled spirits were, from this cause, necessarily inconsiderable. Of cigars, in like manner, it was estimated that from seventy to eighty millions were manufactured and stored in the city of New York alone, in anticipation of the tax, while in the case of the insignificant article of matches, on which the tax was only one cent per bunch, the stock accumulated in anticipation of the tax was so large that it had not been entirely exhausted by January, 1866. So that from August, 1864, the date at which the match stamp tax was introduced, to January, 1866, the government failed to derive its legitimate revenue from that source. These variations in the taxes and their effects upon production, naturally disturbed and rendered uncertain the amount of revenue to be derived from each particular source. This will be made clear by a reference to the following table, which shows the collections in the same month for three years, the differences being caused by alterations in the tax law:

MONTHS.	1864.	1865.	1866.
July	$18,570,548	$21,693,470	$27,079,103
August	15,712,066	34,067,539	38 043,340
September	15,819,770	37,939,415	33,714,718

The table shows how uneven the production of taxable articles was; of some the production was stimulated, while of others it was retarded or perhaps altogether destroyed. 5. The vast system of internal revenue was imposed without reference to the existing tariff, or to the conditions imposed by the treaty of reciprocity with Canada, which was to expire in 1866. There was no equalization or adjustment between the tariff and internal taxes, and this resulted in frequent discriminations against the American producer and in favor of his foreign competitor. "In the case of the umbrella manufacture, the cover, as a constitutent element of construction, represents from one-half to two-thirds the entire cost of the finished article. The silk, the alpaca, and the Scotch gingham, of which the covers are made, are all imported; the former paying a duty of 60 per cent., and the latter two about 50 per cent. ad valorem. The manufactured umbrella, covered with the same material, whose constituent parts are not taxed, either on the material used in their fabrication or on their sale, is, however, admitted under the present [1865] tariff at a duty of 35 per cent. ad valorem, or at a discriminating duty, against the American and in favor of the foreign producer, of from 15 to 25 per cent. If we make allowance for the various United States internal revenue taxes, it is claimed by the American manufacturers that the discrimination in favor of the foreign producer is fully equal to 40 per cent." Other examples could readily be given. Under the reciprocity treaty the products of American industry subject to high rates of excise were injuriously brought into competition with similar products of provincial industry, which were subjected to little or no excise, and then admitted into the United States free of duty. — In treating of the effects produced by the actual operation of this measure, no attempt has been made to maintain a chronological order, for in some cases the ultimate effects of a tax would not appear until the lapse of a certain length of time. — Yet owing to the enthusiasm and patriotism of the people this system was cheerfully welcomed and endured by them, and was successful in its main object. The revenues collected under it have never since been equaled, and judged from this standpoint it was most effective. Yet a more burdensome and diffuse system could hardly have been framed, as a simple calculation will show. In an early report Secretary Chase estimated that the internal revenue system would produce $50,000,000, and he thought that this sum was equal to about one-sixth of the surplus earnings of the country. In 1869 the special commissioner of the revenue made an extensive examination of the wealth and resources of the country, and was led to the conclusion that the annual increase of active capital in the United States, arising from the excess of production over expenditure, could not at that time be considered as in excess of 8 per cent. of the gross annual product, or $546,000,000 per annum. The collections from internal taxes, which were in 1863 but $43,000,000, rose rapidly to $117,000,000 in 1864, $211,000,000 in 1865, and culminated in 1866 with the enormous sum of $310,000,000; this last sum being equal to nearly 57 per cent. of the actual annual surplus wealth of the nation. Yet a large portion of the taxable property in this country escaped its proper charges through fraud or an imperfect administration of the laws. Under a perfect administration the revenues would have been much greater; for at that time the sources of national revenue were commensurate and co-extensive with every department or subdepartment of trade or industry in the country, as well as every form of fixed or circulating capital. For the purpose of placing in a clear light the burden of taxation, attention may be called to the following table, which shows the amount per capita, collected by various forms of direct and indirect taxation in the United States for 1865-6, and in several of the leading states of Europe for the year 1865, (the revenues from the public or crown lands, postoffice receipts, and colonial subsidies, being excluded from the estimate); also the amount of the public debt in the same countries per capita:

COUNTRIES.	Taxation, per capita.	National Debt, per capita.
United States	$11.46	$ 74 28
Great Britain	10.92	125.00
France	7.97	53.00
Belgium	5 59	26.00
Prussia	5.43	12.00
Austria	5.27	45.00

Nor, generally speaking, were manufactures at all depressed by this enormous burden of taxation. On the contrary, owing to the demand for most manufactured and agricultural products, and the great rise in the prices of commodities, the profits of the producer were actually enhanced by reason of the taxes to an extent considerably greater than they would have been had no taxes whatever been collected. Thus, in the case of distilled spirits, the advances in the tax were foreseen, and large quantities were manufactured before the increased tax took effect, in order to be sold at the higher price which followed the imposition of a higher tax. "In the case of raw cotton, which advanced mainly through conditions affecting its production or distribution, it was shown by actual calculation, in respect to one manufacturing corporation in New England, that if they had at the commencement of the war burnt their mills, lost their insurance, and sunk their capital, other than what was invested in cotton, and had subsequently sold their cotton at the highest prices obtainable, in place of manufacturing it, the result would have afforded to the stockholders a permanent annuity of at least 12 per cent. on their original investments."—Mr. Mill admits that a tax upon profits may give a stimulus to inventions, and the use of them when made. This may produce a cheapening in the products of manufactures and so raise profits to such an extent as to make up for all that is taken from them by the tax. This seems to have been the condition of the United States, for it is known that few industries were permanently injured by the taxes, so great are the natural advantages and productive capacity of the country. The rapid increase of population, the great progress of agriculture and manufactures (though accompanied by no corresponding increase of commerce), and the large number of expensive undertakings entered upon with a return of peace, showed beyond question the resources of the country. In fact, the conclusion of Mr. J. R. M'Culloch in regard to the continental wars, 1775–1812, might almost be accepted as applicable to the condition of affairs at that time: "An increase of taxation has the same influence over nations that an increase of their families or of their unavoidable expenses has over individuals. The constantly increasing pressure of taxation during the American war, and the war begun in 1793, was felt by all classes, and gave a spur to industry, enterprise and invention, and generated a spirit of economy, which we should have in vain attempted to excite by any less powerful means. * * Man is not influenced solely by hope; he is also powerfully influenced by fear. Taxation brings the latter principle into the field."—We have no more space for examining further into this most interesting chapter of the financial experience of this country, nor can we trace its ultimate effects upon prices, upon production and consumption, and upon foreign commerce. With the close of the war a reduction in taxation was demanded by the people, and was soon effected. Between Sept. 1, 1865, and July 1, 1869, taxes yielding, in the aggregate, upward of $200,000,000 per annum were abated or relinquished, chiefly on the recommendations of the revenue commissioner. When Mr. Fessenden assumed the office of secretary of the treasury in 1864, recognizing the incongruity and burdensome nature of the tax system, one of his first recommendations to congress was the formation of a commission to inquire into the most profitable sources of revenue, and to devise improvements in the modes of its collection; but his recommendation was not at that time adopted. In his annual report for that year he again returned to the subject, and in March, 1865, such a commission was appointed, and included David A. Wells, Stephen Colwell and S. S. Hayes. The creation of this commission was the first practical movement toward a careful examination of the business and resources of the country, with a view to the adoption of a judicious revenue system. The commission made a report in 1865–6, and as it showed how necessary such an examination had become, in 1866 the office of special commissioner of the revenue was created, to continue the labors of the commission, and Mr. David A. Wells was appointed to the office. It is in the reports of this able economist that we find the best and most thorough examination of the revenue system of the government, and we have depended chiefly upon them for our information on the practical effects of the act of 1862. The office was discontinued in 1870.—Large reductions were made by the statutes of July 13 1866, ($65,000,000); March 2, 1867, ($40,000,000). Feb. 3, 1868, ($23,000,000); and March 31, and July 20, 1868. Under the act of March, 1868, which took off taxes from all manufactures of the country other than distilled spirits, fermented liquors and tobacco, no reduction in the prices of commodities followed, as would naturally be looked for. As it was an unexpected measure, it was thought to be but a temporary measure, to be soon replaced by other taxes; so that producers made no reduction in their prices. Many of the taxes had become unproductive, and hardly figured in the returns; for in 1869 upward of 90 per cent. of the internal revenue was collected from a few objects and sources, all of which might be classed as luxuries, or as the accumulated wealth of the country. The act of June, 1872, made important reductions by repealing the taxes on incomes, and gas, and abolishing all stamp taxes under sched-

ule B (1864) except that of two cents on bank checks, drafts or orders. — The effect of this great reduction of taxation, accomplished in so short a period and with as little discrimination as was used in imposing these taxes, must have had some effect upon the industries of the country which had accommodated themselves to the burdens imposed upon them, though it would be difficult to determine to how great an extent they were injured or benefited. The theory has been advanced by a competent authority, Mr. Abram S. Hewitt, that the revulsion of 1873 was in great part due to this reduction of taxes. This could, however, have been but one out of many causes, and it would be a mistake to insist too strongly upon this as an active cause. — The sources of internal revenue were now nearly reduced to what they are at the present day; so that a large number of intermediate measures, either reducing or abolishing taxes, regulating the machinery of collection, or providing against fraud, may be passed by. Nor need anything be said of the system of informers and spies, or of the great frauds perpetrated upon the government. — The receipts for the fiscal year ending June 30, 1881, under internal revenue laws, were drawn from the following sources:

Spirits	$67,153,974.88
Tobacco	42 854,991 31
Fermented liquors	13 700,241.21
Banks and bankers	3,762,208.07
Adhesive stamps	7,375,255 72
Penalties and miscellaneous	383,241.11
Total	$135,229,912.30

Thus it may easily be seen that the most objectionable features of the system have been gradually removed, and the taxes now included in it are such as weigh but lightly on the industry of the country, and for the most part fall ultimately upon those who of their own free will pay them. But as the revenues of the government are at the present time far in excess of its legitimate needs, justice and public policy alike demand a still further reduction. The stamp tax on matches, though small in amount and easily collected, is a very unequal tax, and on that ground should be condemned; the tax upon bankers and banks might be reduced or repealed, for the circumstances that existed when the tax was first imposed, and which rendered it a comparatively light tax, have changed, and it is claimed that the tax has now become very burdensome. In fact, the internal revenue taxes could be reduced to those on spirits, tobacco and fermented liquors, and the rates on these commodities could even be reduced. But no other changes could be defended on grounds of public policy or of sound economy. The cost of collection was for the year 1881 but 3.64 per cent. upon the amount collected — Yet a movement looking toward the repeal of the whole system of internal taxation has found great favor among the leaders of the protectionist party, for it would of necessity require a continuance of the present tariff. It is difficult to speak of such a proposition with any moderation. The objections that were urged against internal taxes in the last century will not apply at the present time, for the country is well advanced in wealth and material prosperity, and can easily bear such taxation. Moreover, as we have said, the present system of internal taxes falls, with some exceptions, only upon such articles of voluntary consumption as may be dispensed with and may be taken in excess, and therefore fulfills in the highest degree the requirements of just taxation. While valid objections may be urged against the stamp taxes and those on bankers and banks, no reason that will bear examination can be found for taking off the excises on tobacco and distilled spirits. To maintain that these last named taxes fall chiefly upon the poor affords no sound plea for their repeal. That the necessaries of life consumed by the poor should remain untaxed, is in accordance with the demands of humanity and sound economic doctrine, and on this ground the tariff needs revision. But when a man spends a part of his income on indulgences, as spirits and tobacco confessedly are, it is fit and proper that he be taxed; for the lower strata of society escape most other forms of taxation, and it is through indirect taxes alone that they may be reached and made to pay their quota to the expenses of the state; and there is no more just method of doing this than by taxes on their indulgences. In fact, the objections urged against the internal revenue system of the country are rather of a sentimental character, and are not based upon a careful survey of the resources of the country, the incidence of taxation, and the most fitting objects of taxation; and the various schemes looking to "free whisky and free tobacco" belong more to the doctrines of demagogues than to the principles of true statesmanship. They are vulgar appeals to the uneducated masses who do not know their own interests, and are thus misled into indorsing a scheme that will only serve to fasten upon the country a system of taxation by customs duties that is far more onerous and inequitable, and therefore more indefensible, than the taxes now imposed as internal taxes. — Following we give a table of receipts of the United States from internal revenue from March 4, 1792, to June 30, 1881, (by calendar years to 1843, and by fiscal years from that time):

1792	$ 208,943 81	1863	$ 37,640,787 95
1793	337,705.70	1864	109,741,136.10
1794	274,089.62	1865	209,464,215.25
1795	337,755 36	1866	309,226,813 42
1796	475,289.60	1867	266,027,537.43
1797	575,491.45	1868	191,087,589 41
1798	644,357 95	1869	158,356,460.86
1799	779,136.44	1870	184,899,756.49
1800	809,396.55	1871	143,098,153 68
1801	1.048,083.43	1872	130,642,177 72
1802	621,898 89	1873	113,729,314 14
1803	215.179 69	1874	102 409,784 90
1814	1.662,984 82	1875	110,007,493.58
1815	4.678,059 07	1876	116,700,732.03
1816	5,124,708.31	1877	118,630,407.83
1817	2,678,100.77	1878	110,581,624 74
1818	955,270 20	1879	11 5,561.610.58
1819	229,093.63	1880	124,009.373 92
1820	106,260.53	1881	135,229,912.30

In the intermediate years some outstanding amounts were collected, but they are not of sufficient importance to be given in this place. The total amount derived from internal revenue since the formation of the government is $2,807,357,366.28.—AUTHORITIES. *Reports* of the Secretary of the Treasury and the Commissioner of Internal Revenue; *Report* of the Revenue Commission and of the Special Commissioner of the Revenue, David A. Wells, in the *Cobden Club Essays;* and also his article on DISTILLED SPIRITS in this work. Compilations of the revenue laws have from time to time been issued by the government. A great mass of information is contained in the *Internal Revenue Record.* (See EXCISE, INCOME TAX, STAMP TAX.)

WORTHINGTON C. FORD.

INTERNATIONAL, The, or the **International Association of Workingmen.** This too notorious association owed its origin to the relations which were established at the time of the universal exposition at London, in 1862, between the socialistic French workmen who were sent there at the expense of the government, and the English workmen belonging to the trades unions Up to this time continental socialism had scarcely descended to the ground of realities. It had contented itself with making plans for the organization of labor, of which the essential feature was the substitution of association for wages and the subordination of capital to labor. But in 1862 the contact of the French socialists with the English unionists gave the former an opportunity to become acquainted with the organization and powers of the trades unions, and they determined to import these powerful machines to the continent, and press them into the service of their theories, that is to say, employ them systematically in the war against capital. It was at a meeting in favor of Poland held at St. Martin's Hall, Sept. 28, 1864, that the foundations of the international were laid. A provisional rule was adopted, appointing a committee to draw up the laws of the association, and to summon the affiliated societies to a congress, by which these laws should be definitively adopted. A preamble, purposely expressed in terms rather vague, so that they might be accepted by the different socialistic sects, was placed at the head of the provisional rule and afterward at the head of the laws. In this it was particularly stated "that the subjection of labor to capital is the source of all moral, political and material slavery; that on this account the economic emancipation of the working class is the great end to which all political movement should be subordinated; that thus far all efforts in this direction have failed for want of thorough cooperation among the workmen of different trades in each country, and of fraternal union among the workingmen in different countries," etc., etc. The conclusion was, that the workmen of all nations ought to unite, taking "for the basis of their conduct toward all men, *truth,* justice and morality, without distinction of color, faith or nationality." The terms of this programme were sufficiently general and elastic to exclude no one; however the association was slow in forming, though the annual assessment had been fixed at one shilling; still, a bureau was established in Paris, rue des Gravilliers, where the first group of internationalists assembled; but, according to the testimony of Mr. Fribourg, "from the outset of the enterprise money was lacking." This was the case also in London. "But for the proceeds of a family tea, with a concert, lecture and ball, which the English members gave to the London public, the want of money would, perhaps, have prevented the work from taking root in England for a long time." (*L'Association international des travailleurs,* by E. E. Fribourg, p. 23.) It was not until Sept. 3, 1866, that the nascent association held its first congress at Geneva, under the presidency of Yung, a member and delegate of the central committee of London. The number of delegates from the sections already formed or in process of formation in France, Germany, England, Switzerland, Spain and Italy was about sixty. The congress first adopted the manifesto and by-laws of the association which a committee had been ordered to prepare, and then discussed a certain number of social and political questions which were made the order of the day. In the following years the association held three other congresses, one at Lausanne in 1867, at Brussels in 1868, and at Bâsle in 1869. The events which followed compelled it to suspend these international reunions, and they were not resumed until September, 1872, at the Hague, where a division took place, following which an opposition congress was held at London.—The by-laws adopted by the congress at Geneva consisted of eleven articles, with regulations in the form of an annex containing fifteen articles. The first article of the by-laws was as follows: "This association is established to provide a central point of communication and co-operation for the workingmen of different countries seeking the same end, namely, the mutual co-operation, progress and complete enfranchisement of the working class." The succeeding articles treat of the "general council" which was to be composed of workingmen of different nations. Each year the congress or general assembly of the delegates of the association was to elect the members of the council and determine where the council should sit. As a matter of fact it always met in London. The general council was not invested with any authority over the association, its duty was simply to establish relations among the workingmen's associations of different countries, and endeavor to increase the sections of the association; these associations or sections, however, preserving their autonomy. Each section, whether large or small, had the right to send a delegate to the congress, and when it reached 500 members, one delegate more for such number. Each section or federation of sections

managed its own affairs, fixed the amount of its assessments, and disposed of them as it saw fit. Nevertheless, a general assessment was levied upon all the members of the sections or affiliated societies for the benefit of the general council; but this assessment was very small: ten centimes per capita each year. The total of these receipts for the year 1866, presented at the congress at Lausanne, did not exceed sixty-three pounds sterling, and it is doubtful whether it was much higher in the following years. In this respect the writers who have occupied themselves with the international have fallen into very serious exaggerations. For lack of resources the "general council" was compelled to give up the publication of a bulletin of international statistics which was to have furnished the societies affiliated to the international with regular information as to the state of the labor market, the rate of wages, etc., and it was not able even to maintain a special organ. The Belgian, Swiss and other sections had their journals, such as the *Egalité* of Geneva, the *Mirabeau*, of Verviers; but the general council had none. In short, the international association formed a vast federation of "sovereign sections," of which the general council was the bond of union, but without exercising any effective authority over them. The regulations annexed to the by-laws were intended to render it entirely subordinate to the congress or general assembly of the delegates of the sections which it was commissioned to organize, and whose resolutions it was obliged to execute, (art. 1), with this express stipulation, that the congress should assemble freely, without special convocation, at the times and places which had been fixed upon the preceding year. It is easy to recognize here the spirit of jealousy and defiance of all authority which has always characterized democracy. — Thus constituted, the association had before it, from the beginning, a double end: one purely theoretic, which consisted in discussing, in its congresses, its journals and its special publications, all questions of interest to the working class, and fusing together, if possible, the different socialistic doctrines; the other object, of a practical character, consisted in multiplying its sections so as to include within its pale, in time, all the working masses, thus forming an innumerable army, acting principally by means of coalitions and strikes, for the overthrow of capital. At each congress a great number of "questions" were submitted to the sections, among which, as in most other congresses, the work to be done was divided. Those which were discussed were made the subject of a report which was further debated in the general assembly. Finally, they voted on "resolutions" summing up the opinion of the majority on these questions. Among the subjects which gave rise to the most important discussions may be mentioned property in general, landed property, property in railroads and mines, the laws of inheritance, interest on capital and mutual credit, machines, the reduction of the hours of labor, strikes and societies for resistance, co-operation, education and war. It is needless to say that opinions hostile to property predominated. Thus at Bâsle, in 1869, the congress declared by a vote within four of being unanimous, "that society has the right to abolish individual property in the land, and restore the land to the community." But, by a singular inconsistency, in the same congress, the abolition of the right of inheritance did not receive the necessary majority, (32 of the delegates voting for the abolition, 23 against it, and 17 not voting at all). On the other hand, there was almost perfect unanimity for restoring railroads, mines and forests to the domain of the community, and organizing mutual credit for the purpose of suppressing interest and "releasing labor from the domination of capital by restoring the latter to its natural and legitimate rôle, *which is that of the agent of labor.*" (Resolutions of the congress of Brussels, 1868.) The co operative societies which retained interest were condemned as "transferring that egoism which is the bane of modern society from the individual to the community." As to strikes, while declaring "that strikes are not a means to the complete freeing of workingmen, the association was of opinion that they might be considered as a necessity in the actual situation," and that it was desirable to multiply societies for resistance in order to sustain them. In regard to the introduction of machinery, the association was of opinion that it ought not to take place without guarantees and compensation to the workmen. It finally pronounced for the legal limitation of the hours of labor, and the establishment of "complete education." Very energetic and radical resolutions against war were voted in each congress. As to the future political constitution of society we note the following resolution adopted at the congress of Bâsle: "The groups (trades unions) will constitute the commune of the future, and government will be replaced by councils of bodies of tradesmen." However, there was a difference of opinion as to whether the international ought to occupy itself with purely political questions; in 1869 the question was decided in the affirmative. The congress of the friends of peace, composed of a group of republicans, met at Lausanne, while the congress of the international was sitting at Bâsle. The two congresses, between which could be perceived the old antagonism of politicians or Jacobins and socialists, made peace, under the auspices of M. Victor Hugo, who proclaimed "the union of the republic and socialism." — To sum up, although the economic and political doctrines represented by the international present singular inconsistencies, they were generally agreed on these different points, to wit, that there must be a breaking up of existing society; a transforming of property or its suppression; the abolition of wages by transferring existing enterprises to the hands of associations or companies of workingmen, in which work alone would be remunerated,

capital, for the future, furnishing its services gratis; and finally, that the government should be only a sort of delegation of the federated communities of workingmen. Such were the doctrines that the international strove to popularize and finally to realize. As to the way in which they were to be realized, opinions differed: some favored political means, otherwise called revolutionary; others favored the economic procedure of strikes. While the British trades unions regarded coalitions and strikes simply as a means of raising wages or shortening the hours of labor, the international saw in them a power destined to make the war against capital general and finally to bring under subjection that tyrant of labor. With this object, the international strove to extend its thread of local sections and federations over the entire civilized world; the general council, which served as a medium of communication, was to enable them to render each other mutual aid, so that each strike, if regarded as opportune, should be sustained by subsidies from all the sections or federations. Thus was created an instrument which in time might acquire irresistible power, and the international would end, at least so it flattered itself, by controlling the labor market and dictating the conditions of wages to capitalist employers. If it found them too hard, its intention was to purchase their enterprises and hand them over to associations or communities of workingmen, and thus put an end to the odious régime of wages and the tyranny of capital. This is why from 1867 the international took a part more or less direct in numerous strikes in France, Belgium and Switzerland. We read, for example, in the report on strikes presented to the council of Brussels, in 1868, by César de Paepe, that "the house builders in Geneva saw their strike succeed because the workingmen of France, Italy, England and Germany came to their aid. The sections of the international organized a vast subscription, and the bureau of Paris alone procured the sum of 10,000 francs." Besides the assistance collected usually by way of subscriptions in the sections, the international undertook to transmit all the advice and information which might aid the cause of the strikers. Thus, during another strike of the same house builders at Geneva, the journals of the international induced masons, stonecutters, etc., to refrain from going to Geneva until further orders. At Lyons, the strike of the female silk spinners (June, 1869) was encouraged by the international, which sent them a small sum of money (1,323 fr. 30 c.) collected from the sections. (Oscar Testut, *L'Internationale*, p. 72.) At Paris, the strike of the leather-dressers and bronzers was sustained by similar support. The bronzers, an exception which Mr. Fribourg points out, afterward paid it back. The international interfered in an equally active manner, in the strikes at Creuzot and Fourchambault (April, 1870), in the strike at Seraing (Belgium), etc., etc. But, following the example of the trades unions, it interfered only when the circumstances seemed favorable. In the strike at Renaix, it even attempted to exert a pacifying influence. A proclamation from the bureau of Paris, signed by Messrs. Tolain, Fribourg and Varlin, condemned the destruction of machinery. But the international did not often hold such moderate language; the workmen themselves have accused it, at different times, of having encouraged strikes without giving them any assistance beyond proclamations and the exhortations of its agents. However, it acquired such an influence that the imperial government, after trying to negotiate with it, became alarmed. The bureau of Paris had to stand three law suits, (March and May, 1868, and July, 1870), several members of the bureau were condemned, first to pay a small fine, afterward to a year in prison. These sentences do not seem to have arrested the progress of the international. The events of 1870 exercised a decisive influence over the destinies of the international. It is only justice to it to say that at first it protested vigorously against the war. In this spirit, the Parisian members published a "manifesto to the workingmen of all countries." On the 23d of July the general council published a similar manifesto. "We declare if the working classes of Germany permit the present war to lose its strictly defensive character and degenerate into an offensive war against the French people, victory or defeat will be equally disastrous" According to Mr. Fribourg, the international, as a corporate body, took little part in the revolution of September 4th; nor do we find it much more active in the defense of Paris. (*L'Internationale*, p. 143.) At this time the place of its meetings had been transferred to rue de la Corderie-du-Temple, and in the room of the Cour-des-Miracles, near the passage of the Caire, its members had a club, very meagrely attended (club of the Cour-des-Miracles). The international gave few signs of life until the eve of the commune. What part did it take in the insurrection of the 18th of March? It is difficult to say. Only two of its members, Varlin and Avoine *fils*, figured among the thirty-six members who composed the "central committee of the national guard." On the other hand, among the seventy-nine members of the commune, twenty belonged to the international; a few, Ch. Beslay, Theisz and Longuet, were among the moderates; others, on the contrary, such as Vésinier, Pindy and Varlin, figured among the promoters of violent resolutions and measures. On the 23d of March, a circular emanating from the "federal council of the provisional sections," and from the "federal chamber of the workingmen's societies," urged the people of Paris to vote for the commune, which was to be elected three days later (March 26th). This is the only thing emanating from the association which we find in the collection of documents of this epoch. (*Le Gouvernement du 4 Sep-*

iembre et la Commune de Paris, by Émile Andréoli, p. 215.) But immediately after the repression of the insurrection (May 30, 1871), the general council at London published a long manifesto addressed "to all the members of the association in Europe and the United States," in which the insurrection of the 18th of March was justified and the commune glorified. (This document will be found in the *Histoire de l'Internationale*, by Edmond Vélletard, appendix, p. 327.) — A general outcry was then raised against the international, and there was even a question of a convention between governments to prohibit it. This project did not amount to anything, but in France a law was passed, under date of March 14, 1872, forbidding, under heavy penalties, all affiliation with the international, and even the giving publicity to its documents. Whether the international thought it prudent to let the storm pass over, or whether it was weakened by the internal dissensions which broke out a little later, little was heard of it for more than a year. The congress did not assemble in 1871; there was only at London a simple "conference" whose deliberations were not made public. The following year the general council of London, of which the celebrated socialist, Karl Marx, had been made president, took courage and convened a congress at the Hague. But in the meantime the centralizing tendencies of the general council had roused intense opposition, and Karl Marx was accused of aspiring to the dictatorship. On the eve of the congress at the Hague, Aug. 4, 1872, at the congress at Rimini, the Italian federation formally broke with the general council. On the other side, the Jura federation sent a delegate, Guillaume, to the Hague, expressly commissioned to demand "the abolition of the general council and the suppression of all authority in the international." This burning question was made the order of the day at the opening of the congress, and called forth the most stormy debates.— Thanks to the gathering of a certain number of the old members of the commune, Ranvier, Dereure, Vaillant, etc., the majority pronounced in favor of maintaining the general council. The federalist minority then withdrew from the congress. But it was not long before the majority was itself divided; it embraced two very distinct elements: those who wished to confine themselves to the economic struggle, at the head of whom was Karl Marx; and those who demanded that the international should take upon itself, in the first place, to organize the proletariat as a political party. The old members of the commune, who formed the party called the "Blanquists," especially sustained this opinion; but Karl Marx and his friends refusing to agree to it, the politicians, in turn, quitted the congress, thus leaving the field open to the partisans of the economic struggle. The latter resolved to transfer the seat of the general council from London to New York, and after taking this resolution, the congress adjourned. Some days later, on the 15th of September, the dissenters, to the number of twenty-five, assembled in the Science Hall, Old street, London, to protest against the decisions of the congress of the Hague, accusing that congress of having "compromised and betrayed" the cause of the international. This opposition congress, led by the two communists, Vésinier and Landeck, pronounced the dissolution of the international, and decided that it should be replaced by a "universal federal association." — The history of the international ends here. Created under the influence of the false idea which has been at the bottom of all socialistic ideas for the last half century, that labor is necessarily defrauded (*exploité*) by capital under the wages system, the object of the international was to suppress wages and substitute associations in which capital would be subordinate to labor for the existing enterprises of production and exchange. To attain this end, it employed sometimes the novel mode of procedure of the trades unions whose forms of organization it had borrowed, and sometimes the old revolutionary methods. Neither of them has succeeded, and it may be hoped that the association will never recover from the blow dealt it by the dark events of 1870–71; but it is less certain that it will not have successors. G. DE MOLINARI.

INTERNATIONAL LAW. (See LAW, INTERNATIONAL.)

INTERPELLATION, a question propounded to a minister by a member of parliament. Many arguments can be offered in favor of the right of interpellation, even setting aside those founded upon ministerial responsibility. Has not the nation a right to be informed about its own affairs, and can its mandatories exercise their control without asking for the information they may need? When the law does not allow deputies to interrogate the representatives of the government in a legislative assembly, it frequently happens that the questions arise of themselves, and the government immediately answers them. The government may even sometimes be glad of the opportunity thus presented of expressing its opinion. The solemn preparation of these questions only has been removed. Where the right of interpellation is admitted, in Europe, the ministers are informed of the subject of the interpellation, the day is fixed by mutual consent, and the government has an opportunity to prepare itself; but it is not always obliged to answer. The public good may sometimes require the refusal to grant interpellation. The government may also, it is true, pretend a necessity for silence, based upon this motive, and thus avoid a difficulty.

MAURICE BLOCK.

INTERREGNUM is the interval between one reign and another. In an hereditary monarchy the heir to the throne is king by right after the death of his predecessor; every one knows the

expression: "The king is dead, long live the king." An interregnum can occur only in states where, at the end of one dynasty, the new prince succeeds only after a certain interval. — There is no interregnum in a republic, for the supreme magistrate is elective; he does not reign, but governs. The end of his government being known beforehand, the election of his successor can be held, and the one enters into office the moment the other departs from it. In this case, also, there is no break in the continuity. — It is not so in an elective monarchy. The king having been elected for life, the precise date of the end of his reign is not known, and it would not be pleasant to tell a man that you believe he will soon die. In these states, then, there is an interregnum, the time of election. The evils that result from these momentary removals of the representative of supreme authority, are well known. Thus at Rome, after the death of a king, the senate nominated a substitute for the performance of the religious functions that could not be performed by other magistrates. The wars of the pretenders which, in the Roman empire, followed the death of Galba, and of Didius Julianus, were veritable interregnums. In France we may cite the interregnum from 736 to 741, from the death of Thierry II. to the accession of Childeric III Charles Martel governed France during this period, as he had governed it under Thierry II., and as his son, Pepin the Short, governed it under the succeeding monarch There was also an interregnum of one year between the death of Charlemagne and the accession of Charles the Simple; an interregnum of five months in 1316, from the death of Louis the Quarrelsome to the birth of John I, who reigned four days. The most celebrated in history was the great interregnum of the German empire, which lasted twenty-three years, from the death of Conrad IV. (1250) to the election of Rudolph of Hapsburg (1273). Three emperors were elected at the same time during this interval: William of Holland, Richard of England, and Alphonsus of Arragon. None of them reigned. It was a period of discord and violence. — The great improvement in political institutions has, in the different countries, either suppressed the royal power, or extended to the mode of transmitting it the increased regularity of all political movements. Thus the interregnums which were so terrible and so disastrous in ancient history, are accidents entirely foreign to the history of modern times.

JACQUES DES BOISJOSLIN.

INTERVENTION. By intervention, in politics, is meant the influence exercised by one or several governments over another or several other governments regarding internal or external affairs, of a nature to compromise the general peace. Taken in its etymological sense, the word *intervention* should signify arbitration; but as the duty of an arbiter supposes absolute disinterestedness on the part of the one who takes this character, the term certainly can never be rigorously applied in politics, for the interference of a nation in the affairs of a strange state rarely possesses and still more rarely preserves this noble character. Still, the principle on which the right of intervention is based, is theoretically the recognition of a human right, the affirmation of the unity of human reason, the attestation of the moral and material solidarity of all nations and all individuals, independent of and superior to the constitutions and particular laws that govern them.—*Nil humani a me alienum puto:* I esteem nothing human foreign to me; such is the profession of faith of every man of progress, no matter what his nationality. Surely, nothing can be nobler than this. In France the right to interfere in the internal and foreign debates of other countries is considered almost as of divine investiture, and this generous passion has often made the French forget even the care of their own independence.— Can it be said that there is a human law, fixed and invariable, accepted by all, and calculated to serve as a rule for all relations of people to the government, and of state to state? We need but cast a glance at contemporaneous events and recall the history of past times to recognize how far we still are from such a realization. However, the right of intervention is exercised every day, either openly or covertly, to the detriment of universal morality. It has served and may still serve as a pretext for every species of usurpation, iniquity and spoliation. Instead of preventing war, it most frequently leads to a general conflagration; from a circumscribed debate, colored with some show of justice, it leads to the most audacious attempts against the independence of nations and the liberty of individuals. — There are several kinds of intervention. intervention simply by means of notes called *verbal*, delivered by the ambassador of the intervening power; official intervention by notes publicly delivered; pacific intervention, which nearly always has for result a congress or international conference, and armed intervention, preceded by an ultimatum, accompanied by military demonstrations and followed by a declaration of war.— The principal authors who have treated of the law of nations have vainly endeavored to circumscribe the right of intervention, but they have not succeeded in giving a positive definition of it, or defining its limitations. Vattel, Wheaton, de Martens, Pinheiro Ferreira, admit that it should apply only to the purely external acts of nations, and that the circumstances in which a foreign government may intervene in the internal affairs of a state are very special and restricted; but these authors have taken care not to specify the particular cases in which intervention appears to them legitimate, and thus the way is left open to all interpretations.—Some modern publicists have professed the principle of non-intervention in opposition to the principle of intervention; endeavoring (so lacking in precision is political language) to give a positive value to a negation. In

stead of considering in itself the right of nations to dispose of themselves, to form their institutions, to contract alliances, and to conclude treaties of commerce, they have reduced the declaration of independence of nations to this lamentable formula: Each one for himself, and at home. — In 1820 at the time of the meeting of the congress of Troppeau and Laybach, the English government endeavored to establish more definite limits to the exercise of the right of intervention: the question arose apropos of the Neapolitan nation, which, in the course of an uprising, had wrested from its sovereign certain guarantees against arbitrary power. The popular movement had been successful, the king abdicated in favor of the duke of Calabria, and granted a constitution. The emperors of Russia and Austria, and the king of Prussia, interested themselves in the matter, and convoked a congress of the powers that signed the treaty of 1815, to take counsel, in their common interest, as to the revocation of the concessions granted; England declined to attend, and her declaration deserves mention here, for it inaugurated the policy of non-intervention which secured to Europe so long a period of peace. — While acknowledging that a government might have the right to interfere seriously and directly in the affairs of another state, the English government deemed this right justifiable only by the most urgent necessity; it did not admit that this right could receive a general and unrestricted application in all cases of popular movements, and it believed especially that it should not be employed as a prudential measure, nor form the basis of an alliance. *This right*, it said, *should be an exception to the most essential principles;* it could be allowed only in special circumstances. The liberal attitude of England, at this period, is not to be attributed to a respect for the independence and autonomy of nations; policy proceeds from interest, more or less correctly understood, and not from principle. — The most curious result of the congress of Laybach, was the pretension (a pretension made by the intervening powers) to prevent a sovereign from granting, or, to speak more accurately, from restoring to his people the liberties which had been taken from them. Its decision was to the effect that the absolute principle should be re-established at Naples, that the former king should resume his crown, and that, if necessary, force should be employed to obtain this end. Austria was charged with the execution of the decree; her armies invaded the kingdom of the Two Sicilies, and during several years occupied, at the expense of that country, the principal cities of the kingdom. — One year later Piedmont rebelled, and proclaimed a constitution copied after the Spanish constitution of 1812. Again there was a new intervention, a condemnation of the insurrectionary action of the Piedmontese people, and a restoration of absolutism; and again it was Austria that had the honor of the repression. The allied governments thus justified their intervention: "It was a right which, in this special case, became an urgent necessity to unite in common measures of security against the states in which the overthrow of the government effected by revolt could be considered but as a dangerous example, which would result in an attitude hostile to legitimate constitutions and governments." — Two years passed, and Spain in turn demanded the constitution of 1812; this time France was the executor of the decrees of the holy alliance; her arms overthrew the national compact of Spain and restored absolutism beyond the Pyrenees. — Upon the revolt of the Spanish colonies, the desire to intervene was again manifested, but here the United States upheld the revolted provinces, and England declared herself ready to recognize the independent governments that had been formed, and the holy alliance was obliged to withdraw before the consequences of its own principle. — In 1825 the death of John VI. called to the throne of Portugal his eldest son, Dom Pedro, then emperor of Brazil. The constitution of the latter country being opposed to the reunion of the two crowns, Dom Pedro abdicated in favor of his eldest daughter, Donna Maria, who inaugurated her new reign by according a constitution to Portugal. A competitor arose to oppose her, under the auspices of the great powers. France supported Dom Miguel, but England declared openly for the constitutional power of Donna Maria, and disembarked a body of troops in Portugal; this effective intervention a second time foiled the retrograde action of the French, Russian and Austrian governments. — In 1826 a new coalition was formed, in which England participated in the intervention demanded by France and Russia in favor of the Greek insurrection. The united powers burned the Turkish fleet at Navarino. Fourteen years later, France intervened in favor of the Turkish government, and all Europe was prepared to take up arms in defense of an empire which it had so terribly ill treated but a few years before. — Since 1848 interventions have followed one another pretty steadily: the intervention at Rome to re-establish the temporal power of the pope; the intervention in the Crimea to insure the integrity of the Turkish empire; the intervention in Italy for the re-establishment of Italian nationality; the intervention in Syria for the protection of the Christians of Libanus; the intervention in China and Cochin China, under pretext of suppressing acts of cruelty committed upon the missionaries, and in reality to enlarge the circle of the commercial relations of France and England; and French intervention in Mexico, the sad results of which are well known. — To sum up, intervention is war, and war is the subordination of civil to military genius, and as a talented author has very forcibly expressed it: "As dangers accumulate, war opens the era of saviours. Scipio makes us forget the Gracchi, and prepares the way for the Cæsars. The austerity of public morals gradually disappears before the corruption of ill-ac-

quired riches; the glory of the great generals eclipses all social virtue. War is as disastrous to morals as to the public finances." It was in the name of the right of intervention that Catharine II. prepared the way for the division of Poland; it was by an appeal to the same right that Prussia and Austria sanctioned this usurpation by taking part in the spoliation of the Polish nation; it is under color of intervention that England even successively dispossessed the native princes of Hindostan. It was under the pretext of intervention that Brunswick addressed to revolutionary France the insulting manifesto to which she replied by so many victories However, the French revolution was an entirely internal matter; when it broke out it had not the character of propagandism which it assumed later. We may say that the intervening powers violated the autonomy of nations, and that the principle of intervention which they wished to legitimatize by a series of manifestoes, proved, in the absence of a well-defined human right, applicable to all peoples, whatever degree of civilization they may have reached, solemnly and directly accepted by them without the compulsion of their respective governments, to be nothing more than a modern disguise of the right of force.—It is this so-called right that legalizes those military establishments which absorb so many useful arms, and so much fruitful capital; appealing by turn to the right of nations and the interest of sovereigns, the right of conscience and the interest of religion, it will destroy to-morrow what it erected yesterday; it changes arbitrarily the balance of international relations, and under pretext of establishing between nations one common law of justice and civilization, fosters their mutual enmities.—What would be said of a tribunal passing judgment under pressure of the interests and passions of the moment; applying a law which has neither been defined nor confirmed, and executing its own sentences? Such, however, is the power exercised to-day by the right of intervention. Does this mean that the juridical idea, the thought essentially human whence intervention proceeds, shall never be satisfied? I do not think so; the question ought to be put thus: Above the arbitrary conventions of politics, above treaties, above governments, above nationalities themselves, so frequently appealed to in our day, does a human law exist? Can it be established upon a serious, durable, respectable basis? What international convention could draw up this code of civilized nations? How should the members of this convention be chosen? What sanction should the constitution which might result from these deliberations, have? What tribunal would take cognizance of offenses against this new code? What would be the means of enforcing obedience to it, and the manner of executing the decisions of this international tribunal when it would have summoned before it a dispute between two nations, or the protestations of a nation against the despotism of its rulers? It is thus the question should be put, if we would give a respectable foundation to the right of intervention; if we would substitute reason for force, right for brutality, peace for war, a stable equilibrium for an insecure one, and economy for prodigality Until it be resolved in this manner, we must condemn intervention, under whatever disguise it may conceal itself; for, springing from force, it can lead to nothing but arbitrary power.

FRANCIS EDWARD HERVÉ.

INVASION. In every European continental war there is an invasion. When France, for instance, goes to war, either she invades the enemy's territory, or the enemy invades the territory of France. Undoubtedly it is to each nation's interest to carry the evils of war into the enemy's country, but they should not, in these circumstances, forget the precept: "Do unto others as you would that others should do unto you." It is, in fact, a rule that the invader should respect the persons and property of private individuals; it is a rule also that the civil population of the country invaded should be allowed to continue, as far as possible, their peaceful occupations. The question may, however, be asked: In case of an invasion, what should the citizen do? The question is a difficult one to answer, particularly if the answer required be a general one. Should the entire population rise as one man? We should incline to an affirmative reply, if the fear of a general uprising would be likely to prevent the invasion. But little attention is paid to theories in these matters. The people will take up arms if conquest be the object of the invasion, or if they are in sympathy with the government, or desire to expel the invader; but they may also remain indifferent. Indifference, however, in our day, is apt to lead to their own ruin. When the people take an active part in the war they no longer enjoy the immunities accorded to peaceable citizens. The enemy generally feel themselves justified in practicing greater cruelty upon armed citizens than upon soldiers properly so called. Specialists maintain that the enemy is obliged in self-defense to treat with severity every armed man who is not in uniform and does not form part of a regularly organized body; first, because they can not recognize him from a distance as a soldier, and can not guard against him; next, because the invading force spares men and property, only under the express condition that these men and this property shall not work them any injury. Nevertheless, we can not justify these excesses. All men taken with arms in their hands should be treated alike. Unfortunately, more attention is given to the voice of passion than to that of reason, in time of war, and men allow themselves to commit acts which they reprove and energetically denounce when committed by an enemy. MAURICE BLOCK.

INVENTIONS include all contrivances which increase the power of man in production. Their

economic effect is to take the place of the labor of man, and at the same time to multiply the results of this labor, either by utilizing the forces of nature, or by deriving a greater benefit from the men and the various kinds of capital, of which inventions are themselves one of the most important groups. — The considerations which we are about to present apply, in all respects, to mechanical, chemical and physical *discoveries* and *inventions* of every kind, to all processes of whatever nature they may be, to all displacements of capital and the industries, to all advancement resulting from the application of an economic truth hitherto unknown or misunderstood, and having for its final result to produce in a better manner, more quickly and more cheaply; and to do this in agriculture, in manufactures, in transportation, exchanges, sciences, the arts — in a word, in all avocations. In the number of these improvements we may mention those which result from greater freedom of trade, which, bringing about the importation of products prohibited or too highly taxed, and opening the way to markets, may be compared to the employment of a series of new machines. — It is at once evident how the subject enlarges; for it is impossible, so far as results are concerned, to make an economic separation between inventions or even simplifications in what is strictly a mechanism, and a method of cultivating the soil, the employment of a chemical apparatus, or any administrative or scientific work. In them all we have forces better combined, better employed, and which give a better result, that is to say, which produce more, more quickly and more cheaply. — I. *The Power of Inventions in Production.* To produce more, more quickly and more cheaply, is an expression for all economic progress obtained by a better employment of the instruments of labor, which are the earth and other natural agents, the physical and intellectual forces of man, and capital. A well-ordered division of labor, and the employment of inventions, are, perhaps, the two most striking general examples of this progress that can be given. Let us cite a few facts which will show what an enormous difference modern industry, with its astonishing means of action, with the machines and inventions whose power it has been able to utilize, has made between society at the present day and communities before our time, which were considered as endowed with a brilliant civilization. — Before the invention of water mills and wind mills, slaves, poor prisoners or unfortunate women turned the millstone; and ancient authors inform us how slow and laborious this operation was. According to Homer, twelve women were constantly occupied in the house of Penelope in grinding the grain needed for the household. On the other hand, the most simple water mill, a mill rented at about $600 a year, a mill which will in its turn become antiquated by the side of the improvements in mechanics, can grind in one day as much grain as one hundred and fifty men. If this mill is in operation three hundred days in a year, its cost is ten francs ($1.93) per day; on the other hand, the men would cost at least three hundred francs: so there is a saving of two hundred and ninety francs, which, apportioned on thirty-six hectolitres (about 100 bushels) constitutes half of the price of the grain itself. — Homer did not say how many persons composed the household of Penelope; but Michel Chevalier,* considering that Ulysses was king of a poor kingdom, thinks he exceeds the truth in estimating them at 300 in number. The same writer, considering, on the other hand, the mill of St. Maur, found that in this remarkable establishment, forty millstones under the charge of only twenty workmen, ground to flour 720 hectolitres (1,980 bushels), which would furnish food for 72,000 persons. In the time of Ulysses, the labor of one person was then necessary to produce the flour needed for twenty-five others. In our day, that operation has been brought to such a degree of perfection that one person can supply the flour for a population of 3,600 persons,† or 144 times as much: consequently, now, 278 workmen, distributed in fourteen establishments like that of St. Maur, can grind for a million of the inhabitants of Paris. At Rome or in Greece, an army of 40,000 slaves were needed to produce the same result. Besides, there is no possible comparison between the condition of those who work in the improved mills of our day and the slaves turning the millstone; between the flour of a mechanical mill and that of Penelope's house. The most wretched of the Parisians eat bread a hundred times preferable to the black cakes of Ithaca's queen, and each of the workmen we just mentioned can procure for his home more comforts than the prudent Ulysses. — In the Pyrenees, where the ancient mode of working iron is kept up, with some improvement, however, one still finds forges similar to those which must have been used centuries ago. The quantity of iron representing a day's work of a man with these furnaces, may be approximately estimated at about six kilograms (over thirteen pounds avoirdupois). Modern industry has constructed blast furnaces,‡ enor-

* *Cours d' Economie Politique*, 1st vol., 2d lesson. From this work we borrow such of these facts as relate to the mill of St Maur, to iron and to spinning, which are presented there more in detail.

† The present rate of production (July, 1881) in the flouring mills of Washburn, Crosby & Co., Minneapolis, Minn., is such that the average product of a man's labor is the flour required for 3,985 persons, allowing three-fourths of a pound daily per individual, and considering that consumption continues one day more per week than production. These mills employ 281 men (who work twelve hours per day—a part from noon to midnight and a part from midnight to noon), exclusive of workmen not connected directly with milling, such as carpenters, millwrights, machinists and laborers. The total daily production with this force is 5,000 barrels of flour per day of twenty-four hours. —E. J. L.

‡ A blast furnace now in operation in Kentucky has run off *forty tons* of iron per day for several successive days. By the aid of recent improvements, a better quality of metal is obtained from very refractory ores than was formerly obtained from ore more easily worked.—E. J. L.

mous structures, capable of running off from three to five thousand kilograms at a heat, if operated with charcoal, and from ten to eighteen thousand kilograms if operated with coke; and the average daily product of the labor of a man may be estimated at 150 kilograms of iron. In other terms, the labor of an iron worker is to-day twenty-five times more productive. Note also that the ores mined present more difficulties, and that the product obtained is better. — Another comparison will show us a prodigious growth, made not since the time of Homer or within centuries, but simply within the last three-fourths of a century. Spinning machinery, in fact, which has given rise, as if by enchantment, to so numerous and such fine manufactures, dates no farther back. It was only in 1769 that Arkwright took out his first patent; and only in 1774* that Watt, whose inventions made the steam engine common, took his. The cotton industry, as it exists to-day, is the work of these two men. Thanks to them, admirable spinning machines set in motion hundreds of spindles which are so disposed and combined, that it is calculating largely to estimate five workmen to take charge of two frames connected with 800 spindles, or one workman for 160 spindles. But a good spinning mill of India or Europe makes just as much thread as half a spindle; so that a cotton spinner to-day turns off 320 times more thread than in 1769; in other terms, within a little more than a century, the productive power of man has increased 320 times in that necessary industry. In the spinning of flax, which is of comparatively recent date, one person is sufficient to take care of 120 spindles, which produce as much thread as 240 spinners, and the thread produced is finer. — It has been by combining the advantages of the division of labor with mechanical and steam power that printing has wrought those prodigies which defy all comparison. Workmen transform the copy of the writer into pages of type; but a machine impelled by steam, and aided only by two or three men, spreads the ink over this type, carries the sheets of white paper over it as fast as they are presented, prints them, and delivers them on the other side to the person whose business it is to collect them. There are machines which ordinarily print five or six thousand copies† an hour. How many copyists would be needed to do as quickly and as well? — By the aid of a simple mechanism, called a *slide*, people succeeded in extracting from the depths of impenetrable forests, trees which were there valueless. Such a slide was that of **Alpnach**, in Switzerland, which for several years enabled the century-old trees lost on the heights and in the gorges of Mt. Pilatus to be utilized. By means of plane surfaces ingeniously supported by scaffoldings, passing over precipices, over and under numerous rocks, and following a well-managed gradient, these trees traveled over a space of twelve kilometres (about seven and a half English miles), in two minutes and a half. In six minutes a tree passed from the forest into Lake Lucerne; thence it descended the Reuss, and went by the way of the Aar and the Rhine to the sea. — The progress attained in our day in ordinary transportation is not less phenomenal. When Fernando Cortez arrived in Mexico, everything was transported on the backs of men. This is still the case in many localities in America, Asia, Africa, and even in Europe. Wherever the improvement of the roads would allow transportation on the backs of quadrupeds, the progress has been as thirty kilograms (about sixty-six lbs.), the load of a man, to 200 kilograms (about 440 lbs.) the load of a good horse traveling at a walking pace. Wherever the roads have become passable for carriages the same motive power has been able to draw, on a two-wheeled cart, a weight at least five times greater. On a canal, and with a boat, the same horse draws from eighty to a hundred times more; that is to say, eighty to a hundred thousand kilograms. On railroads, traction is ten times more easy than on ordinary roads. On these, travelers ordinarily go ten (French) leagues or forty kilometres (about twenty-five English miles) an hour; merchandise, four to five leagues. Whole populations and masses of merchandise are transported at one trip, and that at prices extraordinarily reduced, being between twenty and five centimes per ton and per kilometre, according to the kind of merchandise. One makes in a few hours a journey which, not many years ago, required several days, and, a century ago, weeks and even months. In 1763 the public conveyance from Edinburgh to London took a fortnight; in 1835 the stages went this distance in forty-eight hours; to-day the trip may be made by railway in eight hours. Madame de Sévigné tells us that in 1672 it was necessary to sacrifice a month in order to go from Paris to Marseilles, a journey that is made in sixty hours by the ordinary roads, and that can be made in one-third this time by railway. "Time is money," say the English, money that may be saved. "It is the material of which life is made," said Franklin. The economy to the people of the new ways of communication is therefore considerable. Suppose a line of travel frequented by a half million travelers. The saving of an hour for each traveler produces for the whole the sum of 500,000 hours, or 50,000 days, representing a year's manual labor of 166 men who do not increase by one cent the general expense of food, and whose time has a value much superior to that of the average workman. — We may add that in the time of Madame

* Watt took out a patent for his invention in 1769, and in 1775 obtained from parliament a prolongation of his patent for twenty-five years. (See Chambers' Encyc., Art. Watt.) —E. J. L.

† The Walter machine, on which the London "Times" and the New York "Times" are printed, gives 11,000 perfected sheets an hour. The Victory press will print, cut, fold, and paste at the back a twenty-four page sheet at the rate of 7,000 an hour. The Hoe perfecting press will give 12,000 or more perfected sheets in an hour. (See Appleton's Cyclopædia, 1880.)

de Sévigné and even considerably later, such journeys involved perils sufficiently serious for it to be prudent to make one's will. In our day, and notwithstanding the extreme rapidity of steam travel, the chances have been singularly diminished. In England, only one victim (killed or injured) is estimated to 500,000 or 600,000 travelers. — We have just called attention to the fact that the saving produced by inventions for transportation may be estimated in the days' work of men who do not increase the general supply of food. This observation is important, and we ought to extend it to the action of inventions. It was estimated that there were in France, in 1846, nearly 4,400 steam engines, equivalent to 1,100,000 men. These eminently laborious automats, coming to the aid of the human population, content themselves with coal for their only food, and in no way diminish the supply of provisions or make them dearer. — II. *Economic and Moral Effects of Inventions.* It is superfluous to dwell here on the manner in which inventions, the first effect of which is an abundance of products and a lowering of prices, finally result in the possibility of a continually increasing number of the population procuring for themselves these products; and how inventions thus diminish their sufferings, increase their material well-being, and obtain for them the means of participating in the share of intellectual and moral enjoyments of which civilization permits the attainment. (See CONSUMPTION.) The high price of products is the principal obstacle to the progress of society. There is a tendency in society (constantly progressive, but hitherto incapable of attaining its object) toward a condition which may be expressed as being an accumulation of alimentary substances, of those which serve for clothing and for dwellings as well as of objects of science and the arts, so that every man may always be able to procure for himself and his family larger and larger quantities of these objects. This is a result desired alike by the philanthropist, the philosopher, the economist and the statesman; and it is every day approaching realization, through the fecundity of human genius, expressing itself in improvements and inventions of every kind. Formerly the English cotton factories scarcely met the demands for internal consumption, which averaged a decimetre of cloth for each person. To-day they give from sixteen to eighteen metres, and they export considerable quantities. Prices grow lower every day. "Consequently this soft, convenient and useful cloth, formerly so dear and so rare, is to-day within the means of every one. This is almost a revolution in manners. A change has been wrought in domestic life; a love for neatness and a habit of it, have become general; and "cleanliness," as the English preacher, Wesley, said, "is more than a quality: it is a virtue which elevates the soul, because it gives man a sense of his dignity." (Michel Chevalier, *Cours d'Economie Politique*, p. 91.) — In the reign of Henry II. no one had a handkerchief; most of the great lords were themselves obliged to wipe their noses on their elbows. Through the progress in agriculture, navigation, spinning and weaving, most of the French to-day can be provided with some of these aids to neatness. The same is true of shirts, and of all the necessaries of life. In former times, the purchase of a Bible required a small capital; to-day an infinite number of works are sold at only a few sous, and in England and the United States the humblest family can take at least one weekly journal. Only a short time ago traveling was a great luxury; by the improvement of the avenues of communication, it is now within the reach of every one. — The facts which we have given, and others still more numerous which we might recall, prove how mechanical, physical and chemical inventions unite powerfully to realize conditions of liberty and equality, to redeem man from slavery, properly so called, as well as from that other slavery of privation and brutalizing labor, and to elevate him in his own eyes and in those of his fellow creatures. Religion and philosophy have in turn proclaimed these great principles of liberty and equality; but, as M. Aug de Gasparin observes, (*Considérations sur les machines*, Lyons, 1834), they would have remained powerless to give them value without progress in the industries. Slavery, we must not forget, existed among the ancients side by side with philosophy; in modern times it was imported into the colonies and maintained there by Christians, both Catholic and Protestant. Religion and philosophy would alone be incapable of accomplishing the temporal redemption of humanity. Mills have come and freed a host of slaves, who, among the ancients, were engaged in pounding grain in mortars or turning grinding stones by hand; and those whom the lot of war condemned to be simple machines, have been replaced by millers to whom free labor always secures a modest competency, and sometimes wealth and consideration. The sail effected the deliverance of the unfortunate ones who were compelled to ply the oar, a labor so severe that slaves among the ancients, and malefactors, in more recent times, were, under the name of galley-slaves, put to this work. To the sail, steam is added; and henceforth the sufferings of the sailor-boys and the sailors are alleviated; the privations they endure are less severe; their manners become more gentle. Intelligence has come to take the place of force, or better, to direct it, guide it, and make it productive. — What we say of the severe and fatiguing labors, is still more true of the labors of a repulsive and dangerous nature, which scientific processes modify or transform, or of which inventions wholly relieve men. Such, for example, is the new method of gilding and silvering, which dispenses with the intervention of mercury, so destructive of human life; such is the new way of cleaning ditches, which saves laborers from the morbid effects of sulphureted hydrogen, and their too's

from its corrosive power. — Let us also observe that, by favoring the division of labor, mechanical and other improvements bring woman back more and more to the care of the family and of housekeeping, and make it possible for all the faculties of man to be cultivated and made productive in the general interest of humanity. It has been noticed that in England and the United States, where mechanical appliances have been largely developed, women labor very little in the fields, and are not seen bending under the weight of a harvest burden or a basket of manure. This sad spectacle, on the contrary, meets us in many parts of continental Europe, and even in several localities in France. In Paris, itself, in the heart of civilization, it is not rare to see women harnessed to vehicles, or bending under the weight of heavy burdens. It is also in countries where improvements in agriculture have been the greatest, that it most fully employs the resources of mechanics, the power of animals and the teachings of science; in countries where transportation is the easiest, that the means of subsistence are produced with the fewest hands, and consequently that a greater number of minds can turn to other branches of human activity, such as the industries, commerce, the arts and philosophic and scientific researches, the influence of which then makes itself felt on laboring men and indeed on all humanity. — There is one last remark we wish to make. Certainly, every one is of the opinion that industrial improvements, machinery and other applications of science, give nations a greater desire to have security maintained, and that, by binding people more closely together through the growing exchange of products, of ideas, of sentiments and of esteem, their influence has already made war, conquest and domination unpopular; and every day this same cause renders more difficult the return of that folly of princes and peoples, an impious recourse to arms. But on this point there is a still more direct influence of inventions and the genius of invention, which we must here take into account. In becoming perfected, instruments of destruction, by one of those admirable apparent contradictions of which Providence holds the secret, become in fact less to be dreaded. There has been less destruction of human life since the invention of cannon. Battles where guns are used are relatively less fierce than those with swords; a few projectiles intelligently thrown can take the place of those impetuous assaults after which the conquered were put to the sword, and the conquerors, mad with victory, marked their pathway with blood. It is because the certainty of destruction has been increased by the improvements in firearms; and it is in the nature of the most courageous even, to shun such a certainty. — We have, as we think, sufficiently analyzed the power of inventions, and their industrial and social effects. We have, however, said nothing of the services rendered humanity by printing, nothing of the influence of the improvements in the means of communication, both by land and by sea, nothing of postal communication, of the mariner's compass, or of the electric telegraph! III. *Objections made to Inventions; Inventions always useful to Society and to Labor in general.* The case of inventions has been won in political economy; but the prejudice which condemns them has still too many echoes in society for us to here pass over in silence the arguments which perpetuate it. Let us proceed with them in due order. Here is the fundamental objection, which goes to the heart of the problem, and which is the root of the thicket of sophisms formed by all the others. People can not and do not deny the prodigious effects of the employment of machines and the resulting economy of productive force; but they say (and this was the very objection of Montesquieu*), that this economy for some is compensated by the loss of others, and that finally society grows poorer by the amount of labor saved by the invention and lost to those of its members whom it deprives of work. — We will not dwell on the question of justice which meets us here. John produces an article under certain conditions, and makes me pay a certain price for it; Paul exercises his ingenuity, and finds a way to do better and to offer me the article at a lower price. By what right does John keep the monopoly of doing worse? In virtue of what justice is Paul not to be permitted to do better, and I compelled to buy of one rather than the other? But we will not dwell on this. It is not correct to say that society loses, and on this point we will give the words of Bastiat: "Jack had two francs with which he was employing two workmen. But he conceives an arrangement of ropes and weights which shortens the labor by half. He therefore obtains the same result, saves a franc and discharges a workman. He discharges a workman: *this is what people see.* * * But behind the half of the phenomenon *which people see*, there is another half *which they do not see.* They do not see the franc saved by Jack and the necessary results of that saving. Since, in consequence of his invention, Jack spends but one franc for manual labor, in the pursuit of a particular advantage, he has a franc remaining. If then there is in the world a workman with unemployed hands, there is also a capitalist who offers

* Montesquieu said: "Those machines which aim to shorten the process are not always useful. If an article sells at a middling price one equally advantageous for the buyer and the workman who made it, any machines which should simplify the process of manufacture, that is to say, which should diminish the number of workmen, would be injurious; and if mills propelled by water power were not established everywhere, I should not believe them as advantageous as people say they are, because they have deprived a great number of people of an opportunity to work cut off the use of the water from many fields, and have made many others lose their fruitfulness." (*Esprit des Lois*, book xviii., chap. xv.) We reproduce here the whole substance of Montesquieu on this subject. We should remark that the illustrious publicist knew nothing of the marvels of modern industry, and that he wrote before Adam Smith and his successors had thrown upon economic questions the light to which his superior reason would not have been insensible.

this unemployed franc. These two elements meet and combine, and it is as clear as daylight that between the demand and supply of labor, and the demand and supply of wages, the relation is in no respect changed. The invention and the one workman paid with the first franc now perform the work which was formerly accomplished by two workmen. The second workman, paid with the second franc, produces a new piece of work. What then has been changed in the world? There is one more object in the country that can satisfy human desire, in other terms, the invention is a gratuitous conquest, a gratuitous profit to humanity. * * * *Its final result is an increase of satisfaction for the same amount of labor.* Who gains this additional satisfaction? First, the inventor, the capitalist, the first one who employs the invention successfully, and this is the reward of his genius and of the risk he has taken. In this case, as we have just seen, he realizes a saving in the expense of production, which, in whatever way it may be spent (as it always is), employs just as many hands as the invention has caused to be discharged. But soon competition forces him to lower his selling price in proportion to the saving in expense. And then it is no longer the inventor who gets the profit from the invention, but it is the buyer of the product, the consumer, the public, including the workman—in a word, mankind. And *what people do not see*, is that the saving thus effected by all consumers creates a fund from which wages get a supply, which makes up for that which the invention had stopped. Thus, to recur to the above-mentioned example: Jack obtains a product by expending two francs in wages. Thanks to his invention, the manual labor costs him only one franc. So long as he sells the product at the same price, there is one less workman occupied in making this especial product: *this, people see;* but there is one workman more employed by means of the franc which Jack has saved: *this, they do not see.* When, in the natural course of things, Jack is compelled to lower the price of his product a franc, he no longer realizes a saving by the invention: then he will no more have an extra franc at his disposal, with which to command, of the labor in the nation, another product. But, in this respect, the purchaser is put in his place, and this purchaser is mankind. Whoever buys his product pays for it a franc less, saves a franc, and necessarily holds this saving, at the service of the wages fund: *this, again, people do not see.** — Applying this demonstration to the example of the water mill, which we gave at the beginning, we find that instead of paying at least 290 francs per day to those who turn the grinding stone, the consumers of flour, which is made in mills, turn over these 290 francs into the common fund of wages, from which those who turned the stones and who will now employ their time at some other occupation to produce something else useful to society, will derive the benefit. It is, therefore, not true that society loses by the employment of a new invention which saves money to the buyer. For this saving is simply changed in direction: as the industries are conjoined in their interests, what is economized in one, goes to another. They form, as Bastiat has also said, a vast whole of which all the parts communicate by hidden channels: and consequently economy does not occur at the expense of labor and wages. —Another demonstration may be given that inventions do not injure society. It is that which J. B. Say (*Nouveaux Principes d'Economie Politique*, vol. i., chap. vi.) addresses particularly to Sismondi, taking up the objection of Montesquieu and starting with the premise that the wants of nations are a fixed quantity, that, in consequence, every time that consumption exceeds the means of production, every new discovery is a benefit to society, and that when production suffices fully for consumption, every similar discovery is a calamity. At the outset we should remark, that Sismondi grants the utility of inventions in a case which, taking everything into consideration, is the general case, and J. B. Say, in fact, to reply to him has only to deny that the wants of society are a fixed and assignable quantity; because population increases, because every day we make use of products unknown to those who came before us, because, as the invention reduces the expense of production, the lowering of the price of the product incites to an increase of consumption, which necessitates an increase of production, and, in the end, the employment of as many men, or even more, after the invention as before it (we shall revert to this point); because, finally, the products created by a producer furnish him the means of buying the products created by another, and in consequence of this production both are better supplied. And here J. B. Say calls to his aid the theory of markets, on which he has thrown so much light. He also cites the development of two great parent industries, very modest in their beginnings, but which the genius of invention has developed so enormously and so rapidly that they have become trunks with almost innumerable branches, employing a thousand times as many laborers as formerly.† These two

* *Ce qu'on voit et ce qu'on ne voit pas*, (What people see, and what they do not see), brochure in 16mo, p. 50. (This pamphlet is one of Bastiat's essays on Political Economy, and included in the published American translation of the same.)—E. J. L.

† In England, before the invention of machines, there were estimated to be only 5,200 spinners at small wheels, and 2,700 weavers; in all, 7,900 workmen, while in 1787, ten years after the number of spinners, according to the report of an investigating committee, was estimated at 105,000, and of weavers, 247,000; in all, 352,000 workmen. Since then, machinery has changed, the same work is performed with much fewer workmen, and steam has taken the place of men in many kinds of labor, and yet the number of workmen has increased. Mr. Baines, in his "History of the Cotton Manufacture," (London, 1835), has shown that in 1833 there were 237,000 workmen spinning or weaving at machines, and 250,000 weaving by hand, in all, 487,000 persons. By grouping the workmen in the side industries, such as cloth printing, tulles, cap making, etc., Mr. Baines reaches 800,000 or 1,500,000, if the old men,

industries are printing and spinning cotton. We might mention many others, and prove by statistics, that at the end of a certain time the new industry engages, either directly or indirectly, a larger working population. This demonstration corroborates the preceding. Alone, it would be insufficient; for it would leave one to conclude that in the case (very rare, it is true) where the special consumption of the product in question remains stationary or nearly so, the invention is an injury to labor, which is incorrect; for not only does it not harm society, but it is of advantage to it by putting it in the way of increasing its gratifications without increased effort, and by giving it an opportunity to accumulate an increase of capital, with which it can pay for more labor. — Other minor objections have been made to inventions. It has been said that they impose upon man oppressive toil. But this conclusion has been drawn from a few particular cases which have not been clearly brought under the general rule. To any one who has a little acquaintance with industrial occupations as a whole, this assertion has no foundation. If inventions have one evident, incontestable effect, it is to simplify and lighten labor. It has been said that they render industrial labor irregular, by promoting alternations of activity and complete stagnation, and consequently exhausting the workman by over-work and condemning him afterward to poverty. This objection is likewise the expression of imperfect observations. The employment of inventions supposes establishments on a large scale, whose proprietors have invested a large amount of capital. Now, it is only at the last extremity that those who carry on such establishments stop their business, because they do not wish to lose interest on their capital and general expenses; and experience proves that before suspending work, these business men sacrifice their own interests and even knowingly incur losses in hope of better days. These efforts to continue production are less in establishments which do not employ inventions, and which, in the alternative of suspending labors or continuing them at a loss, hesitate less to discharge their workmen. Inventions have also been accused of promoting division of labor, over-stimulating the increase of the manufacturing population, leading to excessive production and industrial crises, and bringing on a decline in wages and too severe labor. These are all objections which, were they well founded (which we are not willing to admit), would be wrongly attributed to inventions. The latter are sometimes the effect and sometimes the cause of a greater division of labor; but this division is one of the greatest means of progress, and the charges brought against it will hardly bear examination. (See DIVISION OF LABOR.) It is not to inventions that we should impute the incitement to self-multiplication among the working population, but to the system of protection and prohibition. Inventions have more properly the reverse effect, by lightening the occupations of man and thereby improving his morals. Excess of production and crises also arise from causes entirely different. (See CRISES, PRODUCTION.) As to decline in wages and the excessive length of a day's labor, these result from an excess of working population, a subject which will be presented and developed under the word POPULATION. We can, however, say here that the condition of the working classes in our day, compared with that of times more remote, when inventions were not common, and that the condition of the working classes of manufacturing and agricultural countries where the employment of inventions is considerable, compared with that of the same classes where inventions are rarely used, proves that the facts observed are at variance with the objections just stated. Sixty years ago the great mass of the English and French people were not nearly so well provided with necessary articles. Nor must we look to Egypt or any other country still destitute of inventions, for comfort, morality and intelligence. — IV. *Inventions may displace Workmen; numerous circumstances which counterbalance this disadvantage.* If we consider only the workmen whose place the invention takes, we see at once men deprived of their work, their means of living, and obliged to seek other occupations, to put themselves to a new apprenticeship, and to suffer the privations of a stoppage; hence, anxiety and suffering "Here," says Rossi, (*Cours d'Economie Politique*, 2d vol., 10th lesson), "we have a grave fact, a fact which the defenders of inventions would be wrong to question. * * When it was claimed that this fact merited little consideration; when it was asserted that laborers passed readily at once from one kind of work to another; that the increase of products and the decline in prices, and the increasing general consumption, caused the same producer soon to demand again, notwithstanding the inventions, the same number of workmen as before, I do not hesitate to say, the question was evaded, and, to a certain point, the true results of the operation were concealed." We will add, that it would be interpreting Rossi erroneously, to adjudge him hostile to inventions. If he does not defend them, it is, as he says, because they defend themselves. They mark industrial progress, and "industrial progress nothing can arrest."* We agree with Rossi that

women and children are counted; and 2,000,000, if he includes the joiners and masons who build the factories, and the locksmiths who make the machines, without counting the women and the old men.

* Ricardo (chap. xxxi. of his "Principles" added to the 4th edition, translated into French in the *Collection des Principaux Economistes*,) examines the exceptional and theoretical case of sudden invention and application. He shows, likewise, that, in certain given cases, the invention or the industrial improvement may augment the net product while diminishing the raw product, and may displace workmen. But Ricardo is not on that account hostile to inventions. He says (p. 240, M'Culloch's edition): "The statements which I have made will not, I hope, lead to the inference that machinery should not be encouraged. To elucidate the principle, I have been supposing that improved

it is well, in political economy, not to evade difficulties; but, happily, we have a statement to insert here, of several circumstances which can, and which in fact do, diminish the inconveniences which may temporarily result to the working class from the introduction of inventions which accelerate production. 1. New inventions are generally expensive, and a large amount of capital is needed to put them in operation. If this difficulty does not prevent their final adoption, it at least delays it. Convincing proof of this can be found in the history of most industries. 2. The routine spirit, the dread of innovations, and the fear of losing capital, delay the application of new inventions, render the transition gradual, and sometimes prevent the appearance of any inconveniences. 3. In proportion as the arts become more nearly perfect, the invention of machines becomes more difficult. There is a degree of art in which blind force is made to execute all that is possible to it, and where man fulfills only a purely intellectual function. — But in the century which has just elapsed, and which is so remarkable for the progress of the sciences and the industries, certain classes of workmen have been most cruelly affected. In our times we may mention those of Belgian Flanders, whom the introduction of flax-spinning, added to other causes, reduced to poverty. (See *Etudes d'Economie Politique et Statistique*, by M. Wolowski; Guillaumin, Paris, 1848.) Because of these facts, writers have thought they must make out a case against new inventions, industrial innovations, and the general displacement of labor and capital. In whatever has been said, no one has thus far been able to refute the body of considerations which we have presented. We should add, many of the opponents of inventions and of industrial improvements used this theme to exaggerate the defects of present society, which they proposed to reconstruct from the foundation, and that it was to them a literary or scientific instrument, far more than an economic or scientific discussion. —To recapitulate: those who have rejected inventions have seen that they were obliged to oppose the increase of useful things, oppose economy in production, the attainment of a result with diminished effort; in short, to maintain the theory of poverty; and more than one has used faulty logic. But let us revert to the displacement of workmen. Means have been sought to remedy this evil, which, happily, is temporary and transient. Barbarians thought they could proscribe machines. The reader will hardly permit us to stop to consider this opinion. To reject machines is to reject every invention, every improvement, every innovation, every step forward. And, as every man thinks, invents and perfects more or less in his especial business, it would be necessary to decree immobility of intellect, the death of humanity. It is absurd: that is all. As for the rest, we join in Ricardo's remark (p. 241, M'Culloch's edition of Ricardo's works): "The employment of machinery could never safely be discouraged in a state, for if capital is not allowed to get the greatest net revenue that the use of machinery will afford here, it will be carried abroad, and this must be a much more serious discouragement to the demand for labor than the most extensive employment of machinery; for while a capital is employed in this country it must create a demand for some labor; machinery can not be worked without the assistance of men; it can not be made but with the contribution of their labor. By investing part of a capital in improved machinery, there will be a diminution in the progressive demand for labor; by exporting it to another country, the demand will be wholly annihilated." There are people who dare not go so far, and who propose to prevent or prohibit only certain inventions, perhaps the most complicated, or those which take the most work from the workman, or the newest. But if one should ask the authors of these propositions to themselves classify the inventions to be preserved or destroyed, to be allowed or proscribed, they would really not know how to reply. If steam is to be rejected, why not the power of wind or water? Why mills to grind the grain? Why stones? And would the plowshare, which does the work of ten men working with a spade, find favor? We are indeed, we repeat, still wholly absurd, and we must make haste to rid ourselves of our absurdity. But, do you ask what we must do? Let us first tell what has been proposed. —M. de Sismondi, the most serious opponent of machines, draws no definite conclusion. Only one may say that the logic of his criticism, inspired by honest feeling, but based on imperfect observation, leads to the abandonment of the division of labor, of machines, and of manufactures, and to a return to a patriarchal state of society, which M. Proudhon has defined as "the system of every one at his own abode, every one for himself, in the most literal acceptation of the phrase." M. Proudhon adds: "It is to go backward; it is impossible" J. B. Say had already said so to M. de Sismondi; but it is well to have it repeated to him by the harsh criticism of the Malthusians (*Contradictions Economiques*, 1st vol., iv., § iii.) — The communists and socialists reasoned thus: "Since the object of inventions is to render man as rich as possible with the least labor, since the natural agents must do everything for all, inventions ought to belong to the community." Then follow, as remedies for the evils attributed to inventions, the various new systems of social organization. It is not for us here to discuss these illusions. (See SOCIALISM.) — Another opinion arises from this, without being as logical: it is that of those who have proposed an association

machinery is *suddenly* discovered, and extensively used; but the truth is, that these discoveries are gradual, and rather operate in determining the employment of the capital which is saved and accumulated, than in diverting capital from its actual employment." (See, farther on, another quotation from the same author.)

of the inventors, proprietors and workmen. This is another utopia, which it would take too much time to discuss here; we confine ourselves to its mere mention. — It has been proposed that the workmen should be indemnified by the inventors, or by the capitalists and manufacturers who make use of the new inventions. Here arises at once a question of justice, property and rights. But, the question of justice aside, who does not know the uncertainties of new enterprises, the perplexities and mortifications of inventors and those who first apply the inventions! Should not these also have a right to indemnification? And then who, pray, would not have a right to complain of the wrong done him by any innovation, any improvement whatever? Has any one dreamed of the indemnities which would have been due for the application of steam, for the introduction of stages, canals or locomotives? — People can not insist on this order of ideas, and so they propose that the state be the chief indemnifier. But if one only means philanthropy and alms, we will remark, at the outset, that the state has no other pockets than those of its citizens, and that the most numerous class of citizens are the poorest We admit, however, that there may be a case in which humanity and prudence would recommend either the creation of public works to give temporary relief to the displaced workmen, or some other kind of assistance. These are precarious means; but there are no others; and the final conclusion of this matter is, that the bad effects of an invention being always exceeded by the social advantages it secures, will be so much the less felt by the workmen it displaces, as the industry prospers the more, and the unclassed laborers the more readily find again a remunerative occupation and are able, from previous savings, to provide for their necessities during stoppages. — In the number of means for contending with the disadvantages of inventions should then be found a general diffusion of the first principles of political economy, in the schools, by the aid of which the children, who will some day be workmen, would begin to comprehend the true nature of things, and would be fortified in advance against the prejudices which incite them later to hate and oppose inventions, or to depend upon chimerical means for subsistence. — V. *Conclusion* To recapitulate: the question of inventions is one of the most clearly resolved in political economy. — The right to invent, to improve, and to apply, is unassailable in itself. Moreover, its prohibition is impossible. — In the second place, society derives from every rational, mechanical, scientific, administrative or other change, more satisfactions for less effort, satisfactions which can be measured by the effective power of modern industries. — In the third place, the improvements made in the industries are not long in curing the individual evils, which sometimes, but not always, result from the displacement of labor and capital. These evils can not be compared with the advantages which counterbalance them, and they are so much the less as the industry is the more prosperous. — Finally, we can do no better than close with one of the observations with which we began, and we borrow the words of Bastiat: "There is a natural inclination in men to go, unless forcibly prevented, to a good market, that is to say, to that which, with equal satisfaction, saves them labor, whether this good market comes from a skillful foreign producer or from a skillful mechanical producer. The theoretical objection made to this inclination is the same in both cases. In both cases it is accused of paralyzing labor. Now labor rendered not *inert*, but *disposable*, is precisely what determines this inclination; and this is why, in both cases, it is opposed by the same practical obstacle, viz., force. The legislator *prohibits* foreign competition and interdicts mechanical competition: for what other means exist of arresting an inclination natural to all men, except to take away their liberty? In many countries, it is true, the legislator strikes at only one of these two kinds of competition, and contents himself with lamenting the other: this proves only one thing, which is that, in this country, the legislator is inconsistent. This need not surprise us: on a wrong road, people are always inconsistent; if it were not so mankind would be destroyed. Never have we seen and never shall we see a false principle carried out to the extreme. I have elsewhere said: Inconsistency is the limit of absurdity I might have added: it is at the same time the evidence of it." (Bastiat, *Ce qu'on voit et ce qu'on ne voit pas ;* Paris, Guillaumin, 1850. brochure in 16mo, p 49) Nothing can be more just than these words of our illustrious co-worker and friend. — The question of inventions did not engage the attention of Adam Smith; yet a part of his celebrated chapter on division of labor relates to this subject. J. B. Say contributed much to its elucidation, first in his *Treatise*, afterward in his *Course*, 1st part, chaps. xviii. and xix. See also the *Course*, by Florez Estrada, chap. ix.; the first lessons, by M. Michel Chevalier; the *Elements*, by M Joseph Garnier, etc. See also the pamphlet by M. A. Gasparin, often quoted above. Malthus and Rossi have said little on this subject. Ricardo has developed some particular points in his *Principles*, chap. xxxi. (See above.) Sismondi has only spoken of it in one very short chapter, devoted likewise to the effects of division of labor, which circumstance produces a certain confusion in his objections. Socialistic schools and political pamphleteers have, in turn, exaggerated the advantages or disadvantages of inventions M. Proudhon has, in *Contradictions Economiques*, given considerable attention to inventions. He is favorable to this species of improvement; he analyzes and combats the various means proposed to neutralize directly the displacement of workmen which a new invention may occasion. (See CAPITAL, DIVISION OF LABOR, FREE TRADE, INDUSTRY, MACHINES) JOSEPH GARNIER.

IOWA, a state of the American Union, formed from the "Louisiana purchase." (See ANNEXATIONS, I.) After the organization of the state of Missouri in 1820–21 (see COMPROMISES, IV.; MISSOURI), the territory north of that state extending to British America, and lying between the Mississippi and Missouri rivers, was neglected by congress until the act of June 28, 1834, made it a part of the territory of Michigan "for the purpose of temporary government"; the act of April 20, 1836, took it from Michigan territory, after July 3 following, and added it to Wisconsin territory; and the act of June 12, 1838, erected it into the territory of Iowa, after July 3 following. Oct. 7, 1844, a convention of delegates from the southern part of the territory formed a state constitution, claiming about the same boundaries as at present. This territory seemed to congress unreasonably large, and the act of March 3, 1845 (see FLORIDA), while admitting the state, assigned to it as a western boundary the meridian of 17° 30′ west of Washington, and as a northern boundary the parallel passing through the mouth of the Blue Earth river, in the present state of Minnesota; Iowa would thus have been about half as wide as at present, and slightly longer from north to south. The boundaries having been submitted to the people of Iowa, in accordance with section four of the act, were rejected by a vote of 7,235 for and 7,656 against it, and Iowa remained a territory. A convention, which met May 4, 1846, at Iowa City, formed a new state constitution, which was ratified by popular vote, Aug. 3. It defined the state boundaries as follows: "Beginning in the middle of the main channel of the Mississippi river at a point due east of the middle of the mouth of the main channel of the Des Moines river; thence up the Des Moines river to the northern boundary of Missouri; thence westward on that line to the Missouri river; thence up the Missouri to the Big Sioux river; thence up the Big Sioux to the parallel of 43° 30′ north latitude; thence east on that line to the Mississippi river and down the Mississippi to the beginning." A supplementary act of congress of Aug. 4, 1846, accepted the boundaries thus defined, and the state was finally admitted by act of Dec. 28, 1846. — The constitution of 1846 prohibited slavery, the loaning of state credit to individuals or corporations, the contraction of a state debt of more than $250,000 or county debt to more than 5 per cent. of its property valuation, and the granting of charters except by general laws; made the sessions of the legislature biennial and the governor's term two years; restricted the suffrage to white males; and fixed the capital at Des Moines. A new constitution, formed by a convention which met Jan. 19, 1857, and ratified by popular vote Aug. 3, changed none of the above particulars, and no change has since been made except that the word "white" was stricken out of it in 1868. — The political history of Iowa falls into two periods, 1846–54 and 1855–81. In the first of these the state was democratic in all elections, presidential, congressional and state, except that a whig congressman was chosen in one of the two districts in 1848. The general election of 1854 was the turning point between the two periods; in it the republicans succeeded in electing the governor, one of the two congressmen, a heavy majority of the lower house of the legislature, and came one short of a majority in the upper house. One result was the election of James Harlan to the United States senate. Since that time (1855–81) the democratic party has been practically a nonentity in the state. Until 1859 one of the United States senators (chosen in 1853) was a democrat, and in 1854 and in 1874 a democrat was chosen in one of the congressional districts; these, and from 20 to 40 of the 150 members of the biennial legislatures, have been the extent of democratic influence upon the politics of the state. The republicans have elected all the governors, United States senators and representatives (with three exceptions), and have maintained from 60 to 70 per cent. of the popular vote. In 1874 the democrats, taking the name of "anti-monopolists," succeeded in electing one of the nine representatives, in the northeastern or Dubuque district, by a majority of but 63 in a vote of 22,069; in 1878 two of the representatives, Weaver and Gillette, were "greenbackers," the former from the southern or Keokuk district, and the latter from the southwestern district of the state; but in all these cases the lost district was again carried by the republicans. (See PROHIBITION.) — This almost invariable regularity has operated very much to the disadvantage of the public men of the state. One party has always been careless, and the other party hopeless, as to the result of Iowa's vote; and the favors of the national parties have been reserved for the public men of states whose vote was more doubtful. Consequently, though Iowa has never lacked able men, their services have been better appreciated by the state than by the nation. Among them are W. B. Allison, republican representative 1863–71, United States senator 1873–85; Wm. W. Belknap, secretary of war under Grant (see ADMINISTRATIONS, IMPEACHMENTS, VII.); James W. Grimes, first republican governor of the state, United States senator 1859–71; James Harlan, United States senator 1855–65 and 1866–73, and secretary of the interior in 1865; John A. Kasson, representative 1863–7 and 1873–7, and minister to Austria 1877–81; Samuel J. Kirkwood, governor of the state, United States senator 1866–7 and 1877–81, and secretary of the interior under Garfield (see ADMINISTRATIONS); and George W. McCrary, representative 1869–77, secretary of war under Hayes, and appointed United States circuit judge in 1879. — The name of Iowa was given from that of its principal river, an Indian word said to mean *the sleepy ones;* but its popular name is *The Hawkeye State.* — GOVERNORS: Ansel Briggs (1846–50); Stephen Hempstead (1850–54); Jas. W. Grimes (1854–8); R. P. Lowe (1858–60); S. J. Kirkwood (1860–64); W. M. Stone (1864–8); Samuel Merrill (1868–72), C. C. Carpenter (1872

-6); S. J. Kirkwood (1876–8); John H. Gear (1878–82). — See Poore's *Federal and State Constitutions;* Plumb's *Sketches of Iowa* (1839); Parker's *Iowa as it is* (1855); Barber and Howe's *History of the Western States* (1867); Ingersoll's *Iowa and the Rebellion* (1867); Salter's *Life of J. W. Grimes;* the acts of June 12, 1838, and March 3, 1845, are in 5 *Stat. at Large*, 235, 742, and those of Aug. 4 and Dec. 28, 1846, in 9 *Stat. at Large*, 52, 117; Porter's *West in* 1880, 272.

ALEXANDER JOHNSTON.

IRELAND, an island on the western extremity of Europe, constituting a portion of the state known as the United Kingdom of Great Britain and Ireland, lies between the parallels of 51° 26′ and 55° 21′ north latitude and between 5° 20′ and 10° 26′ west longitude, Greenwich meridian. It is 306 miles long and 182 broad; its superficial area being about 32,713 square miles, or 20,808,320 British statute acres. The interior of the island is in the main a fertile plateau, but toward the shore on the south, west and north, rugged mountains rise irregularly to a height in some places of over 3,000 feet. The coast, on the west especially, is bold, and in many places precipitous; but is, on every side, except on the southern portion of the eastern shore, deeply indented with bays, fiords and estuaries, affording natural harbors of great capacity. The scenery is strikingly picturesque; in some parts of unsurpassed beauty. The southern and western counties, however, contain many tracts of bleak and desolate country. In the low-lying parts of the island there are vast areas of peat moors or "bogs," embedded in or beneath which are found the remains of primeval forests. There is historical certainty that more than a thousand years ago the island was richly timbered from sea to sea; but the destruction of the woods by the English power in the course of its five centuries of warfare with the natives, has left Irish landscape on the whole exceptionally bare of trees. There are numerous lakes; some of considerable size. The principal river, the Shannon, flows into the Atlantic on the western side of the island; the Lee, the Blackwater, and the combined Suir, Barrow and Nore reach the sea on the south coast; the Bann and the Foyle on the north; and the Slaney, the Liffey and the Boyne on the east. Of the cities and towns of Ireland, few can be deemed important as to size or commercial activity; the principal of them being Dublin, Cork, Belfast, Waterford, Limerick and Derry. The first named city is, as it has been since the reign of King John, in the thirteenth century, the national metropolis and seat of government. The country is politically divided into four provinces; these being subdivided into thirty-two counties.— The climate of the country is mild and genial; more moist than that of France or Britain, but much less rigorous than that of either in winter. Although coal, iron, copper, lead, silver and gold have at one period or another been mined in Ireland, shafts and adits of long-forgotten times being occasionally discovered, the mineral resources of the country, judged by practical experience, are poor. Manufacturing industries, unless on a very insignificant scale, are almost unknown, outside the province of Ulster; the great bulk of the inhabitants being engaged in agricultural pursuits. The population was, at the last census, 5,159,839; exhibiting a serious and steady decrease since 1841, when it was 8,175,124.* — Ireland is governed by a viceroy, subject to the imperial cabinet in London, and is represented in the imperial parliament by 103 members in the house of commons, out of the 652 who constitute that body. Out of 494 princes, peers and bishops, who sit in the house of lords, 28 are titularly Irish. — Few European countries are possessed of authentic historical data reaching to an age so remote as that to which the ancient records or memorials of Ireland in one shape or another extend. Like all old countries it has its fabulous and legendary periods; but reasonable certainty is attainable at a much earlier period in Irish history than it is in most other cases. The inhabitants of Ireland, of what may be called the native race, belong to the great Celtic family. For two thousand years past they have claimed to be pre-eminently "Milesians," that is to say, descended from an expedition of conquerors, led by the three sons of a military chief named Milesius, who, according to well received tradition, landed and subdued the country some ten or twelve centuries before the birth of Christ. But inasmuch as at least two distinct colonizations had previously been effected, and as the Milesians simply reduced their predecessors into subjection, and did not extirpate them, it is clear the general population in the course of time became more or less a combination of the new elements and the old. The Milesians originally came from a birthplace variously fixed in Persia, Syria and Phœnicia, and indisputably were of eastern origin. They were a race of soldiers and statesmen, conquerors and lawgivers. It was they who virtually organized and constituted the Ireland known to history for the last 1,500 years. The political system they established was a strange mixture of a republican monarchy and a military aristocracy. The country was divided into five sub-kingdoms, an Ard-Ri (literally high-king) being supreme sovereign. This chief-king was elected from the reigning family or dynasty; the electors being the clan chiefs, these latter in their own sphere being elected by the clans. A parliament or "feis" assembled triennially at Tard in which sat the princes, chiefs, judges, high priests, brehons and bards of the whole nation. This legislative body, one of the earliest known in history, revised the old laws and enacted new ones, very much as modern senates and assemblies do. On the introduction of Christianity by St. Patricius or Patrick in the fifth century, the existing code of laws was referred to a commission, consist-

* It is calculated that in 1847 the population was about 9,500,000.

ing of one chief, one brehon and one Christian bishop, with a view to purging it of pagan ideas and adapting the statutes of Erin to Christian principles. The body of laws thus revised and codified are now, by order of the British government, being translated and published, as a rare and valuable treasury of ancient jurisprudence, parliament making an annual grant for the purpose ever since 1852. — Such was the constitution and polity which prevailed in Ireland down to the sixteenth century, a period of more than 2,000 years. From about the year 200 B. C. to A. D. 800, the Ireland of ancient history may be said to have attained its zenith of power and reputation. In the three centuries which followed the introduction of Christianity, the country was pre-eminently the great centre of scholastic and missionary enterprise in western Europe. To its free schools and universities flocked students from every part of christendom, and Irish missionaries and teachers spread throughout the known world. With the incursions of the fierce and savage Northmen or Danes, plundering and desolating hordes of pagan marauders, which began about the close of the eighth century, commenced the disorganization and wreck of the Milesian nation. These hordes, just then the scourge of western Europe, never were able to conquer the country as they did the neighboring island of Britain; but an intermittent war of utter barbarism, prolonged through 300 years, utterly demoralized it, and almost extinguished a civilization that had been the light of western Europe in its time. From A. D. 900 to A. D. 1170, with the exception of a brilliant interval of a few years under Brian I., who broke forever the Danish power, disintegration rapidly made way. The idea of a common national interest or a central national authority was almost totally discarded. Each sub-king fought for his own hand, and the post of Ard Ri was claimed by various competitors in reckless and exhausting contests that bathed the land in blood. — Meanwhile, England, that had yielded more or less easily to every invader, Saxon, Dane and Roman, once more received a new yoke. Its new conquerors were the Normans, who, fortunately for its future welfare, were strong enough to weld, albeit by ruthless process, the Danish, Saxon and British kingships and communities of England into a single political system. By the middle of the twelfth century the Normans had well consolidated their new kingdom, while Ireland had been steadily breaking into fragments. One of the Irish sub-kings, MacMurrough, prince of Leinster or Lagenia, revolting against the Ard-Ri, who had indeed deposed him, applied to Henry II. of England for help in his quarrel. Henry gave him permission to seek auxiliaries or mercenaries among the Norman English knights and free-lances. One of these, surnamed Strongbow, accepted MacMurrough's terms, and swiftly landing a powerful force on the Leinster shore, succeeded in restoring him to his principality. These Norman adventurers, brave, skillful and highly disciplined, saw a splendid opportunity for pushing their fortunes in the distracted and faction-torn condition of Ireland. They helped now one chief, now another, always on terms of payment highly advantageous to themselves, and soon their marvelous success and their daring ambition excited the jealousy and anger of King Henry. He called on them to return to England. Strongbow made various excuses for disobeying, and Henry, to the great satisfaction of the Irish princes, announced that he would proceed to Ireland in person to investigate the conduct of the Norman adventurers. He did so come to Ireland, and at once assumed the rôle of arbitrator or authoritative regulator of affairs, civil and ecclesiastical, pretending, as to the latter especially, that he had got a bull from his countryman, Pope Adrian, commissioning him to restore order in Ireland. The Irish princes did not quite realize all that this exercise of quasi-friendly offices involved, until long after Henry had returned to England. When they did, that is to say, when they found the Norman auxiliaries, one of their own body, converted into the garrison of a foreign king, they were dismayed. Some at once resisted; others diplomatized; a few submitted. Some felt the reality of the change; others did not. For centuries after the so-called "conquest" by Henry II., most of the native chiefs ruled their principalities or made war on one another, just as they did before a Norman had set foot on the Irish shore. Fitfully but gradually the Anglo-Normans pushed their power; but it was not until the close of the sixteenth century, or more than four hundred years after Henry's landing, that the struggle of native Irish sovereignty against English rule closed in the tacit surrender of Ireland to James I. — During the latter half of the last century of the above period, a new element of antagonism was imported into the conflict. Religious animosity was added to race hatred and national hostility. The English peers and people followed Henry VIII. into the reformation; followed Queen Mary out of it, and Queen Elizabeth into it again. The Irish, on the other hand, clung more devotedly than ever to the Catholic faith; a circumstance of contrast which has largely contributed ever since to keep the two peoples distinct, and which, allied with race influences and national traditions, marks each with a separate individuality. With the reign of James I. began the political system which, with little variation, still exists in the union of Ireland under one crown with Scotland and England. England came in by succession to the Scottish king, and by a remarkable coincidence or concurrence Ireland at the same moment virtually surrendered to the sovereignty of a Gaelic prince, sprung from a race kindred to its own. Throughout the whole Stuart period, from 1600 to 1700, the national feeling and actions of Ireland, with a loyalty fatal to Irish welfare, were displayed on the side of the dynasty thus accepted. In the

victorious rebellion of the English republicans against the duplicity of Charles I., as well as in the still more successful English revolt against the despotism of James II., the Irish remained steadfast to the royalist cause; and, in the result, paid a dreadful penalty for such disastrous fidelity. The soil of the country was declared forfeit by the existing owners, and was parceled out as spoil among the soldiery of the Cromwellian and Williamite armies; hundreds of thousands of acres were bestowed on the mistresses and on the natural offspring of William and the early Hanoverian kings, while the native gentry, beggared and homeless, were banished and proscribed, and the general body of the people reduced to a condition little short of outlawry. Under what is known as the "penal code" from 1700 to 1775, the bulk of the population were forbidden to educate their children, to attend religious worship, to carry arms, to learn a trade, or to hold property. The schoolmaster and the priest had each a price on his head; and statutes of George I. and George II. went so far as to make it felony to send an Irish child abroad to receive the education forbidden at home. There was one circumstance, which, apart from the shocking barbarity of the "penal code," has made it rankle in the breasts of the Irish to the present hour; namely, that it was laid upon them in flagrant violation of a solemn treaty signed between the English and Irish commanders, duly countersigned by royal commissioners on king William's part, at the close of the Williamite struggle in 1691. Although the splendid army of Scandinavians, Dutch, Swiss, Prussians, Huguenot-French and English, which the prince of Orange led into Ireland, had defeated the raw levies of the Irish royalists at the Boyne, and, more by happy accident than generalship, driven them from their position at Aughrim, he was again and again defeated before the walls of Limerick, which city was defended by Gen. Sarsefield, in command of the Irish armies of King James.* At length, William, who was a brave soldier and a statesman, saw the wisdom of arranging terms with such a foe; and accordingly, on Oct. 3, 1691, articles of capitulation were negotiated, whereby the Irish army, retaining its arms, colors, bands and transport stores, marched out with the honors of war, free either to enter the service of King William or to sail for France where King James now resided as guest and ally of Louis XIV. The "civil articles" of the treaty of Limerick stipulated, in substance, that there was to be no proscription, no confiscation, no disarmament, and that the exercise of the Catholic religion should be as free as it had been in the reign of King Charles II. After the rough draft had been agreed upon, but before the fair copy was signed by Gen Sarsefield, the arrival of a French fleet with considerable aid in men, money and stores was announced to the Irish commander, and he was entreated not to sign the treaty; he replied, sorrowfully, that the news reached him an hour too late, that his honor and the honor of Ireland were pledged, and should not be broken. No sooner, however, had the Irish army sailed away to France than the treaty covenants, despite the protests and endeavors of King William, were cast to the winds. Angered at the idea of having no spoil by confiscation to divide, the anti-Stuart faction, now dominant in the Irish parliament, refused to approve the king's treaty, and, by stopping the supplies, compelled William to yield. Thereupon commenced the proscriptive legislation, known as the "penal code." The more severe these enactments grew, the more alarmed the dominant party became lest the Irish masses should rebel against them; and thus further and further severity was deemed necessary, as repression and alarm acted and reacted on one another. As a matter of fact, not even during the memorable Scottish risings of 1715 and 1745, which so nearly restored the Stuart line, did the Irish at home give pretext or justification for such a policy. The self-expatriated Irish battalions, however, now serving as an Irish brigade in the service of France, took heavy reprisals on the English power, confronting it on every battle-field, and deciding by their impetuous valor the fortunes of many an eventful day. At Fontenoy, fought May 11, 1745, by a French army of 45,000 men under Marshal Saxe, in presence of the king and the dauphin, against an English force of 65,000 men under the duke of Cumberland, victory was snatched from the British commander at the close of the day by a decisive charge of the Irish regiments. It was on the arrival of the dispatches which announced the fate of Fontenoy, that George II., much of a soldier and little of a bigot, is said to have exclaimed, "Curse upon the laws that deprive me of such subjects."—In the minds of many besides King George, a reaction against the terrible rigor of the "penal code" had, by this time, set in: and events were drawing near, which rendered its continuance impossible. According to the political constitution, which the Anglo Norman sovereigns conferred on their colony in Ireland, that country was annexed to the British crown, but not placed under the legislative action of the English parliament. On the contrary, it had a parliament of its own, supreme as to Irish affairs. When Henry VII. was strengthening his royal prerogative and generally centralizing his government, he had a statute passed by a subservient Anglo-Irish parliament at Drogheda, known as "Poynings Law," rendering the Irish parliament subject to the control of the English legislature The unconstitutionality of this law was always asserted, and "Poynings Act" was disregarded by Irish parliaments in the reigns of Charles I., Charles II. and James II. The Williamite parlia-

* A worthy counterpart to this defense of Limerick was the heroic conduct of the Protestant Williamite garrison and population of Derry, who, despite the most cruel privations, gallantly kept the city against a Stuart-Irish besieging force, until the arrival of a relieving expedition.

ment in London, however, from the first claimed the power to bind Ireland; a claim from time to time contested by jurists and public writers on the Irish side, who, though thoroughly Protestant, and attached to the new dynasty and the English connection, vehemently repudiated the idea of such subjection in legislative matters. The dispute was embittered by the manner in which the London government repressed Irish trade and manufactures. An address to William III., from English manufacturers, complaining of too successful Irish competition, elicited from that monarch a remarkable promise that "he would do all that in him lay to discourage manufactures in Ireland." This royal pledge unhappily was only too well fulfilled. The Irish parliament of 1719, in the midst of its penal legislation against the conquered Catholics, openly resisted the doctrine of subordination. The Irish house of lords forbade the sheriff of Kildare to execute a decree of the English peers; whereupon the latter body retaliated by reaffirming "Poynings Law" in still more galling terms. The controversy, with little respite, went on up to 1775, when there rolled across the Atlantic a tocsin of liberty in the echoes of Bunker Hill. By this time a patriot party had appeared in the Irish parliament, a parliament in which no Catholic was allowed to sit, led by Lord Charlemont, Lord Kildare, Flood, Hussey-Burgh, Sir Lucius O'Brien and Ponsonby, later on by the man, the splendor of whose fame truly illumines this page of Ireland's history, the illustrious Henry Grattan. Encouraged by the conduct of the American colonists, they grappled boldly with the oppressions and corruptions of the government; their earliest efforts being devoted successfully to the liberation of Irish trade from the fetters that had crippled and well nigh destroyed it. They next claimed the restoration of the ancient freedom of the Irish parliament. King George and his cabinet resisted while they could, but the concession was inevitable. Sorely straitened by the effort to subjugate Washington and his colonial levies, the London government had to withdraw the troops from Ireland, which was now garrisoned and guarded by a national volunteer army of 150,000 men. The volunteers, who were citizens as well as soldiers, enthusiastically sustained the movements of Grattan. A thoroughly national spirit was aroused through out the island. The long-oppressed Catholic millions clasped hands with the long dominant Protestant colony or garrison. With the capitulation of the British armies to Washington and the recognition of American independence, vanished the last hope of successfully combating the Irish demand for a free parliament. A solemn treaty, in the form of a statute of the British parliament, 22 Geo. III., chap. 28, renounced "forever" the usurpation of "Poynings Law," and covenanted that the ancient constitutional right of Ireland to be bound only by laws of a free Irish parliament should henceforth be "unquestioned and unquestionable" The effect of this measure of national liberty seemed to be magical. In the ten years that followed, Irish trade and commerce expanded in a degree never known before or since. The spirit of tolerance also for a moment prevailed, and some of the most grievous of the penal laws were repealed. The country seemed to go forward on the road of progress by leaps and bounds under the guardianship of the free parliament won by Grattan and the volunteers. This great victory, as well as the previous recovery of commercial freedom, was long retarded by the restricted franchise and anomalous usages under which the parliament of the period was returned The representation of many boroughs was literally owned by aristocratic proprietors; and presentation to a seat in the house of commons was bought and sold like any other marketable title or commodity. The national party under Grattan now directed their attention to a reform of a system so fatal to public liberty. The British minister, on the other hand, the American war being over, had his hands free, and he determined to maintain a system which would enable him in a few years, by the expenditure of money in purchase of seats, to subvert all that Grattan had accomplished and overturn the treaty arrangement of 22 Geo. III , chap. 28. The struggle progressed for seven years with increasing earnestness on each side, when suddenly an event occurred which threw the great game totally into the hands of the British minister and swept the Irish popular party into a situation that proved disastrous. The French revolution of 1789 burst forth like the blaze of a tremendous conflagration. The governing classes all over Europe were stunned with horror and dismay. The friends of popular liberty hailed the event with joy. In Ireland, the property classes, flinging all other considerations aside, rallied to the side of governmental authority, so as to strengthen the bulwark against republican principles. The government, thus re-enforced, at once assumed a stern and haughty attitude toward anything in the nature of popular discontent or democratic manifestations. The Irish national reform movement, after struggling for a few years with such a state of things, eventually broke to pieces; its leaders differing widely on the new doctrines or principles launched in Paris. Some sided with the government, rather than embarrass the arm of authority at such a moment; others were for pushing the movement forward on still broader lines; while many, Grattan himself included, retired from the scene, as if foreseeing what was about to happen. The advanced section, driven from their open movement, all aflame with the new gospel of liberty, equality and fraternity, and infuriated by the English minister's design of betraying or subverting the settlement of 1782, enrolled themselves in a secret revolutionary conspiracy for the overthrow of British rule in Ireland. Although their main reliance was naturally on the bulk of the population, who were Catholics, the original founders

and earliest adherents of the enterprise were Protestants; chiefly Ulster Presbyterians. Later on, men of all religious creeds, and unquestionably men of the purest motives and loftiest character, embraced the design. Lord Edward Fitzgerald, son of the duke of Leinster, was at the head of affairs; its ablest organizer, Theobald Wolfe Tone, being stationed in Paris as accredited agent or ambassador to the French directory. The government early discerned the advantage which an abortive insurrection would give them in persuading the property classes to "draw closer to the centre of power and authority" by consolidating the parliaments; and for a time the proceedings of the revolutionists were viewed with secret satisfaction. By the end of 1796, however, this feeling gave place to alarm when it was found that the French directory had determined seriously to assist the Irish party. This determination was made plain by the dispatch of a powerful expedition under Gen. Roche toward the close of the year. A storm dispersed Roche's flotilla, only a few vessels of which reached the bay of Bantry on the southwest coast of Ireland. The government now sought to force the hand of Lord Edward, by compelling him to take the field before another expedition could be prepared. To this end "martial law" was proclaimed, and shocking means were used to goad the populace quickly into a rising. While it was yet uncertain how far these tactics would succeed, an overwhelming blow fell on the revolutionary party. Their central council or directory were surprised and seized in the very act of deliberating on the question of immediate operations; and a few days subsequently Lord Edward was captured, after a desperate struggle, in which he was mortally wounded. Less by concerted action than as an impulse of desperation, the insurrection now broke forth in four or five of the Irish counties—Antrim, Wexford, Wicklow, Kildare and Carlow. In Wexford the outburst was almost entirely the result of the forcing process above referred to. The people, half-armed and wholly undisciplined, took the field in rude array. Destitute as they were of military leaders, equipment or resources, they nevertheless through several months fought a fierce campaign which the entire available strength of the government forces barely sufficed eventually to subdue. Like all other bursts of popular passion this rising was marked by some lamentable excesses; or rather, in a struggle in which "no quarter for rebels" was the watchword on the one side, and in which discipline in the popular camp could be but slender, episodes of savage vengeance were in a sense inevitable. The rising in Ulster had been quickly and easily suppressed, and all the other counties of Ireland lay quiescent during the Wexford revolt. Disaffection and desire to rebel was intense; but a conviction prevailed that insurrection single-handed against Great Britain must absolutely fail, and another French expedition was expected. When it did arrive, under Gen. Humbert, who landed at Killala in the northwest of Ireland in August, 1798, with a force of a little over 1,000 men, the government was flushed with victory and the populace utterly overawed. Humbert defeated a force of nearly 5,000 opposing British troops at Castlebar; but eventually had to surrender to an overwhelming force under Lord Cornwallis. The after-scenes of this insurrection were barely less tragic than the struggle in the field. The scaffold and the executioner long plied their dreadful work, completing what the fusillade began. It was at such a moment Pitt produced his long meditated scheme for breaking the treaty of 1782, and abolishing the Irish parliament. Even amid the gloomy horrors of 1799 his proposal was at first defeated in the Irish parliament; the constitutional nationalists under Grattan, Curran, Charlemont, Parnell, Ponsonby and Plunkett making a last desperate effort of resistance. By the next year, however, Pitt had expended nearly £2,000,000 in buying up what were called "proprietary boroughs," and otherwise purchasing votes sufficient to secure a majority, and in 1800 his scheme of "union" was carried through. By this time Bonaparte had become the terror, as he subsequently very nearly became the conqueror of Europe. England alone successfully defied and victoriously encountered him. On English soil alone it may be said constitutional government for the time dared to exist in the old hemisphere. For fifteen years all other political issues seemed abandoned or forgotten in view of the titanic struggle which culminated and closed at Waterloo. Beyond a madly hopeless attempt of the youthful enthusiast, Robert Emmett, in 1803, to renew the insurrectionary enterprise of 1798, Ireland may be said to have lain sullenly dormant, through the eventful years that saw the meteoric course of Napoleon. When next an Irish question challenged public attention, new elements of political power, new leaders, new tactics, came into view. Hitherto the Irish Catholics, nine-tenths of the population, being forbidden the rights of citizenship, had to depend for public advocacy on those noble-minded Protestants, like Grattan and Curran and Parnell, who, from a pure love of justice, espoused their cause. The Ireland which had legal or political existence in the eighteenth century was merely the handful of Anglo-Irish Protestants settled in the country. The millions of Celtic bondsmen around them counted for nothing in the state, except as material for taxation. The bondsmen now arose and strode into the political arena to determine their own fortunes. The political Ireland that appeared with the nineteenth century was a Celtic Ireland; or, rather, an Ireland that excluded none and embraced all Irish-born men of whatever race or class or creed. The question of Catholic emancipation had early enlisted the efforts of Grattan and other of the Protestant patriot leaders in Ireland; and even in 1799 had made such way in England that Pitt pledged

himself to make it one of the first measures the united parliament would pass. George III. absolutely refused, however, to entertain the question, and it was put aside. Forth from the ranks of the Irish Catholics there came a leader of their own race and faith destined to make king and cabinet alike feel his power. This was Daniel O'Connell, who, for nearly half a century, was the foremost political figure in Irish history. He aroused and combined the masses of the people; he covered the country with the network of a vast organization, and soon six millions of people, fired with enthusiasm and determined to be free, were disciplined to obey his will. The government sternly combated the movement; forbade it, proclaimed it, persecuted it, punished it—all in vain. O'Connell was no sooner suppressed in one shape than he reappeared in another. Again and again the king and the government declared that no concession could be made to demagogues and agitators; that the law would be vindicated, and established institutions in church and state upheld. Although no actual outbreak occurred, the state of affairs in Ireland was critical in the extreme. In 1829 the duke of Wellington, who had taken office expressly on a pledge of opposition to emancipation, announced to the king that it was a choice between its concession or civil war, civil war in which a vast body of English popular opinion would side with the Irish people and in which the Irish regiments of the army dare not be called upon to act against their countrymen. King, cabinet and parliament forthwith saw the question in a new light, and the penal code was in effect expunged from the statute book. From this period may be said to date a series of efforts on the part of British statesmen to grapple with the more prominent or pressing of Irish grievances; seldom or never, however, until popular complaint of them, long neglected or resisted, had developed into disorder, disaffection and violence. Between 1829 and 1835 the country was convulsed with a struggle against "tithes." The Protestant clergy were authorized to levy on the agricultural inhabitants, nearly all of them Catholics, a tenth of the produce of the land. After three or four years of stormy agitation, disfigured by deplorable outrage and violence, the people at length combined in a national "strike" against tithes. This proved effectual. A law was passed abolishing tithes in form; that is to say, adding them to the landlords' rent, and compelling the landlord, to whom the amount was paid in rent, to pay it over to the clergy *minus* 25 per cent. for the trouble of collection. These victories encouraged O'Connell to undertake an enterprise more serious and more formidable than any he had yet attempted, namely, an endeavor to recover the separate parliamentary constitution of Ireland subverted by Pitt in 1800, or, as it was called, to "repeal the union." The Irish masses were now full of confidence in the ability of their leader to accomplish anything he took in hand. Their social and physical condition was still painfully low. The grinding exactions of exorbitant land rent left the agricultural population, as a royal commission of inquiry under Lord Devon declared them to be, "the worst housed, the worst fed and the worst clad peasantry in Europe." They retained, however, the hopeful buoyancy of their Celtic nature, and the marvelous success of the total abstinence or "temperance" movement under Father Mathew (a Catholic priest of Cork city) had enormously elevated their *morale*. The abolition of the Irish parliament in 1800 had at the time been vehemently resisted by the ultra-Protestant party in Ireland; but when, in 1840, O'Connell, the Catholic leader, took up the question of its recovery, it was found that their attitude had totally changed. The parliament and the nation which they had contended for was one from which papists were excluded. So far from favoring legislative restoration now that the Catholics had been emancipated, they ardently implored the government to maintain the union, and not to deliver them up to "popish ascendency." O'Connell's movement, therefore, though it was sustained by more than three-fourths of the people of Ireland, encountered from the outset the mistrust, the dread or the hostility of the Irish Protestants. The full power of England was pledged to oppose it as an attempt to dismember the empire. The Irish leader found himself in a critical position. The government, so far from yielding to the popular demand, plainly meant to encounter it by force. Were England engaged at that moment in any serious foreign complication, concession would have been inevitable. But never in her history was she more great, more powerful or more strong. She was at peace with all foreign nations, and, possessed of a giant's strength, was ready to use it in stamping out once and forever this dangerous Irish idea of national autonomy. O'Connell's embarrassment was all the greater because there had now grown up around him a race of young men who scorned his exaggerated love of the peaceful ways of moral suasion, and who held the lawfulness of Ireland recovering the rights she claimed by armed resort if practicable. This conflict between the "moral force" and "physical force" principles of what were called respectively the "Old Ireland" and "Young Ireland" parties, rent the great Irish movement in twain. In the midst of the controversy there fell on the country a calamity that buried all political thought or effort for the time. This was the Irish famine of 1847-9. In the autumn of 1846 the potato crop, which formed almost the sole support of the population, was struck with blight and rotted in the ground. All could see the awful consequences that were at hand; yet the action of the government was disastrously tardy, circumlocutory, blundering and impotent. The people perished in hundreds of thousands amid scenes of anguish and horror beyond human power adequately to portray. Howsoever cul-

pable the inefficient action of the government in coping with the difficulty, the conduct of the English people was truly noble. They poured princely subscriptions into the treasuries of various relief associations, and did the best that private effort could achieve to mitigate the dreadful affliction. Nearly every country in the world joined in the Samaritan endeavor; but foremost and first—far outstripping all the rest, England included—was the land that long had been the free asylum and happy home of expatriated Irishmen, the United States of America. — O'Connell died, aged and heart-broken, in May, 1847. In February, 1848, revolution in Paris once more sent the impulse of insurrection through Europe; and once more Ireland yielded to its influence. The Young Ireland party took the field, or rather vainly attempted to do so, under William Smith O'Brien. The leaders of this abortive movement were everything but good revolutionists. They were men of genius, poets, scholars artists, orators; men of the purest and loftiest aims, fired with the generous enthusiasm of youth, maddened by the famine scenes around them. But they were utterly incompetent as military conspirators, and their attempt broke down on the threshold. It cost Ireland, however, a heavy penalty in the dispersion of a school of intellectual culture and activity, even the early-checked labors of which have left a deep imprint on the literature and the politics of that country. There followed upon the famine of 1847 and the abortive insurrection of 1848, a period of utter prostration. To the dreadful havoc of the famine there was now added wholesale eviction and expatriation of the ruined tenantry. In many parts of the island "clearances," as they were called, swept away the entire human population of the district, in order that vast bullock-ranges, sheep runs or grouse-moors might take the place of homesteads and villages. The human suffering involved in this policy can only be estimated by those who know how passionately the Irish peasant clings to the spot, however humble, which has been the birthplace and the home of his forefathers. In truth, the eviction scenes of that period, 1849 to 1860, rendered inevitable the events that have convulsed Irish society for the last twenty years. Hundreds of thousands of the eviction victims perished by the roadsides or in the pauper barracks. Other hundreds of thousands fled or were deported to America. They went with bursting hearts, ready to embrace any enterprise, no matter how wild and hopeless, that promised vengeance on the power that had driven them forth. As early as 1858 some of the exiled Young Ireland leaders conceived the idea of utilizing for revolutionary purposes this feeling on the part of the American Irish. The result was the organization of the Fenian conspiracy by Mr. James Stephens and Col. John O'Mahoney. Keenly alive to the causes of failure in 1848, the Fenian leaders aimed at careful preparation and extensive military organization. Notwithstanding the strong opposition of the Catholic clergy, and the dissuasions or protests of those nationalists who believed insurrection impracticable and mischievous, they pushed their enrollment with intense ardor and earnestness, and succeeded in establishing the most wide-spread and formidable revolutionary movement known in Irish history since 1798. In armament they were utterly deficient, but their organization and discipline were on the whole remarkably perfect. The government throughout was kept well informed by its spies in the conspiracy, and in 1865 swooped suddenly down on the leaders in Dublin, seizing the subordinates simultaneously all over the country. The organization never recovered from this fatal blow, although for fully two years subsequently it made desperate and persistent efforts to reconstitute itself, and at length, in March, 1867, gave the signal for a national uprising. The moment the long formidable secret society came out into the open, its great spell was shattered. It was found to be just as deficient as the much-blamed Young Ireland movement of 1848 in the most elementary conditions of military existence. The fortitude, devotion and heroism exhibited by its members in the dock and in the dungeon enlisted for them the sympathy of thousands who had condemned that enterprise; and even among English statesmen the feeling spread that the Irish question must be dealt with by remedial, not by repressive, measures. Mr. Gladstone, as leader of the liberal party of England, gave eloquent expression to this conviction; and announced that, to begin with, the Irish state church, as a badge of conquest and an oppressive burden, must be swept away. In the general election of 1868 he was returned to office with an enormous majority, and, well fulfilling his promise, he forthwith carried through parliament an act for disendowing and disestablishing the Irish Protestant state church. Practically, the measure was one of disestablishment alone; for as to endowment, he was able so skillfully to arrange the financial portion of his scheme that not a shilling less income than before was secured to the church. This reform he followed up in 1870 by an act which aimed at settling the still more important and much more exigent question of land tenure in Ireland. The latter attempt fell lamentably short of the real necessities of the situation; a shortcoming which occasioned great disappointment Meanwhile, in the twelvemonth that followed on the disestablishment of the church, there ensued the most remarkable transformation ever witnessed in Irish politics. The Protestant "conservative" party—peers and commoners, land lords, merchants and aristocrats—reached out hands to the Catholic millions, and openly offered to join them in a national movement for the restoration of Irish parliamentary independence. This, no doubt, was in some degree through resentment on their part against England for selfishly throwing them over and repealing the union between the churches. But it was also

largely through genuine conviction that a wise compromise between total separation by rebellion, and national extinction by the domination of the London parliament, ought to be presented to a people so plainly determined not to acquiesce in the existing state of things. Mr. Isaac Butt, an Irish Protestant barrister of great eminence, may be said to have negotiated the remarkable alliance or fusion of parties, creeds and sections, which, under the name of the "Irish Home Rule Association," made its appearance in 1870. The programme of this movement was, on the one hand, reconciliation between Catholic and Protestant Irishmen, between peers and peasants, liberals and conservatives; and, on the other, reconciliation between Ireland and England, on the basis of a federal union, whereby Ireland should enjoy such legislative and administrative autonomy as is possessed by a state in the American republic. Even among the Fenian or separatist party this experiment was favorably regarded as presenting the minimum of a satisfactory compromise, and in a few years the movement took such hold on Irish public opinion that, tried by every test known to constitutional countries—parliamentary, municipal and township elections—the national will has, ever since, year by year, with more and more determination declared itself for "Home Rule," as the scheme is called. In 1872 the old system of election procedure was replaced by ballot-voting, whereby for the first time the Irish people were enabled freely to manifest their views in the election of representatives. In the next following general election of members to the imperial parliament in 1874, the home rule party carried fifty-seven out of one hundred and three Irish seats. In the elections of 1880 they carried sixty-five, and it is computed that on the next occasion they will return at least seventy five or eighty members. Despite the strong parliamentary majority from Ireland in favor of national autonomy, the cabinet of Mr. Disraeli in 1874, and down to 1880, backed by their powerful following in parliament, imperiously refused every measure of reform or amelioration which the Irish party demanded. With especial earnestness and perseverance the Irish members year by year besought the government to deal with the land question as one which might any day lead to a catastrophe. Their warnings were disregarded; their efforts at remedial legislation were haughtily overborne by enormous majorities of British and Scotch votes. In 1878 the harvest was a failure in Ireland and in England. In 1879 it was almost a total loss in the former country; and a gloom of terror darkened the land. A repetition of 1847 seemed at hand. Now, however, there was seen a startling change in the spirit and action of the people, as compared with their conduct in that year. In stern and resolute tones they announced that the subsistence of a toiling population was a first charge on the land, and on the earliest whisper of landlord preparations for a gigantic eviction campaign, the whole island sprang to action with a cry that the hour had come when feudal landlordism must fall. Throughout 1880 and 1881 there raged in Ireland a fierce and implacable social war, with such evil concomitants of incidental disorder, violence and outrage as usually attend upon popular convulsions Mr. Gladstone and the liberal party were restored once more to power by the general election of 1880 In 1881 the great English statesman took the Irish question in hand; bringing in a coercion bill in January, and a land bill in April of that year. The former added fuel to the flame in Ireland, by its Draconian severity, exceeding anything known outside of Russia. The land bill, on the other hand, was a measure of noble and comprehensive character. It did not "disendow and disestablish" Irish landlordism, but it stripped it of the despotic power it had so mercilessly and disastrously used in the past. Justly irritated by the coercion act, and bitterly disappointed that the new land law did not wholly abolish landlordism, the Irish tenant-farmers at first received the latter measure in a sullen and almost hostile temper. The disposition manifested by Mr Gladstone, however, in 1882, to supplement its beneficent provisions wherever needful, and the growing conviction that the measure could be worked so as to accomplish before many years the gradual establishment of a "peasant proprietary," may be said to have brought the people of Ireland to recognize in the land act of 1881 a charter of liberty and a guarantee of a peaceful and happy future. — The character, temperament and habits of the Irish people have naturally been influenced by the vicissitudes of their stormy history. Among the peasantry the regretable effects of their furtive life in the penal times can even still be discovered in various ways. It is only within the past half century that the two races—the Anglo-Irish and Celtic Irish—have fused in any marked degree. The people are brave, naturally quick-witted and intelligent hardy, laborious, inured to toil, patient in privation, hospitable, warm in their affections, devoted in their fidelity to friends; but dangerously fierce and quick in anger, easily aroused and quickly allayed Their deeply religious fervor and their passionate love of country are perhaps the most prominent traits in their character. In public life they are capable of great achievements under the influence of enthusiasm, hope or confidence; but are impatient of results, exhibit a lack of plodding perseverance and cool, methodical action. In fine, the buoyant and volatile temperament of the Celt largely prevails; yet their more extensive intercourse with other peoples of late has considerably developed in them a steadiness and seriousness of purpose which has attracted general attention. Since 1830 education has made great progress among the Irish people; and their material condition has on the whole been vastly improved; but the start was from a point painfully low. It must be long before they can fully recover from the dreadful

effects of those not remote centuries during which education was "felony by law." Throughout the period that gave to English literature the works of Spenser, Shakspeare, Milton, Bacon and "Rare Ben Johnson," of Dryden, Pope and Addison—the period during which it may be said the intellect of the modern English nation was being formed and cultivated and its civilization moulded and refined—Ireland was having the eyes of the mind put out, and intellectual blindness and habits and tastes of barbarism forced upon her. That dreadful policy has been abandoned, and at length the Irish race are being allowed access to the blessings of education. Between 1831 and 1840 a system of primary schools was established by the government, which, although ill recommended in many respects to popular confidence and favor, has been almost universally availed of; it may now be said that in every cottage in Ireland the school and the printing press have wrought or are working a marvelous revolution. — Despite all disadvantages, Ireland makes a goodly show on the roll of scholars, poets, authors, *savants*, soldiers and statesmen of the world. Swift, Goldsmith, Sheridan, Moore, Banin, Griffin, Carleton and Lever, in literature; Burke, Grattan, Curran, Plunkett, Richard Lalor Shiel, O'Connell, Duffy, Magee (bishop of Peterborough), Butt and Lord Dufferin, in oratory, statesmanship and politics, are familiar names. In the last generation Wellington, and in the present the only two capable generals England has in command, Sir Garnet Wolseley and Gen. Roberts, have been contributed by Ireland. Hogan, Foley, McDowell and Farrell, as sculptors; Maclise and O'Connor, as painters; Balfe and Wallace, as musical composers; Prof. Tyndall and Dr. Haughton, as scientists—all Irishmen, are honorably known. The two most competent historians of our own times in the English language, Mr. Lecky and Mr. Justin McCarthy, are Irishmen. In the camps and courts and cabinets of friendly foreign states, from Vienna to Madrid, and from Paris to St. Petersburg, men of Irish race have long been marked to eminence and fame. Finally, it may be said that the labor, industry and enterprise of Irishmen have largely contributed to the prosperity and power of those comparatively new states in the western and southern hemispheres that promise to exercise potential influence on the future of the world. — (See GREAT BRITAIN.) A. M. SULLIVAN, M. P.

THE TEMPLE, LONDON.

ITALY, Kingdom of. I. *Unification.* The kingdom of Italy has an area of 114,296 square miles, with a population of 28,200,000 (26,801,154, census of 1871), or 237 inhabitants to the square mile, with an increase of 7.1 per cent. every ten years. On Dec. 31, 1861, the average population per square kilometre was 84, with an excess of males over females in the proportion of 1,000 to 996. In 1882 the population per English square mile was 248. We shall relate succinctly the events which preceded the establishment of the kingdom of Italy, up to the time of Rome becoming the capital. Before 1859 the provinces which now compose this kingdom were grouped into several states After a fortunate war with Austria, the French and Sardinian troops, the latter re-enforced by volunteers from all Italy, expelled the Austrians from Lombardy. July 11, 1859, in the preliminary treaty of Villafranca (on the Mincio) the emperor of Austria ceded that province to the emperor of the French, who made it over to the king of Sardinia. The annexation of these provinces to Sardinia had been already voted by 561,002 in favor of it to 681 against it, in the plebiscitum of June 8, 1848, the effects of which had been suspended by the victories of the Austrian armies, and the reoccupation of the country which followed them. The preliminaries of Villafranca were ratified at Zurich by the treaty bearing the name of that city, and the date of Nov. 10, 1859. — While the struggle was going on in Lombardy, Tuscany, Parma and Modena and the northeastern portion of the States of the Church rose in insurrection. The grand duchy of Tuscany and the duchy of Modena were governed by the sovereigns of the house of Hapsburg-Lorraine; at Parma reigned a branch of the Spanish bourbons. In the month of September, 1859, four bodies, elected by universal suffrage, met at Florence, at Parma, at Modena and at Bologna; these voted, 1, the abolition of their old form of government; 2, annexation to the kingdom of Sardinia, under the constitutional monarchy of Victor Emmanuel II. of the house of Savoy. These unanimous decisions of the four assemblies were submitted to a direct vote of the people in March, 1860. They were ratified by 792,577 votes, out of 807,502 votes cast. This vote of annexation was accepted by the king of Sardinia, upon whom his old parliament had conferred full powers, April 23, 1859. The annexation of Parma, Modena and the northeastern portion of the States of the Church which had been united under a provisional government, was decreed March 18, 1860; that of Tuscany, the 22d of the same month. At the same time the election of deputies was proceeded with, who were to represent the annexed provinces in the parliament of Sardinia. The elections took place Feb. 29, 1860. Parliament opened at Turin, April 2, and again ratified the annexation vote in its session of April 13. — The old kingdom of Sardinia (which had before the war 5,000,000 inhabitants, and from which Savoy and the arrondissement of Nice had been detached by the treaty of March 24, approved by the law of June 11, 1860, and followed by the annexation vote,) contained, including the annexed provinces, a population of 11,000,000 in June, 1860. — But the march of events did not stop here. In various parts of Sicily feeble attempts at insurrection took place, which failed. A few bands of insurgents sustained themselves in that island, when Gen. Garibaldi, who had distinguished himself in

the war of the preceding year, embarked with 1,000 volunteers at Genoa, May 5, 1860, on two merchant steamers. He ran the gauntlet of the Neapolitan cruisers, and disembarked under their fire at Marsala, Sicily, on May 11. Upon reaching land, he formally took possession of the government of the island, in the name of Victor Emmanuel II., king of Italy. May 15, 1860, there was a bloody fight at Calatafini, where the troops of the king of Naples were repulsed After a series of fights and marches, Garibaldi entered Palermo, the capital of the island, the garrison having capitulated June 5. Of the royal troops there remained only a garrison in the citadel of Messina, when Garibaldi descended into Calabria, Aug. 21. Sept. 7, 1860, he became master of Naples, without firing a shot. — While this was taking place in the south, the corps of the royal army of Sardinia advanced through Roman territory, in which was assembled a corps under the orders of General Lamorcière. After the battle of Castelfidardo, (Sept. 18, 1860), the pontifical army was dispersed. The garrison of Ancona sustained a siege by land and sea for some days. On the 29th of the month it was forced to surrender. — The army, with King Victor Emmanuel himself at its head, next advanced toward the frontiers of the old kingdom of Naples Oct. 17 there was a skirmish at Isernia, and on the 26th, one at Teano. Several bloody fights had taken place between Garibaldi's volunteers and the Neapolitan troops, in the country surrounding Capua, then in a state of siege. This city surrendered on Nov. 2, and King Victor Emmanuel entered Naples on the 7th. Francis II. had shut himself up in the stronghold of Gaëta, with a very respectable army; the garrisons of Civitella del Tronto, in Abruzzo, and of Messina still held out for him; Gaëta surrendered Jan. 13, Messina on the same day, and the citadel of Civitella del Tronto on March 20, 1861. — While these military movements were taking place, the people of Marches, Umbria, Naples and Sicily came together Oct. 21, 1860, to decide upon a form of government. The plebiscitum of Marches pronounced in favor of their annexation to the constitutional monarchy of Victor Emmanuel, king of Sardinia, by 133,077 against 1,212 votes. The plebiscitum of Umbria gave 97,040 votes for and 380 against annexation. In the plebiscitum of Naples and Sicily the Italian formula was adopted, "one and indivisible," under King Victor Emmanuel and his legitimate descendants. This formula obtained 1,302,064 votes in the Neapolitan provinces, and 432,053 in Sicily, or, in all, 1,734,117 votes against 10,979. The king, to whom parliament had given full power in the matter, in the sessions of Oct. 31 and Dec. 3, 1860, accepted these plebiscita, and sanctioned the uniting of these provinces into one state by royal decree, Dec. 17. Jan. 23, new general elections were held. Parliament assembled at Turin, Feb. 17, and one month after (March 17, 1861) was cast the vote of the two chambers, proclaiming the kingdom of Italy, with a population then of 21,776,953. Count Camille de Cavour, Victor Emmanuel's first minister, the mighty inspirer of the policy which resulted in the unity of Italy, died June 6 Baron Bettino Ricasoli, who had been dictator in Tuscany, before the annexation of that province to Sardinia, and who formed a new ministry, succeeded him. Baron Ricasoli, resigned March 2, 1862. His successor was M. Urban Ratazzi, head of a new ministry, which lasted until Dec. 8. Then still another was formed, under the leadership of Louis Charles Farini, formerly dictator in the provinces of Parma, Modena and the northeastern part of the States of the Church. M. Farini retired March 24, and the leadership of the ministerial council devolved upon M. Mark Minghetti, minister of finance — Since 1849 France had maintained an armed force at Rome; by a treaty signed at Paris Sept. 15, 1864, between the two governments of France and Italy, it was stipulated that France should withdraw her troops as fast as the organization of the army of the pope could be proceeded with; the evacuation to take place, however, within two years. Italy agreed, on her part, not to attack the pope's territory, and even to repel any attack upon it from without, and she became responsible for a proportionate part of the debt of the old States of the Church. By a subsequent agreement the Italian government engaged to transfer the capital of the kingdom from Turin to Florence. Unfortunately things had not gone smoothly nor without bloodshed at Turin The ministry led by M. Minghetti gave place, Sept. 24, to a new administration directed by Gen. La Marmora The transfer of the seat of government to Florence was nevertheless sanctioned by the law of Dec. 11, 1864. The central administrations began to remove toward the middle of the following year. Parliament was opened Nov. 18, 1865, in the new capital of the kingdom. — June 17, 1866, war having broken out between Prussia and Austria, Italy, which had bound itself to Prussia by a secret treaty, declared war against Austria. After the battles of Sadowa in Bohemia, and Custozza in Italy, hostilities were suspended. July 5, the emperor of Austria ceded Venetia to the French emperor, who declared that it had been taken from Italy, and should be restored to her in time of peace. There were held negotiations on the part of Italy, for the cession of Trentin, or Tyrolean Italy, which came to naught. The treaty of peace between Austria and Prussia was signed Aug. 23, 1866, and between Austria and Italy, Oct 3 of the same year. As the consent of the people to these measures had been stipulated, they were consulted Oct. 21 and 22, and gave 647,246 votes for union with the kingdom of Italy, and 69 against. The annexation of Venetia was sanctioned by royal decree, Nov. 4, 1866, and ratified by the law of July 18, 1867. — The Ricasoli ministry, which had succeeded the La Marmora government at the breaking out of hostilities, handed in their resig-

nations, April 4, 1867. A new ministry under Ratazzi succeeded it. The evacuation of the pontifical states, stipulated in the agreement of Sept. 24, 1864, had been accomplished within the specified time. In September, 1867, Gen. Garibaldi proposed to attack them with bands of volunteers; the royal government not succeeding in preventing an armed invasion, the French interfered, and the Garibaldians were defeated and put to rout at Mentana, (Nov. 3, 1867). From the effect of these events the Ratazzi ministry had fallen. Gen. Menabrea became chief of the new cabinet, appointed Oct. 24, and which remained in power until Dec. 14, 1869 From that time until July, 1873, the administration was intrusted to the Sanza ministry Then it passed into the hands of the Minghetti ministry, which embraced several members of the former cabinet — In 1870 war broke out between France and Prussia. After the first disasters France recalled her troops from Rome. Passion ran high; the national will clamored loudly for Rome, its natural capital. Parliament had already unanimously recognized it as such, March, 1861. A new outbreak was inevitable, an armed repression would only have arrayed the government against the country, and would perhaps have been unsuccessful. A plenipotentiary was sent to negotiate with the pope, but could come to no agreement with him. Then a division, commanded by Gen. Cadorna, advanced upon Rome; the assault was made Sept. 20. A breach was already opened when the foreign troops forming the pontifical army capitulated. — Oct. 2, 1870, the Roman plebiscitum was held, which resulted in 133,681 for, and 1,507 against. A royal decree of Oct. 9, 1870, declared Rome and its provinces integral parts of the kingdom; it guaranteed to the pope his dignity, inviolability, the personal prerogatives due to a sovereign, and reserved the right to establish, by a special law, the necessary guarantees for the independence of the holy father, and the exercise of the spiritual authority of the holy see. The annexation of Rome and its provinces was ratified by law, Dec. 31, 1870. The guarantees of the holy father and the holy see were sanctioned by the law of May 13, 1871. The removal of the government to Rome was decreed by law, Feb. 3, 1871. The new legislature, the eleventh since the promulgation of the constitutional statute by Charles Albert, king of Sardinia, the fourth since the proclamation of the kingdom of Italy, began its session there Nov. 27, 1871.— II. *Constitution.* The charter, granted by Charles Albert, March 4, 1848, to the kingdom of Sardinia, was accepted the same year in Lombardy by the "act of fusion." It was also accepted by the plebiscita, which we have just referred to. This charter is therefore the constitutional charter of the kingdom of Italy. The following are its provisions: The government is monarchical and representative; the succession is regulated by the salic law. The king attains his majority at the age of eighteen During his minority the regency devolves upon his nearest male relative; or, male relatives failing, upon the queen mother. At the commencement of each reign, and for its entire duration, the civil list is fixed by vote of parliament. The old dotation in the state budget was augmented after the proclamation of the kingdom of Italy. Later it was reduced, by consent of the king, and is now (1882) 16,250,000 francs. The dotation of the crown, not personal property, consists of villas, palaces and castles. The allowances of the princes of the royal family amounted to 1,600,000 francs in 1873. The legislative power is divided between the king and the two chambers, the senate and chamber of deputies. The construction of the laws is also within the province of the legislative power. The executive power belongs to the king, who has supreme command of the army, declares war, makes treaties of peace, of alliance and of commerce, with the assent of the chambers, when they involve special expense or changes in the territory of the state. The king appoints responsible ministers, and no act of the king is valid unless countersigned by one of these. The king appoints also to all the offices of state, gives his sanction to laws, and sees to their execution. He has the right of pardon. The two chambers are convoked each year by the king. He can prorogue them, and can even dissolve the chamber of deputies. But in the latter case he must call a new one within three months. The initiative in the making of laws belongs to the two chambers as well as to the king. Nevertheless, all laws imposing taxes must first be passed by the chamber of deputies. The Catholic religion, professed by the vast majority of the citizens, is the religion of the state; other religions are tolerated. Nevertheless, the principle of toleration toward dissenting religions is in reality liberty of conscience. All citizens are equal before the law; they enjoy the same civil and political rights, and must contribute to the expenses of the state in proportion to their means. Personal liberty is guaranteed; domicile is inviolable, the press is free, and the right of assembly acknowledged Property is inviolable, save in the case of the exercise of the right of eminent domain, when damages are allowed. Taxes can only be imposed by law, and every citizen has the right to petition the chambers. The princes of the royal family are senators, with the right of a seat in the senate at the age of twenty-one; they vote at the age of twenty-five. The other senators, to an unlimited number, are appointed for life by the king. They must be at least forty years old. Senators are appointed from among bishops, archbishops, deputies, ministers, ambassadors, magistrates of the court of appeals, general officers; councilors of state and chancellors of the exchequer; prefects; men who have done honor in any way to their country; and those who pay more than 3,000 francs direct taxes. In 1880 the senate was composed of 270 members. The senate is the high court of justice, for the trial of crimes of high treason, and of ministers impeached by the chamber of

deputies. To be a deputy, a person must be a citizen of the kingdom in the full exercise of his civil and political rights, and must have completed his thirtieth year. The deputy's term of office is five years. The chamber of deputies alone has the right to impeach ministers. The two chambers sit at the same time. Each chamber governs itself. Senators and deputies are not salaried. The sessions are public. Resolutions are adopted by an absolute majority of votes. Members of the two chambers can not be held accountable for opinions delivered or votes cast during session. Each chamber judges of the validity of the nomination or election of its members. At each new session the president and vice presidents of the senate are appointed by the king. The other members of the board of officers are elected by the senators. The chamber of deputies names its own board of officers, including the president. Except in case of *flagrante delicto*, a senator can not be arrested. It is the same with the deputies, during the session of the chamber. Nevertheless, the two chambers can consent to the arrest of their members at the request of judicial authority. Both senators and deputies take before their respective chambers the oath of fidelity to king, country and laws. Judges and magistrates are appointed by the king; they are irremovable three years after their nomination. There can be no special courts nor jurisdiction. Sessions of courts are public. — Such are the general principles of the constitution of the kingdom of Italy, embodied in the statute granted March 4, 1848. The electoral law proclaimed shortly after the statute of March 4, gave one deputy to every 25,000 inhabitants, which made 204 deputies for the old kingdom of Sardinia. After the annexation of Lombardy, a law of Nov. 20, 1859, modified this proportion, and provided for one deputy to every 30,000 inhabitants; so that there were, after the other annexations from central Italy, 387 deputies. After the plebiscita of 1860, the proportion was changed again, and it is now (1882) one deputy to every 40,000 inhabitants. After the annexation of Venetia and Rome the number of deputies increased. In 1873 it was 507, and in 1880, 508. To enjoy the electoral right, one must be a citizen by birth or naturalization, be twenty-five years of age, and know how to read and write. The electors of certain provinces, designated in the electoral law, are provisionally exempt from compliance with this last condition. Electors must, besides, pay forty francs annually in direct taxes, or pay for the hiring of a location for the carrying on of commerce, art, or some business, a fixed rent, varying, however, according to the population of the communes where the industry is established. — The conditions of the electoral law are not imposed upon the following persons: members of academies; members of chambers of industry and commerce; professors of arts, sciences and letters; civil and military employés; persons decorated with a national order; laureates of universities; persons exercising the liberal professions; and brokers approved by the government. Nor are the above conditions necessary to eligibility to the position of deputy; the exercise of civil and political rights and to be thirty years of age are sufficient. Functionaries and employés paid by the state are not eligible. Nevertheless, functionaries and employés belonging to the following categories can be admitted to the chamber of deputies, to the extent of one fifth of the whole number. Ministers of state, who are not counted in this fifth, and secretaries general of the ministries; members of the council of state, and of the courts of cassation and appeal, to the exclusion of those charged with the administration of public affairs, superior officers of the army and navy, provided they be elected outside of the district of their command; members of the superior council of public instruction, public health, public works and mines; finally, professors in universities. The members of the clergy are not eligible when they have charge of souls or a fixed residence, for example, bishops, vicars, chapter-canons, etc. — The electoral lists are prepared by the municipalities, and they are subjected to annual revision by the same authority. Those interested may object to the formation of these lists; in case of refusal on the part of the municipalities to right the matter, the person so objecting can petition the court of appeals. Each electoral college may be divided into several sections. The electoral colleges are convoked by royal decree, within three months from the expiration of the quinquennial mandate, or of the dissolution of the chamber, within one month, in case of vacancy by death, resignation or any other cause. To be elected on the first ballot, the candidate must get a number of votes equal to one-third of the electors registered, and one-half of those voting. In default of which, eight days after, those two candidates are voted for who obtained the highest number of votes the first time. In both cases the president of the board of officers proclaims the deputy elected, provided it be ratified by the chamber, to which are now sent his credentials, together with protests and objections, if there be any. — III. *Administration*. The executive power belongs to the king, who wields it through nine responsible ministers, to wit: Minister of foreign affairs; of the interior; of finance; of pardon, justice and worship; of public instruction; of war; of the navy, of public works; of agriculture, industry and commerce. One of these ministers presides at the meetings of the ministries. The powers and privileges of each are determined by law. Nearly the whole system of administrative laws has been renewed since the foundation of the kingdom of Italy. On March 20, 1865, were enacted the laws for the administration of communes and provinces, public safety, public health, the council of state and public works. From April 29, 1869, dates the law for the administration and general accountability of the state. The executive power is based

upon a council of state, which has a consulting voice in all affairs referred to it by ministers, or which are within its province by law. The administration decides no legal controversies Its power to do so was abolished by law, March 20, 1865. Every question of a civil or political right, even where the state is interested, is within the province of the ordinary courts. The council of state is called on to settle controversies concerning jurisdiction. — The kingdom is divided into 69 provinces; these are subdivided into 274 arrondissements, and the arrondissements into 9,438 communes Each province is administered by a prefect, each arrondissement by a subprefect. In the Venetian provinces each district is administered by a commissioner. The syndic (mayor) is chief of the municipal administration. He is appointed by the king from among the municipal councilors. Each prefect is assisted by a council, whose members are nominated by the king. Side by side with the "prefecture," there is an elective council for the province, having an administrative representation in the provincial deputation. In the arrondissement, besides the prefect or subprefect, there is a questor, a delegate or commissioner of public safety. In each chief town of a province there is a recruiting commission, and in the capitals of provinces and districts commissions of public health meet, and there is a board of education In the capital of a canton there is a judge and a commissioner of public safety. In each commune there is an elective municipal council, with an administrative committee, composed of assessors, presided over by the mayor. Each province has its own budget. The provincial council votes it; the provincial deputation, appointed by the provincial council, administers it. The sources of revenue of the provinces are made up of the incomes from patrimonial estates and trifling additions to the state taxes. The commune also has its budget. The municipal council votes it; the committee of assessors (junta) and the mayor administer it. The sources of revenue of the commune are like those of the province, and, besides, the commune has tolls and local taxes. — The councils, both of commune and province, by the law of March 20, 1865, are elected by a relative majority of votes. The duration of their office is five years. At the close of every year, one-fifth of the council goes out. In the first four years the members retiring are chosen by lot; in the subsequent years, by seniority. Retiring members are indefinitely re-eligible. They receive no remuneration. The king can dissolve communal and provincial councils, in the interest of public order, but must cause them to be renewed within three months. During the interval, communal and provincial affairs are administered by a royal commissioner. The legal age of an administrative elector is twenty-one years; the other electoral conditions are almost the same as for political elections. Nevertheless, the amount of taxes qualifying an elector is but twenty-five francs in communes of more than 60,000 inhabitants; twenty francs in those of from 20,000 to 60,000 inhabitants; fifteen francs in those of from 10,000 to 20,000; ten francs in those of from 3,000 to 10,000; and five francs in those of less than 3,000 inhabitants. A person may be an administrative elector in one or several communes, in one or several provinces, if he have a residence, estate or establishment there. The administrative electoral lists are drawn up and revised like the political electoral lists, and the electors have the same right of objection. — The communal council is composed of eighty members in communes of more than 250,000 inhabitants, of sixty in those of more than 60,000, of forty in those of from 30,000 to 60,000, of thirty in those of from 10,000 to 30,000, of twenty in those of from 3,000 to 10,000, and of fifteen in the smallest communes. The junta, or board of assessors, is appointed by the council, by absolute majority of votes. The assessors are ten in number, with four substitutes, in cities of 250,000 inhabitants; eight, with four substitutes, in those of more than 60,000; six, with two substitutes, in those of more than 30,000; four in those of from 3,000 to 30,000 inhabitants; and two in communes of less than 3,000 inhabitants, with two substitutes. The communal councils assemble in ordinary session twice in the year, in spring and in autumn. In extraordinary session they may come together at any time, subject to the authorization of the prefect of the province. — The council, not the junta, appoints and dismisses all employés of the commune; deliberates upon all administrative matters, contracts and everything touching the interests of the commune. It passes laws concerning local magistracies, institutions of benevolence and instruction, police and local sanitary matters; also laws for the collection of local taxes. All available funds must be employed Among the obligatory communal expenses the law enumerates the salary of a secretary, office expense, cost of recovering taxes, cost of preserving the property of the communal patrimony, the construction of roads, the keeping in repair of roads and public places, elementary instruction, the national guard, lighting, cemeteries, subscription to the "bulletin of laws," electoral boards and local police. The council is obliged to concur with the state or the province, and with the union or *consorzio* of the communes interested, in certain expenses fixed by law. All other expense is optional. The budgets for the communes of 1870 amounted to, receipts, 338,978,834 francs, and expenses, 341,150,600 francs. The subprefect decides whether or not the deliberations are conformable with the laws. He can suspend the execution of them, except in case of urgent need; the prefect may, in case of need, annul the deliberations of the council. The law determines what deliberations of the communal councils must be approved by the provincial deputation, or by the king. From the decision of the prefect, or of the provincial depu-

tation presided over by the prefect, there is an appeal to the king, who submits the question to the council of state. — The provincial councils (general councils) are composed of sixty members in provinces of more than 600,000 inhabitants, fifty in those of from 400,000 to 600,000, forty in those of from 200,000 to 400,000, and twenty in all others. The provincial councils assemble regularly in ordinary session the first Monday in September of each year; they can be convoked in extraordinary session by the prefect. Their deliberations usually concern the founding of public provincial establishments; secondary and technical instruction; provincial roads; the support of the insane and of foundlings; the preservation of monuments and archives; the regulation of the streams, etc., and, in general, all the administrative affairs in which the province has an interest. The provincial council takes charge of the charitable, benevolent and religious institutions; gives its opinion upon proposed changes of territorial limits, on the construction of roads, on tolls and markets, and on the establishment of associations between communes, and between tax payers (*consorzii*). The provincial deputation, which has the "guardianship" of the communes, is composed of ten members in provinces of more than 600,000 inhabitants, eight in those of more than 300,000, and six in the others, with substitutes to the number of four in the first class and two in the others. The provincial budgets, not including that of the province of Rome, amounted, in 1870, to 78,766,736 francs, receipts, and to 79,109,567 francs, expenditures. — IV. *Finance.* The law of April 29, 1869, established the general principles of the financial administration The minister of finance prepares each year the general plan of the budget of the receipts and expenditures of the state. For this purpose each of the other ministers transmits to him the plan for the particular budget of his own department. In the budget ordinary receipts and expenditures are first entered, followed by the extraordinary. Every item of extraordinary expenditure exceeding the sum of 30,000 francs must first be approved by special law. — The financial year coincides with the solar year (Jan. 1 to Dec. 31). It is never longer, and the account of the financial year relates only to the actual receipts and expenditures of that year. In the first two weeks of March the minister of finance must present to parliament a scheme for the budget of each ministry, and one including all of these, indicating the provisions made for the receipts and expenditures of the following year. These estimates are approved before Jan. 1. During the same two weeks in March the minister of finance must present a general and definitive budget for the current year, together with the modifications of the provisions of the first budget, already approved, and giving account of the balances of the preceding year. To this definitive budget is added a statement of the condition of the treasury. — The collection of direct taxes has been regulated, since Jan. 1, 1873, by the law of April 20, 1871 By virtue of this law there must be a collector of taxes for each commune or union of communes (*consorzio*). He is paid by the communes; the office is by them awarded to the highest bidder, for a term of five years. The collector is also charged with the collection of the taxes of the state, as well as those of the communes and provinces, according to lists which are furnished him. He is responsible for the sum total of his lists, even for the sums which he may not have collected. In the chief city of each province a receiver general collects the sums due by the collectors of taxes for the state and province, and is responsible for them, even for those not collected. The office of receiver general is sold at auction, for a term of five years, and he is remunerated from the provincial funds. The taxes on landed property have been made uniform by the laws of July 14, 1864, and May 25, 1865 The whole financial system was then unified, and now all citizens are subjected to the same taxes throughout all the provinces of the kingdom; though the islands of Sardinia and Sicily are exempt from the duty on salt, and the latter from that on tobacco even, the cultivation and sale of this plant having remained free there. The taxes of the kingdom may be divided as follows: 1, taxes on landed property; 2, taxes on the income from personal property; 3, taxes on the grinding of cereals, 4, taxes on affairs, such as the right of registration, on civil acts, on the right of succession and judicial acts, stamp duties, etc ; 5, taxes on the cultivation of tobacco, except in Sicily, and on the manufacture of beer, soda waters and alcoholic drinks; 6, taxes on articles of consumption in city and country communes, (with the exception of flour, meat and drinks, all articles of consumption may be subjected to communal dues, and besides, the commune can add its own taxes to those of the government), 7, taxes on foreign commerce, customs and rights of navigation, (raw material is exempt from all impost laws, and the tariff on the other products of industry and manufacture is extremely moderate—no prohibition nor differential law is insisted upon); 8, the government monopolies, such as the sale of salt and tobacco, 9, lotteries; 10, the profits of the public services, such as the postal system, telegraph, etc ; 11, the revenues from domains, and the receipts of the railroads operated by the state, 12, contingent revenues of divers kinds; 13, reimbursements and regular receipts; 14, ecclesiastical revenues. — V. *Administration of Justice.* The kingdom of Italy obtained a uniform civil legislation by the code promulgated June 25, 1865; in it, civil marriage and the equality of males and females in the right of inheritance were established. Tuscany only has her own peculiar penal code, whereas all the other provinces have one and the same, the penal code was modified in a few respects for the Neapolitan provinces, for the purpose of lightening the penalties imposed for certain offenses. Capital punishment

is effaced from the code of Tuscany. Commercial legislation, as well as codes of procedure, are the same throughout the kingdom; the codes of commerce and civil procedure date from June 25, 1865; those of criminal procedure from Nov. 26, 1865. Nevertheless, there are five courts of cassation. They are held at Milan, Florence, Naples, Palermo and Rome, and are called upon to decide, in matters civil and criminal, cases of violation or false application of the law. The courts of appeal do not render final judgment, but reject the opinion or reverse the decision of the first judges and send the case to another tribunal. The law of Dec. 6, 1865, made the judicial organization uniform throughout the realm. It embraces the court of appeals, appel late courts, courts of assize, tribunals of com merce, civil and correctional courts and pretors In each commune there is a justice of the peace, in the large communes, several There is a public prosecutor for the court of appeals, as well as for the civil and correctional courts. Justices of the peace are appointed by the king. Their services are gratuitous They decide without the formality of procedure, and render final judgment in petty cases, involving personal or real property to a sum of not more than thirty francs. They act as arbiters when their advice is demanded in disputes between residents of the same commune. Where there is no justice of the peace these duties devolve upon the syndic, or mayor Every judicial district (the judicial district consists of one or several communes and even of part of one) has a pretor, who decides in the first instance in civil and commercial cases involving as much as 1,500 francs, and in offenses against police regulations. The civil and correctional tribunals have jurisdiction over one or several administrative districts. There are 162 of them. They pronounce in the second instance upon the decisions of the pretors, and in the first instance upon civil matters, which are relegated to them by law, as well as crimes. Connected with these tribunals there are one or several judges, charged with the examination of criminal matters.— The members of the tribunals of commerce are appointed by the king on the recommendation of the chambers of commerce respectively; there are sixty-eight of these in the whole kingdom. The tribunals decide in cases deferred to them by the commercial code and other laws. The courts of appeal are twenty in number, of which three have altogether four detached sections, which sit outside of the city, the residence of the court. Thus, there are twenty-four cities with a court of appeals, or a section of one. The courts of appeal take cognizance in the second instance of cases already judged by the district and commercial courts, and of complaints in matters of election. They decide, moreover, on the acts relative to the record of crimes to be sent before the court of assize. Each court and even separate section of appeals consist of three chambers, viz. civil chamber, chamber of correction and chamber of accusation. Five councilors at least must be present in civil cases, six in correctional appeals, and three in the chamber of accusation, to make a decision valid. The courts of assize are convened every year by royal decree at the time and place determined by law. The jurisdiction of each court of assize embraces that of one or of several tribunals. Each court of assize is composed of three councilors of the court of appeal, to which the decisions of the court of assize may be carried for approval or reversal; they are charged with the making up of the record of cases, and the application of the law after the verdict of the jury. The jury is composed of twelve men, chosen by lot from among the electors, of fully thirty years of age, and able to read and write. The court of assize has cognizance of ordinary crimes, misdemeanors of the press, and political misdemeanors. Appeal can be taken against the decision of the court of assize. —Crimes of high treason and political trials of ministers come under the jurisdiction of the senate, which is erected into a high court of justice on such occasions The public ministry represents the executive power in relation to judicial authority. The functions of the public ministry are exercised in relation to the judges of districts by the delegate of public surety (police commissioner), or by the mayor, or by a fiscal procurator. In the tribunals of the arrondissements the public ministry is represented by the procurator of the king; before appellate courts and the court of appeals, by the attorney general. The public ministry has charge of state actions against criminals. It has the right of appeal to the higher court in the interest of public order and law.— The defense, by courtesy, of the poor, in civil and penal cases before tribunals and courts (judicial aid) is confided by the president of the tribunal or of the court to some lawyer practicing within its jurisdiction. Counsel for defendants, under such circumstances, who take the case without remuneration, have to defend, in both civil and criminal courts, individuals and moral bodies admitted to judicial aid, according to rules determined by law.—VI. *Worship; Relations of Church and State* Almost all Italians (99.7 per cent.) profess the Catholic religion. In the north a few valleys of the Alps, on the side of Pignerol, are inhabited by Vaudois, descended from the partisans of Peter Valdès. They have a temple at Turin. A few ancient Albanians, living in scattered localities in southern Italy, along the shore of the Adriatic, profess the United Greek faith. There are 40,000 or 50,000 Jews and 30,000 to 40,000 Protestants. Altogether, the members of non-Catholic religions do not number over 100,000 The principle of toleration in religion is embodied in the constitution of March 4, 1848, and has been interpreted and widely applied in the most liberal sense. Churches and temples may be erected by non-Catholics and kept open to the public, but the permission of the government must first be had. This permission is not neces-

sary for the Catholics. The discussion of religious matters is entirely free.—The relations of church and state are regulated by the law of May 13, 1871, which at the same time determines the prerogatives of the sovereign pontiff and the holy see. According to this law the person of the pope is sacred and inviolable. Attempts against his person or instigation to such action, as well as public insult and injury, are punished with the same penalties as are the same crimes and misdemeanors against the person of the king. These crimes come under public jurisdiction and are taken cognizance of by the high court of assize. The Italian government renders the sovereign pontiff within the territory of the realm the sovereign honors and pre-eminence of honor accorded to him by Catholic sovereigns The pope has the power of retaining the usual number of guards attached to his person and palace. The holy see is made the same allowance—3,225,000 francs—that it received in the budget of the pontifical states; this allowance is inscribed on the ledger of the public debt as a perpetual annuity, and inalienable in the name of the holy see, payable even during the vacancy of the holy see; and it is exempt from all sorts of taxes and burdens, whether governmental, provincial or communal. It is provided that the sovereign pontiff shall continue to enjoy the palaces of the Vatican and of the Lateran with all their dependencies; as well as the villa of Castel Gondolfo. The said palaces, villa and surroundings, with their museums, libraries and art collections, are inalienable, exempt from all taxes, and not subject to the exercise of the right of eminent domain by the state. During the vacancy of the holy see no authority can, for any reason whatsoever, interfere with or restrict the personal liberty of the cardinals; the government is pledged to see that the conclave and the œcumenical councils are troubled by no violence. The representative or agent of public authority can penetrate into the palaces and places which are the habitual residence or temporary dwelling of the sovereign pontiff, or in which may be assembled a conclave or an œcumenical council. It is prohibited to pay visits of examination, search, or to remove papers, documents, books or registers, in the pontifical offices or congregations, when such are of a purely spiritual character. The sovereign pontiff is entirely free to perform all the functions of his spiritual ministry, and to cause to be affixed to the doors of the basilicas and churches of Rome the acts of that ministry Those ecclesiastics, who, in the exercise of their functions, participate in the production of these acts, are subject to no search, investigation or prosecution by reason of them; any strangers at Rome, invested with ecclesiastical functions, enjoy the personal guarantees of Italian citizens. The ambassadors of foreign governments to the holy see enjoy all the prerogatives and privileges of diplomatic agents, granted by international law. The representatives of the see at foreign courts are insured the same guarantees and immunities, both going and coming.—It is provided that the sovereign pontiff shall have the right to correspond freely with the episcopacy and the whole Catholic world, without any interference on the part of the Italian government. He can establish at the Vatican or his other residences, post and telegraph offices with his own employés. The pontifical postoffice may correspond directly, in sealed envelope, with the offices of foreign administrations, or deliver its own correspondence through the Italian office. In both cases the transportation of the pontifical mail is exempt from all taxation or expense on Italian territory. Couriers expedited in the name of the sovereign pontiff are put on the same footing as those of the ministries of foreign governments. It is also provided that the pontifical telegraph office shall be connected with the general system of the realm, at the expense of the state; that its telegrams shall be received and sent as telegrams of the state, and shall be free of charge; that the same advantages shall be granted in the case of messages presented at any regular office by order of the pope, and messages addressed to him shall be exempt from the charges made against the person to whom the telegram is sent.—In the city of Rome and its six suburban sees, the seminaries, academies, colleges and other Catholic institutions, established for the purpose of ecclesiastical education, depend solely on the holy see, without any interference on the part of the school authorities of the realm. All restrictions on the right of assembly of the Catholic clergy are removed. The government renounces the right of nomination to and patronage of the major benefices; bishops are not obliged to take the oath of fidelity to the king. The major and minor benefices can only be conferred upon citizens of the realm, except in the city of Rome and in its suburban sees.—The royal *exequatur* and *placet* have been abolished; likewise every other form of governmental authorization of the publication and execution of the acts of ecclesiastical authority Nevertheless, until the reorganization, preservation and administration of ecclesiastical property shall have been provided for by a special law, the acts of the ecclesiastical authorities, having for their object the disposal of church property, and provision for major and minor benefices, except those of Rome and its suburban sees, shall remain subject to the *exequatur* and *placet*. In matters spiritual and disciplinary, there is no appeal from the acts of the ecclesiastical authorities, on the other hand, they can not execute their decrees by the aid of the state. Cognizance of the legal effects of such acts and of every act of ecclesiastical authority belongs to civil jurisdiction; these acts are devoid of all force and effect, if contrary to the laws of the state, to public order, or if they violate the rights of individuals; if they constitute a crime, they come under a penal code. The royal decree of June 23, 1871, regulates the concession of the *placet* and *exequatur*; by article

five of this decree, a person invested with a benefice can not take possession of it until his title be provided with the royal *placet* or *exequatur*.—A law of July 7, 1866, suppressed all orders, all religious corporations and congregations. The members of these moral bodies, even mendicants, were allowed a life pension of 600 francs or less, according to the age of the pensioners. Their possessions were made over to the state.—The number of archbishops having dioceses is 47; of bishops, 217; in all, 264. It may be well to note here that in the diocese of Milan the Ambrosian rite is still in use. The Milanese or Ambrosian church, although one with the Roman Catholic, is distinct from the latter in its ritual, its celebration of the mass, the breviary, and especially in the administration of the sacraments, beginning with baptism by immersion. The revenue of the property of the secular clergy, administered by themselves, is estimated at 55,000,000 francs at the very least. To this we must add the tithes levied by the clergy upon the harvests in several provinces, and the fees for baptisms, marriages, funerals, etc.—VII. *Public Instruction.* The fundamental law of public instruction is that of Nov. 13, 1859, modified for the provinces of Tuscany and the old kingdom of Naples at the time of its promulgation in those countries. A few other modifications have been effected by laws common to the whole kingdom. Education is of three degrees, namely: elementary, secondary and superior. Secondary instruction is divided into classical and technical. Higher education comes within the province of the universities and higher institutions of learning. Secondary *classical* instruction is given in the lyceums and gymnasia (colleges); secondary *technic* instruction, in the schools and institutes of technology; elementary instruction is given in the communal schools. We have enumerated elementary instruction as among the obligatory communal expenses. Universities and lyceums are supported by the state. Gymnasia and schools of technology are at the charge of the communes in which they are established. Technological institutes are maintained by the provinces. However, in the case of the two latter categories, the state contributes toward their expenses to the amount of half the salaries of the faculties.—VIII. *Public Charity.* Benevolent institutions are numerous in Italy. Every commune supports one or more. They are regulated by the law of Aug. 3, 1862. Provinces maintain at their expense foundling and insane asylums These institutions are administered by a bureau of charity in each commune. This bureau is appointed by the municipal council, and has a president, with four or eight members, according to the population of the place. The president's term of office is four consecutive years; the other members' service expires, one each year for four years; but they are always re-eligible. The municipal council may elect a special board or bureau for an institution, when the board of charity does not suffice. Institutions, whose manner of administration has been predetermined by the act establishing them, are without the jurisdiction of the latter. Every year a budget of receipts and expenditures is prepared. This is approved by the provincial deputation, to whom are also referred the rules of government, the sales, purchases, acceptances or refusals of bequests and the authorization to sue. However, permission to acquire property through legacies is definitely granted by the government. When an institution is subventioned by the state, its budget must have the approval of the minister of the interior. The latter has, moreover, the right of surveillance and control of the administration of all charities. In cases provided for by law, institutions may be reformed, or even transformed, when they no longer serve their purpose. This has been done in the case of asylums for pilgrims and neophytes, institutions created for the ransoming of Christian slaves in heathen countries, etc. The demand for reform or transformation is addressed to the council of the province by the municipal council. The prefect then submits it to the minister of the interior, who acts upon the instruction of the state council. All new foundations of benevolent or charitable institutions must be authorized by the government.—IX. *Military Organization.* The kingdom comprises sixteen territorial divisions. There are twenty-eight fortresses and fifty-three military districts. Four general commands of army corps are established in Rome, Verona, Naples and Palermo. By the Sardinian law of March 20, 1854, which, after the annexation, went into force throughout the whole kingdom, every citizen is subject to conscription as soon as he has completed his twentieth year, and even before that age in case of war. All the young men born in the same year form a class from which is drawn the yearly contingent, fixed by law. This contingent is distributed by arrondissements, in proportion to the number of those inscribed upon the lists of the class, which is chosen by lot to enter the army. The direction of the conscription, according to the law of March 29, 1865, is confided to a function ary of the administration, to the prefects and the subprefects; its execution devolves upon a council of conscription in each arrondissement. The latter is composed of the prefect or subprefect, two provincial councilors and two army officers. It is assisted by the administrative officer and a doctor. The mayors of each commune enroll the names of the young men upon the recruiting lists. After these have been published, lots are drawn; after that, the council of conscription visits the enlisted, and pronounces upon their right to claim exemption from the service. The men chosen by lot to form the annual contingent form the first category. They are called to the army, and are assigned according to their aptitudes, to one or another corps of the army; the rest form the second category, and are subject to military services for forty days in each year.—The law of July 19, 1871,

modified the organic recruiting law, and instituted a provincial militia. It provides for the voluntary enlistment for one year, under certain conditions, of young men who wish to become proficient in the art of arms. All exemption from military service has been done away with, except the substitution of a brother, and this liberation, dependent upon the payment of a premium fixed by law (2,600 francs in 1871 and 1872), only transfers the young man from the first to the second category. University students, students of medicine, pharmacy, surgery and veterinary pupils enrolled in the second category, are exempt at their request from military instruction; but they are liable, in time of war, to be called upon to serve in their capacity of doctor, surgeon, etc., up to the age of thirty-four years. A like exemption may be claimed by ecclesiastical students. Both classes are deprived of this right of exemption, if, at the age of full twenty-five years, they have not received their professional diplomas, or taken higher orders. The volunteers of one year receive no pay. At the end of their time, if they have given proof of sufficient military knowledge, they may claim exemption upon paying a premium not exceeding one-third of that fixed in ordinary cases; or they may be transferred into the provincial militia, even with the rank of officer, after an examination as to fitness. Besides the voluntary enlistment of a year, there is, for young men of, at the least, seventeen years of age, a kind of volunteering called permanent, that is, for eight years of service; also a form called temporary enlistment. Aliens, and in general all volunteers not included in the recruiting lists, are accepted only for eight years of service. Soldiers, discharged at the close of their term of obligatory service, may re-enlist voluntarily for a term of not less than three years. In time of war volunteers for the duration of the war are enrolled. All citizens are subject to military service. The provincial militia is composed of men of the first category, who are in the three or four last years of their service, and men of the second category, who are in the four or five last years of service. The government may claim the services of soldiers of the militia to re-enforce the active army in time of war. Cavalrymen, artillerymen and men of the artillery train and sanitary corps are attached to the active army during their entire term of service. The officers are chosen from among soldiers who have quit active service by reason of retirement, voluntary resignation or permanent leave, and who wish to join the provincial militia. They receive an allowance, to which may be added a pension. — By the law of military organization passed Sept. 30, 1873, the standing army of Italy is divided into seven general commands, or *corps d'armée*, each consisting of three divisions, and each division of two brigades; four or six battalions of "bersaglieri," or riflemen, two regiments of cavalry, and from six to nine companies of artillery. The actual strength of the rank and file of the army at the end of December, 1878, was 199,557 men (peace footing), and 444,509 men (war footing), with 15,110 officers. The national militia is composed of 232 battalions of infantry, each of four companies, of fifteen battalions of "bersaglieri" cavalry; of sixty battalions of artillery; and of ten companies of engineers. The time of service in the standing army is three years in the infantry and five years in the cavalry. A certain number, distinguished as "soldati d'ordinanza," to which class belong the carabinieri and some of the administrative troops, have the option to serve eight years complete, and are then liberated without further liability to arms. In the army of reserve the time of service is nine years. — The naval army, that is, the gunners and marine infantry, is recruited from among the young men forming the yearly military contingent. There is a special conscription for sailors and mechanics of the navy. The term of service of conscription in the navy is eight years; of volunteers, until they are forty years old. — The navy of the kingdom of Italy consisted, at the end of December, 1881, of 88 steamers, afloat or building, armed with 684 guns. The navy was manned in 1880 by 11,200 sailors, and 660 engineers and working men, with 1,271 officers, the chief of them one admiral, one vice-admiral, 10 rear-admirals and 83 captains. The marines consisted of two regiments, comprising 205 officers and 2,700 soldiers. The merchant marine comprises 18,800 sailing vessels, with a tonnage of 990,000, and carrying a total of 184,000 seamen. The number of steam vessels is rapidly increasing. In 1872 there were 120 of these, with a tonnage of 33,000. The regular and coral fisheries give employment to 11,600 boats and 31,000 men.

GASPAR FINALI.

— X. *Economic and Commercial History.* The economic and commercial history of the times that extend from the crusades to the discovery of America, is in great measure Italian history. There will certainly be no one who will dare to call a useless work or a vain complacency of learned men, this investigation in the volume of history of the titles of Italian one time supremacy. The picture of the glory and of the treasures acquired by Italians, in the countries where they traded, ought to serve as a stimulus to imitation. After the changes that have happened he would be foolish who should dream of new domains on the coasts of the seas of the east. But the navigation of these seas is open, and if the times which Providence is preparing will be so favorable to the nations living on the shores of the Mediterranean that a part of the commerce with Asia shall take again its former route, it will then be known how profitable the results will be. It suffices to call to mind the geographical position of the Italian peninsula that we may recognize how Italian traders were naturally invited to be the first to take in hand the productions of Asia and Africa, from the ports of Egypt

and Syria or of the Black sea; and how, transporting them along the Mediterranean, they could furnish all christendom therewith, while greatly advantaging themselves. — At this epoch America had no existence for Europe; all the products in which the latter was lacking, and therefore obliged to demand of other parts of the world, came from Asia and Africa only. The countries of the east, in which nature has with so much liberality lavished her gifts, are in part bathed by those same seas that surround Italy. Greece, Syria and all Asia Minor offered to Italian traders excellent dépôts for the storing or exchange of their goods. The countries situated in proximity to the Black sea were almost all barbarous, and therefore could ill compete with the hardy Italian navigators, who visited the colonies founded by their valorous fellow-citizens around the Euxine, to receive the merchandise which caravans had brought from the central regions of Asia and even from the remote shores of the gulfs of Arabia and Bengal—merchandise which was then by them distributed through all Europe. Let us remember these conditions, in part natural and physical, in part economic and civil, to which of necessity their commerce was subject, and we shall be able to form some idea of the necessary and spontaneous superiority which these conferred on the merchants of Italy. — If we examine on the map the respective positions of the various provinces of Italy we shall see that lower Italy and Sicily must have been, at the time of which we speak, the principal seats and richest emporiums of this trade. On one side Naples commanded the Tyrrhenian sea. Tarento on the other side, and the cities of Puglia and Calabria, were those whose navigators could most immediately communicate, by passing through the Ionian sea, with the islands of the Archipelago and the ports of the Levant. Sicily, in turn, saw extending before her the coasts of Africa and Egypt, forming one of the principal routes of commerce. And yet history, reserving only the brief period during which Amalfi deservedly proclaimed herself queen of the seas, far from presenting lower Italy as having the palms of commerce, places her below Pisa, Genoa and Venice. Although this fact may at first sight appear strange enough, it will not be difficult to find a reasonable explanation thereof. — Sad consequences to commerce proceeded from feudalism, that form of social administration in which is to be found the real cause of the mercantile inferiority of Naples and Sicily. The isolation, says Giuliano Ricci, in which they live in the midst of the state, withdraws both plebeians and patricians from extended commerce and perfected industry, interrupting or rendering slow and difficult all communications and relations of interest, at the same time that it paralyzes undertakings of every kind. Hence it is that Norman feudalism withered the municipalities in the south of Italy, and paralyzed that commerce and those manufactures which prospered in the north, and which might have found in the south, through the convenience of its ports and the nearness of the springs and routes of commerce, favor and encouragement. If feudalism was not the cause, how is it that from Brindisi, mistress of the mouths of the Adriatic, commerce thrust itself to the lagoons of Venice, from Syracuse and Amalfi to Pisa and Genoa? — But, as above indicated, Amalfi, situated on the gulf of Salerno, had its period of prosperity. It is even the first Italian city of which we can infer with certainty the maritime commerce with the Levant. Obliged to contend against the Arabs and Saracens, its navigation received an extraordinary increase; and in the year 849 saved Rome from a threatening invasion. At Palermo, at Syracuse, at Messina, its traders possessed storehouses and agencies; and the vessels of Amalfi, from the tenth century, were to be met in the ports of Beyroot and Alexandria, employed in the transportation of pilgrims to the Holy Land and in mercantile operations. By the route of Durazzo they trafficked meantime with the Greek empire, and at Constantinople obtained conspicuous privileges. During the brief periods of its prosperity Amalfi could count 50,000 inhabitants; its money was current throughout all Italy and the Levant, and the famous *Tavole Amalfitane* formed a maritime code imitated by later and foreign legislation. Of Flavio Gioïa, a citizen of Amalfi, and of the mariner's compass, we need say nothing here. But foreign conquest and military fury soon brought to ruin this great prosperity. The Normans, in 1131, deprived Amalfi of its liberty; and, soon after, a fleet from Pisa assaulted and sacked it, reducing it to a heap of ruins. Amalfi fell at the very moment in which Italian commerce generally was rising, and Pisa and Genoa obtained the rich heritage. — From the tenth to the twelfth century Pisa was the principal commercial mart of Italy. The Arno, then navigable right under its walls, made almost a maritime city of it, while at the same time opening up a channel into the interior of Tuscany. Pisa, in whose deserted streets to-day the grass is growing, had, in the times of its splendor, as many as 200,000 inhabitants. The frequent irruptions of the Saracens, from one of which it was freed by the prowess of its heroine, Cinzica Sismondi, had obliged Pisans to acquire skill also in the use of arms; and the common peril had induced the Genoese to unite with their rivals against the infidels, from whom the two republics snatched the dominion of Sardinia, which was afterward to become the apple of discord. In 1087 the Genoese and Pisans combined made an expedition against Tunis; and the Tuscan navigators made conquests besides on their own account, among others those of Corsica and the Balearic isles, from which able mariners were recruited. — That which distinguished Pisa from the other Italian republics was the liberal policy with which its ports were opened to strangers. But the Genoese contemplated with an evil eye the dominion of the Mediterranean being con-

tended for by the Pisans, for whom they were reserving the same fate which the latter had inflicted on Amalfi. The possession of Corsica and Sardinia was the occasion and pretext of war; a war of extermination, from which the greater profit was drawn by the queen of the Adriatic, which with secret joy beheld, as a spectator, the terrible injuries which its two sisters on opposite shores were inflicting on each other. — In the first and second crusades the Pisans had taken a leading part, obtaining, as a reward, great privileges in the Levant, and fortresses and establishments upon all the coasts of Syria and Asia Minor. Jaffa, St. John d'Acre, Tripoli, Laodicea and Antioch were almost entirely in their power. At Tyre they had founded a company, religious and at the same time mercantile, called, as if by antiphrasis, that of the Humble, (*societas humiliorum*) devoted to trade, principally to the weaving of wools. — These great successes increased all the more the rancor and envy of the Ligurian metropolis which, toward the end of the twelfth century, definitively took away from Pisa the two islands so long disputed; and in 1283, near the reef of Meloria, the Pisan fleet and grandeur were destroyed. And not even content with this, the Genoese stirred up internal factions, which soon covered with blood the banks of the Arno; and, to deliver a last blow to their former rivals, and excite a formidable competition to the Pisan port, in 1421 they sold to Florence the harbor of Leghorn for 100,000 gold crowns. — The discords of the Italian cities were always the principal cause that prevented the peninsula not only from uniting to form a powerful nation, but likewise from preserving the palms of civilization and commerce acquired with so much toil and blood. And yet it must be confessed, that, in the history of the world, those intestine strifes themselves were the occasion of some good and the cause of a progress which otherwise would with difficulty have been obtained. From the most painful evils Providence knows how to draw out germs of future advantage for the human family. Previous to the great epoch of the Italian republics, war was carried on ordinarily through mere thirst for conquest, by barbarous and ferocious soldiers, who fought only for the sake of fighting and destroying. Italian communes, on the contrary, introduced a new kind of wars, commercial ones, from motives of interest; they destroyed but for the sake of producing, of accumulating; wealth was their object, as much at least as glory. Besides, but for the profound rivalry which divided those municipalities into inimical camps, and obliged them to perform deeds of prodigious heroism, can we believe they would have become so great? In order to be great it is necessary to be able to love strongly and hate strongly; and it is quite doubtful whether hatred or love contributed most to the greatness of Italy. Heaven forbid that we should say this as a justification or apology for the miserable fratricidal arms, the eternal cause of Italian weakness and shame at this time; but impartial history must explain the facts it relates and not shrink from confessing the benefits which often had their origin in the most deplorable misfortunes; and we can have no doubt that these mercantile wars were a notable social progress in comparison with former wars of conquest and invasion. — Genoa and Venice alone remained to contend for the empire of the seas. It is known how Venice arose. Attila had passed the Alps, sacked and reduced Aquileia to ashes; he was threatening to descend on Rome. The inhabitants of the destroyed city and of the neighboring country sought refuge on the sandy islets of the lagoons, and founded there, in the year 450 after Christ, a species of federative republic, in which each of the isles was governed by its own tribunes. Fishing and the production of salt were the first industries of the little nation. The security they enjoyed, in the midst of the sea upon their rocks, invited new colonists, and little by little this became so conspicuous as to be able to neutralize the importance of Ravenna, the capital of the empire of the Ostrogoths. When Justinian, emperor of the east, declared war against the latter, and sent his generals, Belisarius and Narsetes, to subdue them, Venice afforded to the Greeks the aid of its fleet The battle of Vesuvius put an end to the Gothic dominion, and the exarchate of Ravenna inherited its power. But, hard pressed by the Lombards, the conquerors of the valley of the Po, the exarchs sought to make friends of a city that could do them great service, and granted Venice important privileges and commercial liberties. When Charlemagne descended into Italy to wrench the iron crown from King Desiderio, the Venetians, most skillful in profiting by every propitious occasion, won to themselves the friendship of the new Cæsar by aiding him in the siege of Pavia, and obtained as their reward the right of trading in his Italian states. Meanwhile the Greek empire, menaced by the Arabs, the Bulgarians and the Hungarians, was going to decay; and Venice, quick at all times to take advantage of circumstances, offered subsidies which were dearly requited. Fiscal exemptions, agencies and establishments in Roumelia and Constantinople itself, the conquest of Dalmatia—such were the rewards granted to the Venetians. In proportion as the circle of their political power was enlarged did they feel the necessity of modifying their internal constitution, giving it greater force and unity. They had already substituted the authority of a single doge for that of several tribunes The Venetian oligarchy, glorious and illustrious, succeeded the democracy, and became the granite base upon which was to rest the whole machinery of the state. Ancona and Comacchio, which in the matter of trade had shown some disposition to rival Venice, had fallen under the blows of the Saracens and the Narentine pirates, and the queen of the Adriatic let them succumb without aiding them. — The Grecian emperors had helped to promote the crusades, but were not long in repenting of it. The Frank

warriors, who remained for some time in Byzantium, committed violence and abuses; the Italian traders obtained important privileges, which Constantinople granted through fear of the Turks and from a desire to make powerful friendships. The Venetian agency (*fattoria*) in the suburb of Pera, had about 10,000 inhabitants and formed a little state, capable at times of neutralizing the power and authority of the local government. The tortuous and disloyal policy of the Byzantine emperors could not long remain faithful to treaties concluded with neighbors so formidable. And their perfidy, already long suspected, appeared manifest in the conduct of the emperor, Emmanuel Commenus, who, in 1172, being refused by the Venetians their aid in his affair with William, king of Sicily, caused to be confiscated all their vessels with their cargoes, and all they possessed in his states, arresting even a great number of their citizens.—The republic of St. Mark was not one to tolerate such an unjust affront, and the opportunity of obtaining revenge for it did not long delay. When the fourth crusade was undertaken in 1202, Venice not only took upon itself the transport of the whole army, but prepared, besides, an expedition of its own, under the command of the doge, Enrico Dandolo. But not against the Turks, rather against the Greeks were these troops directed. Constantinople was taken, and the Latin empire was substituted there in 1204. The entire suburb of Pera, the Morea with the most fertile islands of the Archipelago, fell to the lot of Venice; which, in this manner, became once more preponderant in the commerce of the Levant, in which the Genoese and Pisans, at a former period, had been its victorious rivals.—Genoa, though prosperous and rich, had until now remained second to Venice. The industrious character of the Ligurians, and the advantages of the site they occupy, ill adapted to agriculture and marvelously fitted for navigation, had early made them a people of traders, to such a degree that a proverb ran: *Genuensis, ergo mercator*. They were burning with the desire to supplant the Venetians in the Levant and to substitute their own power there. Able and astute politicians, the Genoese saw that Venetian power rested principally on the duration and force of the Latin empire of Byzantium; and that this destroyed, the other would also fall. They resolved, therefore, to use every means for the restoration of the Greek emperors; and they succeeded in their well-imagined enterprise.—Michele VIII., Paleologus, implored the aid of the Genoese, who carried him in a fleet in 1261 to Constantinople, whence the Franks and Venetians were driven out; and Genoa obtained of the new lord all the possessions and privileges which its rival had enjoyed. Thus the capital of Liguria became the first commercial power of Europe; and, as Scherer justly observes, if the enterprising audacity and the fearless courage of its inhabitants had been governed by a wiser policy, they might long have preserved their supremacy. But the internal administration of Genoa was profoundly unlike that of Venice, and the Genoese were different men. The Venetian government represented a system strong, permanent, lasting; it was an edifice soundly established on the basis of an aristocracy prudent and ambitious. That of Genoa, on the contrary, was uncertain, fluctuating, torn by continual factions, and led from one novelty to another. If the comparison is allowable, we would say that Venice was the England and Genoa the France of Italy. Hence it happened that Genoa, having reached the summit of grandeur and prosperity, was not long in falling into decay, while Venice, on the contrary, though passing through the most contrary vicissitudes, knew how to maintain itself strong and respected.—If the Genoese had allied themselves with the schismatic Greeks to make war on the Venetians, the latter, less delicate still and less scrupulous, had leagued themselves with the Turks to bring the Genoese to ruin. Those trading peoples knew well how to compromise with their conscience and faith whenever their interests were at stake, or whenever they wished to satisfy their mutual hatred. But, in order to explain this point of Italian history, a few considerations are needed. There were then two principal routes by which the goods from Asia could reach the seas of Europe. One of these, from the Persian gulf, along the course of the Euphrates and the Tigris, extended as far as Trebizond and the other ports of the Black sea. And of this the Genoese, after the last revolution, had become masters. The other was that which, by means of the Red sea and Egypt, ended at Alexandria, where, although the Genoese had their agencies, there was still a possibility of competing with them. And all the more since the first of the two routes, in consequence of the commencing decadence of the caliphate, had become insecure on account of the brigands who infested it; while, on the contrary, in Egypt, under the military rule of the mamelukes, order and security reigned. Whence it was that when the Genoese seized the trade of Constantinople and the Black sea, the Venetians turned all their attention to the possession of Alexandria.—Papal Rome had, by a pontifical edict, forbidden any direct relations with the infidels. But Venice, by the astuteness of diplomacy and rich presents, knew how to obtain a special dispensation, thanks to which the Roman court granted to those traders permission to send a limited number of vessels to Egypt and Syria. But soon even that last clause limiting the vessels fell into disuse, and Venice directed to those ports the principal efforts of its policy and navigation, and concluded several advantageous treaties with the mameluke sultans. It must be said that Genoa had not been a whit more particular than its rival, and had, some thirty years before, signed a treaty with the Tunisians.—Thanks to this new commercial revolution, favored by the Venetians,

Alexandria became, at the commencement of the fourteenth century, the centre and emporium of Indian trade. The Venetians carried there the productions of Italian industry, such as wool, arms, mirrors, glass, and the wares of other European countries; and exported thence drugs, spices, pearls, precious stones, ivory, cotton, Indian silk, and the indigenous products of Egypt. — The Genoese, though preponderant on the Bosphorus and the Euxine, could not long remain indifferent to the sturdy competition of the Venetians in the Italian seas. They also tried to obtain privileges in Egypt; and inasmuch as the sultans were interested in giving permission to every trading people who could bring abundance to their markets, they were not backward in satisfying them, so that the two great rivals soon met face to face on the banks of the Nile. On the other hand, the Venetians had not left their competitors tranquil on the Black sea; and in Trebizond they had strengthened themselves anew. From these causes there arose a mortal war between the two republics, which lasted from 1356 to 1380, and which terminated, after various vicissitudes, with the discomfiture of the Genoese, and the prostration of the contending parties, to the profit of the common enemy the Turk, who threatened to advance and confound in the same ruin the conqueror and the conquered. — But before occupying ourselves with the decadence of Italian commerce, we think it opportune to inform our readers with respect to some most important points appertaining to the epoch of its grandeur. We have related, according to chronological order, the vicissitudes of that memorable epoch; but let us stop to consider the various characters that distinguished it. And first of all it is well to make special mention of the Genoese colonies; which we do all the more willingly inasmuch as the government and legislation of these in many respects may truly be adduced as models. — The Black sea had, as we have indicated above, come almost entirely into the power of the Genoese. Taking possession of ancient Theodosia, they named it Caffa, from the name of one of the family, Caffaro, which gave to Genoa one of its best historians. The vicinity of the Mongol Tartars obliged the Genoese to fortify the city of Tauris and surround it with walls; but well knowing that the power and security of states rest upon good and strong internal regulations more than on bulwarks, they busied themselves in constituting there a regular and free government, composed of a consul, two councils, greater and lesser, a parliament, intendants, purveyors, a mint, chancellors, keepers of the keys, agents, captains of the town, of the port, of the market, and of stores. — All the consuls of the Genoese colonies, the first day they entered office, swore to observe the regulations of the republic, and to render justice to all. The consul of Caffa remained in office one year, which being finished, he was to lay aside his dignity immediately under penalty of 500 Genoese *lire;* but if his successor had not already come, three days before the expiration of his term he was to convoke the greater council (of twenty-four members), and invite it to elect the consul. The one chosen remained in office only three months, and could be reconfirmed until the arrival of the one sent from Genoa. The consul could not undertake anything without the approval of said council, which had to concur, at least by a two-thirds vote, for the sanction of any scheme. The greater council elected two key-bearers, who had charge of the money of the commune of Caffa. The lesser council (of six members) appointed every three months two agents and every six months two comptrollers That which was especially laudable was that Genoa left to its colonies a sufficient liberty of internal administration. The magistrates of the republic were forbidden to meddle with the election of those of Caffa, except, as has been stated, the consul and his chancellor, representing the executive power of the colony. The consul was prohibited receiving any gift whose value should exceed the sum of ten *soldi* (cents) under penalty of four times the value. A month after his return to Genoa he came before the auditors, and before showing the operations of his administration the auditors (or syndics) were to consult with two or four of the best merchants of Caffa The auditors of the colony had the duty of inspecting the acts of the other magistrates. The officials over merchandise, victuals, money, etc., superintended these various branches of colonial police — Similar to that of Caffa was arranged the administration of the other Genoese establishments on the Black sea, such as Cambalo (Balaclava), Trebizond, Amastri, Tana and Soudah. — The trade of Tauris contributed much to the wealth of Genoa; the Genoese exported thence salt, corn, timber, commodities which abounded there. In similar manner the skins and wool of the Crimea were exchanged for other merchandise of Greece and Roumania, especially wines. The Russians brought skins of the ermine, the lynx and other animals. The Tartars furnished linens, cottons and silk goods By the caravans of Astracan there came the hair of Angora, used in the weaving of camlets, which the Genoese manufactured in a masterly way and sold at Constantinople, Cyprus, Alexandria and Nicosia. Finally, the colonists carried on a commerce of an infamous kind, carrying away from the Caucasus young creatures of tender age and both sexes, and selling them as slaves to barbarous nations, chiefly to the sultan of Egypt. This traffic had been carried on by the Greeks, and was exercised by the Genoese, the Venetians and the Turks, who continued it until, in 1829, the treaty of Adrianople put an end to it The daring of the Genoese, shown in penetrating and spreading themselves everywhere with their commerce, is truly worthy of marvel. Along the mountains that flank the empire of Trebizond, toward its southern and eastern part, they went as far as Erzeroum, in Armenia, and thence to Tauris, in

Persia. Marco Polo found them navigating the Caspian. As far as Tauris their caravans carried the wares obtained from Caffa and Galata, and exchanged them for those which the Asiatics brought along the Euphrates and through the deserts. But often it happened that instead of intrusting their goods to other hands, the Ligurian traders would themselves venture into the regions to the south and east of Persia. According to the testimony of the Englishman Anderson, the Genoese coins were very common at Calicut, on the coast of Malabar; and from a letter written in 1326 by Andrea da Perugia, and referred to in volume fifth of the annals of Vadding, we learn that the traders of Genoa went as far as the port of Zaytoun, in China. Of some other large mercantile stations of the Genoese we shall speak presently in the proper place. — We now turn to the commercial organization of Venice and its principal operations in trade. A peculiar and distinctive character of that republic was the extreme interference of the government in economic and industrial matters. These were affairs of the state. Maritime equipments and charters of vessels were not left to private will, but the government regulated the epochs and conditions of the contracts, the nature and composition of the cargoes, the payments, and the mode of carrying out the speculations. It ordinarily furnished the timber for naval constructions, and most severe laws were in force as to the cutting of forests. The crew and oarsmen (*ciurma*) of an Italian galley were of 220 to 300 men, and they calculated, at Genoa as at Venice, the annual expense of maintaining it at sea, at 120,000 *lire*. It must be remembered that the *ciurma*, or oarsmen, to the number of 110 to 180 (usually galley slaves), were not paid, and were very poorly fed. — We have no very exact statistics of the Venetian marine, it is calculated, however, that in the prosperous times of the republic it possessed 3,000 merchant vessels and forty-five galleys, with crews of 36,000 men. In the arsenal there were 160,000 workmen occupied. At the epoch of its decay, that is, from 1660 to 1797, this arsenal gave to the sea ninety-two ships of the line and twenty-four frigates. He who considers these figures, and remembers that Genoa in 1253 armed 193 galleys against Pisa, and in 1295 equipped against Venice 200, manned by 45,000 combatants, can form an idea of the immense naval force which Italy had then at its disposal. — In the Adriatic an admiral exercised supreme authority, under the title of captain of the gulf, and other similar officers were stationed in the Black sea and in the parts near Cyprus. As long as it was a question of voyaging in the Adriatic, isolated vessels could undertake it, but to go beyond the gulf a great number of vessels united in a convoy and sailed in company, lending each other assistance. The time for departure was fixed by law; the fleet for the Low Countries sailed in April; that for the Black sea in July; that for Alexandria in September, etc. The captain of a ship could not carry goods on his own account on the vessel he commanded, but was allowed to do so on another craft. As soon as the fleet arrived at its port of destination, the authority of the admiral or captain, as far as the trade was concerned, expired, to give place to that of the consul furnished with full powers. — The creation of consuls abroad is likewise of Italian origin. To establish a national authority in the midst of foreign states which, in this respect, renounced in part their territorial authority in favor of the representative of a foreign state, was a thing as difficult as it was necessary to a people which, like the Italian, had so gradually extended the sphere of their relations. Genoa obtained this privilege at Antioch in 1098; at Jaffa, Cesarea and St. John d'Acre in 1105; at Tripoli in 1109; at Laodicea in 1108 and 1127. Pisa obtained the same permission in the principal stations of the Levant in 1105 Venice had consuls at Jaffa from 1099, at Jerusalem in 1111 and 1113, at Antioch in 1167, at Beyroot in 1221. The custom of having consuls abroad, now general, was only introduced at a later date among other nations; and among the towns not Italian, Marseilles and Barcelona were the first to follow, in this, the example of Italian maritime republics. — The Venetian treasury did not claim duties on the goods imported from the Levant by the armed galleys, but those which arrived on unarmed vessels, belonging to private individuals, paid an ad valorem duty of 5 per cent. In general, goods could be exported free. A mass of minute prescriptions emanated from the grand council as to commerce and navigation; and woe to the captain or merchant who dared to detract from that inflexible authority. But such was the habit of conforming to the regulations, such the universal conviction that trade was the first of state affairs, that the most noble families, at Venice as at Genoa, willingly educated their sons to commerce, although thus restrained. And it was a misfortune that the Italians of those days accustomed themselves to that protecting government in such a way, because when, the times having changed, it became necessary for individuals to act for themselves, they found themselves unfitted to meet the competition of nations newly entered into the lists, and fell behind like men from whom the daily care of their guardian had taken away the full and free use of their members. — From the year 1172 the republic of St. Mark created a tribunal charged with the superintendence of arts and trades. The quality and quantity of raw materials were exposed to severe examination. It was forbidden to any workman to engage in more than one industry, so that, with the division of labor, perfection might be assured. Weaving had made very great progress, and it was at Venice, in 1429, that was made public the first collection of receipts and processes employed for the dyeing of stuffs. The trade in drugs had propagated among the people a great deal of practical knowledge of chemistry.

Skins were prepared and gilded in that market with a superiority that all admitted. The laces known as Venice point, hardware, sugar refineries, the works for the manufacture of glass and mirrors, feared no rivals. There was a law prohibiting a Venetian artisan from leaving his own country, for fear he might carry to foreigners a knowledge of industrial progress; whoever infringed this regulation received, in the first place, an order to return; if he resisted, his nearest relatives were arrested and remained in custody until the guilty one could be reached by assassins who slew him. A strange mixture of barbarism and civilization truly was the organization of the Italian republics! — One of the most potent instruments of commerce and production is credit, which accelerates the circulation of capital and gives a value to the capital, time. Venice was the first city that saw rise in its own bosom one of those institutions of credit which were then called *monti* or *banchi*, and are now named banks (*banche*). In 1171 was founded that bank of deposit which opened credits to whomsoever would entrust to it sums of money to facilitate its payments and transfers of cash. The office did not make any charge for custody or commission, nor did it pay any interest to depositors, but its certificates of deposit were accepted in circulation as if they were money. The bank paid at sight, in coin, the drafts that were presented and accepted. It was established as a principle that the bank, on receiving sums deposited, should credit the depositor only the intrinsic value, that is, the weight in fine metal, without taking account of the extrinsic value, in order to avoid the losses that occurred from the frequent monetary alterations which foreign governments did not scruple to make. And in consonance therewith it was decided that payments should only be made in effective ducats, whose quality was finer and less subject to alteration than other coins. Hence it was that the paper of the bank obtained a favor, a premium over all other titles of credit, and even over other representatives of coined money. Economy in the use of coin, promptness of payments by means of transfers upon their registers, stability of value in not being exposed to the perpetual oscillations of the market: such were the three supreme advantages which the bank of Venice offered, since then imitated in the greater number of commercial countries. — The traffic in salt was one of the principal branches of the Venetian administration. It was collected from Istria, Dalmatia, Sicily and the coast of Africa; and Venice became the great emporium of salt for all the south and east of Europe. At first this traffic was free to all on the payment only of a tenth; subsequently the state took it into its own hands — There exists a discourse, pronounced in 1421 before the grand council by the doge Tommaso Mocenigo, which throws much light upon the finances and commerce of Venice. We see from it, among other things, that the duchy of Milan had to settle every year at Venice accounts that amounted to 1,600,000 ducats; and that 94,000 pieces of cloth were exported during the same period to that province The total value of the Venetian commerce with Lombardy was estimated at 28,800,000 ducats. It must be remembered that while Venice was carrying on a trade so gigantic, it possessed at the same time to an eminent degree the genius of politics, of the fine arts, of letters and the sciences The fatherland of Marco Polo, of Giosafatte Barbaro, and other great voyagers and merchants, was likewise that of painters like Titian, of men of science and letters like Frà Paolo Sarpi — Before descending to an examination of the causes that precipitated from so lofty a height the Italian maritime republics, it is well to cast a rapid glance upon the communes of the interior of Italy — Tuscany was, in common with Flanders and Brabant, the most industrial European country of the middle ages; and if Pisa, Genoa and Venice took the lead on the sea, Florence was ahead in manufactures and banking. The silk and wool fabrics of Florence enjoyed great fame as far back as the thirteenth century, and in order to procure the necessary supply of wool, the Florentines possessed agencies and branch houses in the principal emporiums, the single family of the Alberti had, about the middle of the fourteenth century, establishments at Bruges, Avignon, Naples, Barletta and Venice. From England and France came the common wools, and the fine qualities from Spain. In 1338 there existed at Florence 200 woolen factories, producing yearly 80,000 pieces From France, Great Britain and the Low Countries were collected rough cloths to a value of 300,000 gold crowns, which received in Florence a new preparation, of which the Florentines possessed the secret, in keeping with the taste of the Levantine markets for which they were destined. Indigo, cochineal, orchal and other substances had been for a long time employed by the Florentine dyers who were famous throughout Europe. Up to the fifteenth century Florence had been compelled to make use of other nations as intermediaries for the transportation of its productions Not having any port of its own, it was accustomed to use that of Pisa, which had granted to the sister town freedom from fiscal dues. But this privilege was taken away as soon as the rapid development of its commerce aroused the jealousy of the Pisans; and then Florence saw itself constrained to come to terms with Sienna to export its products from the port of Talamore. When Pisa, ruined by its wars with Genoa, fell itself in decadence, it sought anew the friendship of Florence, which once more began to make use of the former's port. But every friendly relation between the two Tuscan republics ceased when Genoa in 1421 had sold to Florence the port of Leghorn. Placed thus in contact with the sea, the Florentine republic could devote itself to navigation; it created a special administration under the title of "magistracy of the consuls of the sea;"

built an arsenal and dockyard; obtained at Alexandria in Egypt the same privileges which Pisa had first enjoyed there; ordained that twelve young men of the most conspicuous families should embark every year to initiate themselves, in the respective countries, in the trade of the Levant. The mercantile fleet of Florence was divided into two squadrons, that of the east and that of the west, but the total force never exceeded eleven great and fifteen small galleys. — Banking in Florence was carried on on a very large scale, and the bankers of that metropolis had correspondents, agents and branches in the principal seats of commerce of the then known world. In Italy alone one could count eighty Florentine houses exclusively devoted to this lucrative business. The princes of nearly the whole of christendom were debtors in important sums to the bankers of Florence, and the greater part of the historic patrician families descend from those mercantile houses. The Pazzis, the Capponis, the Buondelmontis, the Corsinis, the Falconieris, the Portinaris and the Medicis, were devoted to commerce. But unable to resist the temptations of a fortune always constant, and blinded by their success, the bankers of Florence enlarged to excess the sphere of their operations, and were involved in an immense bankruptcy, whose consequences were felt in the most distant seats of trade. — We can not take leave of the past of Florence without indicating how it occupied, on other grounds, an important place in the history of commerce and political economy. It was the first town, perhaps, which contributed valuable authors to mercantile science. Three Florentine traders, Pegoletti, Antonio da Uzzano and Bernardo Davanzati, have left the most ancient treatises on commercial matters. The first two arranged, with great order and method, in their works, varied information upon goods, moneys, weights and measures, usages, book-keeping, insurance and charters. The third, celebrated for his translation of Tacitus, composed two lessons upon moneys and exchange, which are, even at the present day, models of clearness and elegance for writings of that class. — For flourishing agriculture, for active commerce and for good social organization, Lombardy was famous in the times of Italian grandeur. When the renowned confederation of the towns of upper Italy, formed under the name of the "Lombard League," came out victorious from the long war of Frederic Barbarossa, and constrained the haughty emperor to acknowledge and sanction the independence of those municipalities by the peace of Constance (1183), the world saw of what marvels Italy would be capable if united in one single will. But victory separated those valorous communities which danger had united, and the former strife recommenced once more, so that their political power was of but short duration. Their industries, however, remained prosperous and their accumulated wealth was increasing. — In foreign countries Lombard was synonymous with merchant and banker, and to-day still, in London and other metropolitan cities, they preserve the name of Lombard street for one of the principal thoroughfares. They, in fact, in the twelfth century, were the first to compete with the Jews in the art of exchange and lending at interest; in which profession, however, they soon met the competition of the Caorsini, so-called by antonomasia because the inhabitants of the town of Cahors in Languedoc also had devoted themselves quite early to this lucrative branch of trade. They lent upon security, exacting for their money an interest proportioned to the risk incurred; and as this was great in those calamitous times, the interest was consequently very high. In order to protect poor debtors religion then came to the rescue: two monks, Barnaba da Terni and Bernardino da Feltre, founded the first *monti di pietà*, charitable establishments that lent gratuitously upon pledge, which, however, were not long in degenerating and becoming usurious, so that Barianno slily vituperated them by naming them *monti di empietà* (impiety). — One of the economic glories of Lombardy was the construction of those navigable and irrigating canals which served as models for the hydraulic works of foreign nations. As far back as 1179 the Milanese made a commencement of the canal which was called *Ticinello* and afterward *Naviglio Grande*. — But it is necessary to pause in the description of the commercial and economic glories of the Italians of the middle ages; and it will be well at present to inquire what causes of decadence were so potent as to drag such grandeur down to ruin. According to some, one must needs blame as the only cause the single fact of the maritime discoveries of the Portuguese and Spaniards occurring toward the close of the fifteenth century; which, by changing the routes of commerce, took away from Italians their superiority in the trade of the Levant and transferred it to western nations. The passage to India by the cape of Good Hope and the discovery of the new world were, according to them, the sole reasons by which Genoa and Venice were precipitated from the summit of grandeur. This opinion we deem superficial, derived principally from the unfortunate tendency which Italians have to hope for too much, and to fear to excess events that are fortuitous or independent of them. A soothing thing it is to human sluggishness and national vanity to say, if we were great and now have descended from our former splendor, the fault is not ours, but rather that of fate or chance, which chooses to give to other nations the pre-eminence which we have lost without any fault of our own. Now we believe but little in the effects of chance upon the destiny of nations, and much, on the contrary, in the sway of natural, economic laws. — Undoubtedly those discoveries contributed to accelerate the decadence of the Italian communes, because the geographical and political relations of the diverse portions of the world being changed, the navi-

gation being diverted from the Mediterranean to the ocean, Italians were no longer the only ones to traffic with eastern countries, and to serve as intermediaries between them and the west. But the decadence, by this cause hastened and converted into regular ruin, had already some time before commenced; and Italians would have been quite able to overcome foreign competition as they had already conquered other obstacles not less important, if they had still been young and vigorous, in place of nourishing within their own bosoms the germs of senile corruption. In addition to the discoveries of the Iberians, there were, in our opinion, three causes of the decay of Italian commerce. The first is to be sought in the weakening of Italian public spirit. In the fifteenth century the states of the peninsula had reached the summit of civilization and were commencing to descend the great arc of which they had touched the top. In the fortunate period from 1100 to 1400 the Italian communes, having achieved their liberties, afforded the most celebrated examples to be found in history of activity, skill, diligence, virtue and heroism. Not in commerce alone, but in every art and branch of science were Italians then first and unique While Italian navigators were victoriously scouring the seas, and Italian bankers establishing agencies and houses in the most distant countries; while moles were hardily constructed and lighthouses erected, and canals and harbors excavated; while industries were flourishing and commerce was enriching Italy; at that very period all hearts were palpitating with the love of country, and were ready to swear it in Pontis and to combat for it at Legnano or Campaldino; warriors, men of science, citizens, Italians, were great none the less that they were merchants. And it is this simultaneousness of all the glories that constitutes the profound difference between the Italian communes and the Hanseatic Flemings. The latter for a long time were nothing but traders; Italians were all they chose to be, and wished to excel in everything, But, little by little, such great virtue became corrupt; minds became less jealous for liberty; to the strong and sublime literature of Dante succeeded the soft and effeminate kind of which Petrarch had been the innocent initiator; customs degenerated from their former austerity; luxury and dissipation squandered capital and contaminated morality; and to such a state as this were Italians reduced when the news reached them that Vasco de Gama had weathered the "cape of tempests" and Columbus had landed at San Salvador. What wonder if they allowed themselves to be surprised by these great facts and found themselves powerless to profit by them! If Genoa and Venice had still been what they were in the thirteenth and fourteenth centuries, they would have equipped their fleets and despatched them beyond the pillars of Hercules, and would have known how to reap their part as well, and certainly not the smallest, in the new conquests of Europeans. — The second cause that rendered Italians feeble and unfit to resist unforeseen misfortune, sprang from the intestine wars of which Italy was at all times the theatre. Her great cities considered each other always as so many states not only separated, but as enemies. The idea that they belonged to the same nation never dawned upon the minds of the doges of Genoa and Venice. Pisa brought ruin upon Amalfi, Genoa cast Pisa to the ground; the war of Chioggia exhausted Genoa and left Venice weakened. Florence was at war with Pisa and Sienna; Milan with Pavia; and so it continued for three or four centuries, this Iliad of Italian woes. But why speak alone of contests between the various cities? Each municipality was divided and lacerated by many parties; the victory of one was the signal for the exile of the other. The houses of the vanquished were razed to the ground, and their wealth dispersed. So far from remaining astonished at the decadence of Italian greatness, Italians ought rather to wonder at its long duration. They had been able for three or four centuries to fill the world with their name, while in the fatherland they were killing each other in turn' These wars were the principal cause of the weakening and ruin of Italy, a ruin which the coming of Charles VIII., of Louis XII, of Charles V., of Francis I, the league of Cambray, the policy of the Sforzas, the Medici and the Farnese, did much to accelerate. — In the third place, a great political and military event, of which the Levant was the bloody theatre, contributed to take away Italian supremacy The Turks, for a long time at war with the Greeks, increasing in strength and boldness since their Asiatic rivals, the descendants of Timour, had re-entered their steppes, after having established themselves in Roumania, were threatening Constantinople, which in 1453 was occupied by Mohammed II The Genoese colony of Galata fell with Byzantium; and the other Italian establishments in the Archipelago, Asia Minor and the Black sea, fluctuated for some time, exposed to continual peril, until they also came under the power of the infidel. By the events which placed the Black sea under the authority of the Genoese, this republic, more than its rival Venice, had to suffer from an event so mournful. Venice, besides, had been able at an early date to come to terms with the Turks, and its potent oligarchy, with varying fortune, was still able to govern and make itself respected after that catastrophe. — If intellectual culture would suffice to constitute the civilization of a people, and if the splendor of letters, of science and the arts, were sufficient to render a nation happy, no other country could have the right to a more legitimate pride than that which Italians could nourish as to their own deeds in the sixteenth, seventeenth and eighteenth centuries. But poets, sculptors, painters, and men of science themselves do not avail to make a country great, when by the side of a few eminent celebrities lives a common people ignorant and idle; when tyranny and corruption are weakening, debasing

and profoundly vitiating the national character. When a country has given birth to a Columbus, a Vespucci, a Cabot, a Verazzani, and permits these great men to achieve their sublime undertakings under a foreign flag, that country has ceased to take part in commercial history. Pigafetta of Vicenza, the companion of Magellan in his circumnavigation, described his memorable voyage; and the Venetian Ramusio published the recitals of illustrious discoveries; both these historians unwittingly cast a slur upon their own country, which, unmindful that it had once ruled the seas, was then yielding to other nations the palm of victory.

GEROLOMO BOCCARDO.

— XI. *Agricultural, Industrial and Commercial Resources.* The kingdom of Italy comprises 25,000,000 hectares of productive land, and 4,500,000 hectares covered by mountains, rivers, roads, cities, etc. These 25,000,000 hectares form about 5,000,000 estates or properties, and may be subdivided as follows: arable land and vineyards, 12,000,000 hectares; meadow land, mostly irrigated, 1,200,000 hectares; rice fields, 150,000 hectares; olive orchards, 590,000 hectares; chestnut plots, 600,000 hectares; forests, 4,400,000 hectares; pasturage, 5,600,000 hectares; marshy and uncultivated land, 4,000,000 hectares. — The average net income of a landed proprietor is computed to be 80 francs per hectare; which would be 2,000,000,000 francs for the total ground rent of Italy. This capitalized at 4 per cent. would amount to a principal of 50,000,000,000 francs. The average annual wheat production is estimated at 36,000,000 hectolitres; of rice, 1,600,000 hectolitres; of maize, 19,000,000 hectolitres. Adding the production of barley, oats, chestnuts, potatoes, etc., we have an annual production of 91,000,000 hectolitres. — The wine production is very abundant, and the qualities various. The wines most highly esteemed are those of Asti, in Piedmont, Montepulcians and Broglio in Tuscany, Capri and *Lacryma Christi* at Naples, those of Syracuse and Marsala in Sicily. The average production of wine is 26,000,000 hectolitres yearly. The cultivation of hemp is restricted principally within the provinces of Bologna, Ferrara, Forli and Ravenna. The product is estimated at 4,500,000 kilogrammes. The cultivation of tobacco is free in Sicily and Sardinia; it is also grown in Ancona, Pesaro, Umbria, Benevento and Terra d'Otranto Little cotton is grown as yet; a few fine bales were nevertheless sent to the London exposition of 1862. The American civil war, or the cotton crisis resulting from it, gave a lively impetus to its cultivation. The zone favorable to the growth of cotton commences at the forty-third degree, or the mouth of the Tronto, on the Adriatic, and extends along the southern coast to the promontory of Piombino, on the Mediterranean; it embraces the Neapolitan provinces, Sicily and Sardinia. Limiting this zone to lands in the vicinity of the sea, we would have 2,000,000 hectares suitable to the growth of cotton; 450 kilogrammes per hectare may be harvested in Italy; the costs of production come to about 200 francs, and the cotton can be ordinarily sold at from 1.30 francs to 1 50 francs per kilogramme. — Italian industry does not rank high in Europe, but is, notwithstanding, of some importance. Her mines yield iron, (especially in the island of Elba), beautiful marbles, lead and copper (in Sardinia), sulphur (in Sicily and Romania), salt, borax, etc. Among the most extensive industries we may cite that of silk culture (210 kilogrammes of cocoons or 13,200,000 kilogrammes of raw silk in 1871). The value of the pottery, porcelain and glassware manufactured in 2,300 establishments by 80,000 workmen, is estimated at 50,000,000 francs. The exportation of straw hats from Tuscany amounts to 15,000,000 francs annually. Tissues of all sorts are also made, arms, and many other things. — The value of the commerce of Italy in 1871 was 2,048,000,000 francs, as follows: imports, 1,085,000,000 francs; and exports, 963,000,000 francs. The principal exports were: cereals, 101,000,000 francs; fruits, flowers and fodder, 60,000,000 francs; silk, 383,000,000 francs; straw hats, 11,000,000 francs; olive oil, 126,000,000 francs; chemical products, 24,000,000 francs; wines, 14,000,000 francs; live stock, 59,500,000 francs. The commercial operations of the ten years 1862–71, not including transit trade, are represented in the following table:

YEARS	Imports	Exports
	Francs.	Francs.
1862	830,029,347	577.468 357
1863	902,185.066	633,854,052
1864	923,775,994	573,465,693
1865	965,173.672	558,285,576
1866	870,048,517	617,688.681
1867	885 910,961	739,975,677
1868	896,569,122	787,101,477
1869	936,522,834	791,588,898
1870	995,717,683	756,276,905
1871	963,698,441	1.085 459.567

The following table exhibits the total revenue and expenditure of Italy, together with the annual deficits in each of the years 1875–9:

YEARS	Total Revenue	Total Expenditure	Deficits.
	Lire.	Lire	Lire
1875	1,336,307,886	1,494,152,530	157,844,644
1876	1.344,710,190	1,472,941,860	128,231,670
1877	1,389,109,906	1,422,877,431	33,767,525
1878	1.425,583,965	1.412,683,266	*12,900,699
1879	1,435,828.569	1,468,212.943	32,384,374

The following are the budget estimates for the year 1881:

Sources of Revenue.	Lire.
1. Ordinary revenue:	
Direct taxes, including house duty	867,188,646
Indirect taxes and monopolies	627,318,488
State lottery	70,500.000
Post, state railways and telegraphs	99,898,577
Ecclesiastical and state domains	31,811,910
Miscellaneous receipts	20,684,192
Total ordinary revenue	1,217,351.763
2 Extraordinary revenue	7,982,271
3. Special revenue, including loans	199,975.775
Total revenue	1,425,309,809

* Surplus.

Branches of Expenditure.	Lire.
Consolidated fund	736,259,237
Ministry of finance	131,525,489
" justice and worship	28,244,822
" foreign affairs	6,343,761
" public instruction	28,581,923
" the interior	58,744,465
" public works	166,465,912
" war	214,736,427
" the navy	46,134,661
" agriculture	9,675,291
Total expenditure	1,426,711,988

According to these returns, there was a deficit of 1,402,179 lire in 1881, which supplementary, or extraordinary expenses, incurred afterward, increased largely, the amount of which, however, was not made public. — The public debt at the end of 1878, was made up of the following liabilities:

	Lire.
Funded debt inscribed in the "Libro Grande,"	7,091,829,661
Redeemable debt in the "Rentes" of 3 and 5 per cent	1,642,773,107
Treasury bonds	183,010,500
Paper currency	840,000,000
Total debt	9,757,613,268

As a guarantee for the issued treasury bonds and of paper currency, which has a forced circulation, the government has deposits of certificates of the funded debt, bearing no interest, in the national bank of Italy. The total amount of these deposits was calculated at 1,150,000,000 lire, at the end of 1878 — The following table shows the total imports and exports of the kingdom in each of the five years 1876–80:

YEARS	Imports.	Exports.
	Lire	Lire
1876	1,330,147,820	1,216,921,205
1877	1,154,303,039	966,523,543
1878	1,070,802,615	1,040,789,434
1879	1,262,044,668	1,100,961,109
1880	1,224,812,701	1,130,659,312

—Italy possessed in 1871, 6,287 kilometres of railways in operation; 7,800 kilometres of national highway; 19,600 kilometres of provincial roads, and 90,000 kilometres of communal roads. In 1876 it had 7,704 kilometres of railways, and in 1879, 8,210 kilometres. — If we should now compare the actual state of affairs of Italy with that existing prior to the formation of the kingdom, we should at once see the immense intellectual, material and economical progress that has been made within a few years; in a word, the great rapidity with which Italy has advanced on the road to civilization. She may well congratulate herself on her political unity, achieved after so much effort. —BIBLIOGRAPHY. Muratori, *Archivio storico italiano*, 1838, and *Annali d'Italia*, 12 vols., Milan; Coppi, *Annali d'Italia dal* 1750–1861, Florence, 1848, The *Works* of Bossi, 19 vols., Milan, 1819, Campiglio, 7 vols., Milan, 1837–67, Balbo, Turin, 1841; Cantù, *Storia degli Italiani*, 6 vols., Turin, 1854, 4 vols., 1859, Lebret, *Geschichte von Italien*, 9 vols., Halle, 1778–87, Leo, *Geschichte der italienischen Staaten*, 5 vols., Hamburg and Gotha, 1829–32, Sismondi, *Histoire des républiques italiennes du moyen âge*, 16 vols., Paris, 1809–18; Troya, *Storia d'Italia del medio evo*, 3 vols., Naples, 1839–51; Morbio, *Storia de' municipj italiani*, 6 vols., Milan, 1841–6; La Farina, *Studj sul secolo XIII*, Florence, 1842; Hegel, *Geschichte der Stadteverfassung von Italien*, 2 vols., Leipzig, 1847, Ferrari, *Histoire des révolutions d'Italie*, 4 vols., Paris, 1858; Reuchlin, *Geschichte Italiens von der Grundung der regierenden Dynastien bis auf die Gegenwart*, 4 vols., Leipzig, 1859–73; Montanelli, *Memorie sull' Italia dal* 1814 *al* 1850, 2 vols., Turin, 1854–5; La Farina, *Storia d'Italia dal* 1815 *al* 1850, 2d ed., 2 vols., Milan, 1864; Bianchi, *Storia della diplomazia europea in Italia dal* 1815 *al* 1861, Turin, 1865–72, Butt, *The History of Italy from the Abdication of Napoleon I.*, 2 vols., London, 1860, Rey, *Histoire de la renaissance politique de l'Italie*, 1814–61, Paris, 1864; Anelli, *Storia d'Italia dal* 1814 *al* 1863, 4 vols., Milan, 1864; Gualterio, *Gli ultimi rivolgimenti italiani*, Florence, 1852; Ranalli, *Le istorie italiane dal* 1846 *al* 1853, Florence, 1855, La Marmora, *Un po' più di luce*, Florence, 1873; Hillebrand, *Italia*, Leipzig, 1874, Bodio, *Sui documenti statistici del Regno d'Italia, cenni bibliografici, presentati al VI. Congresso internazionale di statistica*, Florence, 1868; Cesare, *Il Passato, il Presente e l'avennire della Pubblica Amministrazione nel Regno d'Italia*, Florence, 1865; Fornelli, *Miscellanea geografico storico politica su l'Italia*, Naples, 1869; Gallenga, *Italy Revisited*, 2 vols., London, 1876, Laveleye, *L'Italie actuelle*, Paris, 1881; Lossa, *Annuario del commercio ed industria del Regno d'Italia*, Florence, 1881; Morpurgo, *La Finanza Italiana della Fondazione del Regno fino a questi Giorni*, Rome, 1874; Muzzi, *Vocabolario geografico storico-statistico dell' Italia*, 2 vols., Bologna, 1873–4; Stivieri, *Geografici e statistica commerciale del Regno d'Italia*, Venice, 1879; Wrightson, *History of Italy from the French Revolution to* 1850, London, 1855; Arrivabene, *Italy under King Victor Emmanuel*, 2 vols., London, 1862; Alford, *Letters from Abroad*, 2d ed., London, 1865; Taine, *Voyage en Italie*, 2 vols Paris, 1866, English translation by J. Durand, 2 vols., New York, 1869, 1 vol., 1874.

GASPAR FINALI.

J

JACKSON, Andrew, president of the United States 1829–37, was born in Waxhaw settlement, N. C., March 15, 1767, and died at "The Hermitage," near Nashville, Tenn., Jan. 8, 1845. He was admitted to the bar in 1786, settled in Nashville, and there became prominent as a prosecuting officer and in the state militia. He was a democratic representative 1796–7, and United States senator 1797–8. He distinguished himself in service against the southern Indians in the

war of 1812, was made major general in the regular army, and inflicted a total defeat upon the British army near New Orleans, Jan. 8, 1815. After a few years of further service (see ANNEXATIONS, II.), he again became United States senator from Tennessee (1823–5). In 1824–5 he was defeated as a candidate for the presidency (see DISPUTED ELECTIONS, II.), but the defeat resulted in a complete upheaval of political conditions in which almost all the political leaders hitherto prominent disappeared. Jackson and Clay withstood it. Calhoun's state did not feel it, and Adams reappeared in another field (see those names); with these exceptions there is an almost entire change of persons in politics after 1828. Jackson was elected president in 1828 and again in 1832, and after the close of his second term retired to private life. — Jackson's early opportunities for education were very limited, and the unceasing action of his maturer years left him little time to remedy this defect. He is said, on very good authority, to have believed that the earth was flat; his familiar letters are disfigured by grammatical and other mistakes; and his public papers were always carefully revised, and often entirely written, by trusted subordinates. When forced to rely altogether upon his own pen he was apt to slip, as in his once famous general order of 1814, in which he told his army that the infliction of partial evils for an ultimate good was a dispensation of Providence, "and perhaps a wise one." It is an open secret that his nullification proclamation was the work of Edward Livingston, and his bank veto that of Amos Kendall (see NULLIFICATION; BANK CONTROVERSIES, III.); nevertheless, in all cases, it is equally certain that Jackson allowed his subordinates only the privilege of expressing his ideas and policy, and that he expected from them a certain mechanical skill of expression, not the inception of a policy. Any influence upon him by subordinates was only obtained by indirection or by force of sympathy. — In temper Jackson was arbitrary, forceful, persistent, not at all impulsive but willing to yield to his naturally hot temper, on occasion; in brief, he was force personified, not aggressive force merely, but the force of self-control as well. According to the necessity of the case, he could either maintain equanimity against every exasperation, or pass into a fit of passion more demoniacal than human. In politics he was the legitimate successor of Jefferson as the assertor of individual rights against the tendency to class formation, but with this difference, that in Jefferson's time individualism claimed only recognition, while in Jackson's it had advanced to more active life. Under Madison, Monroe and Adams features had become powerful in the government which can only seem evil from the individual point of view: the incorporation of a bank to do government work, the protection of various classes of manufactures by tariff taxation, and the expenditure of public money upon roads and canals. Against all these Jackson fought as actively as Jefferson did passively. On the other hand, Jackson's individualism did not prevent him, as it did Jefferson, from being a thoroughly national man, for in Jackson's time individualism had taken a place as a co-ordinate factor in the national development. It is easy to mark the points in Jefferson's teachings from whose unhealthy development arose the Calhoun idea of nullification, but it would be impossible to imagine such a process in Jackson's case. Jefferson and Jackson had the same ultimate but a different immediate object: the former to protect the individual through the states; the latter to protect the individual through the nation. Jefferson would have opposed nullification in 1831–2, but not with the heat and sense of personal antipathy which Jackson exhibited. — The events of Jackson's administrations are elsewhere given. (See ANTI-MASONRY; CHEROKEE CASE; BANK CONTROVERSIES, III.; DEPOSITS, REMOVAL OF; CENSURES, I.; INTERNAL IMPROVEMENTS; VETO; NULLIFICATION; DEMOCRATIC PARTY, IV.; SLAVERY.) The name given to his term of office by von Holst — "the reign of Andrew Jackson" — is in a sense correct. It was a mild species of that Cæsarism to which all republics seem to turn naturally, in emergencies of war or peace. In any just estimate of the political career of the United States, it is worthy of notice, on the one hand, that the nearest approaches to Cæsarism have been the perfectly constitutional administrations of Jackson and Lincoln; and, on the other, that the nearest approaches to aristocracy have been found in grants of special privileges, for general benefit, to certain corporations or manufactures. Such a record is at least fair for a republic. — Jackson's administrations, however, are notable for the complete failure of one point of the American democratic idea. "Rotation in office," the notion that *all* public servants must be elected for short terms and easily removable by the people, was first announced in theory by Jefferson, and first attempted in practice by Jackson. The result is elsewhere treated. (See CIVIL SERVICE REFORM.) — The best life of Jackson is Parton's. A corrective to it, in many respects, may be found in 2 von Holst's *United States*, though this author allows to Jackson's opponents the right to follow the line of expediency in politics which he generally refuses to Jackson himself. For this, however, the cardinal dogma of Jackson's party is principally responsible. (See DEMOCRATIC PARTY, VI.) A slightly different view from Parton's will be found in 1 Benton's *Thirty Years' View*. See also authorities under DEMOCRATIC PARTY and WHIG PARTY; authorities under articles above referred to, and TENNESSEE; Eaton's *Life of Jackson* (1818); Goodwin's *Life of Jackson* (1832); Jenkins' *Life of Jackson* (1847); *Harper's Magazine*, January, 1855; Baldwin's *Party Leaders;* Sargent's *Public Men and Events;* Mayo's *Political Sketches;* J. A. Hamilton's *Reminiscences;* *Memoirs of Jas. G. Bennett;* Prof. W. G. Sumner's

Life of Jackson. (1882); and a list of 210 works having reference to Jackson, following the preface in 1 Parton's *Life of Jackson*.

ALEXANDER JOHNSTON.

JAPAN. The empire of Japan comprises a chain of volcanic islands stretching between Kamschatka and Formosa, off the east coast of Asia. The first settlers known to history coming from the Asian main-land, with their faces set to the eastward, gave the new country the name Nihon (sun-root, or sun-rise), which by the operation of Grimm's law becomes Nippon. Dai (great) is often added, making the name Dai Nihon, or Dai Nippon. Other native terms in common use are Yamato, after the central and ancient province which was the seat of the early mikados; O Yashima (the eight great islands), Toyo-akitsu (dragon-fly shape), and a wonderful variety of poetical and religious appellations, often with *kuni* (country) added. Tei-koku (country ruled by the Heavenly dynasty), and Kokoku (the mikado's empire), with or without Nihon added, are official titles. The Coreans use the term Il-pon, and the Chinese Jih-pun, or Ju-pun, with *kwo* (country) added; which when Marco Polo in the thirteenth century heard, he wrote Zi pan-gu, which in Europe became "Japan." It is doubtful whether this country was heard of in Europe until Polo's time, though undoubtedly known to the Arabs, Persians and Hindoos, as Japanese records attest. Japan has now for her neighbors, Russia, Corea and China; while the possessions of the United States, Great Britain and France are within the limits of neighborhood. The great length of the empire, as contrasted with its narrowness, is remarkable. It lies between the 55th and 24th degrees of north latitude, and the 124th and 130th degrees of longitude east from Greenwich; yet the greatest breadth of its main island is but 350 miles. Japan comprises Chishima (thousand islands) or the Kurile chain, Yezo, Hondo (main island), Shikoku (four provinces), Kiushiu (nine provinces), Riu Kiu (fringe of tassels) or the Loo Choo group, with Sado, Oki, Iki, Tsushima, and the Goto and Bonin clusters, with the smaller islets, numbering in all not far from 3,000. The area of the empire approximates 150,000 square miles—the size of Dakota, or one-fourth more than that of the United Kingdom of Great Britain and Ireland, or one-thirty-third that of the Chinese empire. The *do* or geographical subdivisions are based upon lines furnished by the mountain ranges of the main island, and the sea barriers. These *do* or circuits, called "Eastern Sea," "Eastern Mountain," "Northern Land," "Mountain Back," "Mountain Front," "Southern Sea," "Western Sea," and "Northern Sea," with the "Five Home" provinces, and the "Two Islands," are similar, in effect, to our grouping of states, "Eastern," "Middle," "Southern," etc. They contain 71 provinces, which are again divided into over 700 *kori*. In actual administration, the province boundaries are ignored, and *ken*, or prefecture, is made the political unit. The *ken* now number thirty-six, and there are also three *fu* or imperial cities, Tōkiō, Ozaka and Kiōto. — The population of the empire, by the carefully executed census of 1880, is 34,338,404; 17,419,785 males and 16,918,619 females. The Chinese and white foreigners living in the open ports number about 4,000. The natives are of homogeneous stock, with the exception of the slightly varied Riu Kiuans, and the 12,000 Ainos of Yezo, who are distinct in physical features and language. Though there are marked peculiarities of speech in the various provinces, especially in Satsuma, yet the ordinary people from remote localities can, with little or no difficulty, understand each other; in this respect differing greatly from the Chinese. The speech of the educated class varies from the vulgar usage mainly in the employment of more honorifics and terms of Chinese origin or pronunciation. The colloquial language of the people is a mirror of their inborn courtesy. The book language varies from the spoken tongue, yet not so much as in China. The present agents of social progress, common schools and newspapers, are rapidly causing these differences to disappear, and preparing the way for a new era in the cultivation of the national language, so long neglected for the Chinese. — The surface of the country is almost entirely mountains and valleys, with few large plains or great rivers, but with many fertile inland valleys. The climate may be said, in general, to equal any in the temperate zone Lofty mountains and volcanoes abound, and the phenomena of earthquakes have, doubtless, their influence on the Japanese mind and temperament. The soil is not the most productive, but persistent human labor and the application of fertilizers, compel a fair yield of food crops The national diet is 90 per cent. vegetable, with fish and game, but with little flesh of domestic animals. A marvelous variety of vegetable products is utilized as food, but the number of cattle as compared with the population is but 2 to 100; whereas in the United States it is 73 to 100. In minerals, scientific surveys show that the country is not rich, though fairly furnished with the precious metals; while coal and iron are abundant, especially in Yezo, the estimated amount of workable fuel being equal to a thousand times the present annual output of England. The fauna is comparatively meagre Most of the Japanese people are devoted to agriculture, and a rough estimate, based upon the census, shows, farmers, 15,000,000; artisans, 700,000; merchants, 1,300,000; miscellaneous, 2,130,000. In the last class are many seamen and fishermen, the vast number of indentations in the coast line affording employment to these classes, and greatly influencing the national development. The Japanese reckon over fifty harbors, many of which are suitable for the entry of vessels of heavy tonnage. — The physical situation and configuration of the Japanese archipel-

ago, with the forces of nature and religion acting upon this insular people, have produced a civilization and mental traits strikingly different from those of the Chinese. In spite of the fact of Japan's great indebtedness to China for many elements of culture, the islanders are at many points the antipodes of their older and more conservative neighbors on the main-land. Japan makes the claim, unique among nations, of having been constantly governed from the beginning of history by one changeless dynasty of sovereigns. Though her history is young, compared with that of China, beginning, as the natives believe, from 660 B. C., yet, unlike her larger rival, her throne has been filled by but one family—the nameless line of the mikados. Intense loyalty to the throne characterizes the Japanese people, and unique in history is the fact that no Japanese subject has ever attempted to seize the throne itself, or to found a new imperial dynasty. Yet the measure of power possessed by the sovereign and the form of actual administration have several times suffered radical change. The history of the measure of the mikado's authority is the political history of Japan. Rai Sanyo, the greatest of native historiographers, treats the actual history since the middle ages under the title *guai*, (outside, foreign, military), while the *nai* belongs to things of the gods and emperors. Japan having no invaders, and scarcely any foreign influences acting as factors of political history, the reacting forces were the throne and the camp, the mikado and shōgun. The internal history is that of the imperial palace; the external, that outside it. From the seventh to this nineteenth century, simple feudalism, centralized monarchy, the rise and struggles for power of rival noble families sprung from sires of imperial blood, civil war, dual system of government with two "capitals," complex feudalism, and finally the return to centralization with a drift toward modern constitutional and limited monarchy, are among the phases of Japan's political development. —The origin of the Japanese people is enveloped in thick clouds of untrustworthy legend, which critical processes of study are only beginning to clear away. The people, as we now find them, are evidently the resultant of several ethnic stocks, among which are the Ainos of the north, and the Malay or Nigrito elements from the south, though the latest and dominant invaders—the Asiatic Normans of this Britain of the east—were most probably of the same race from the Amoor valley which is represented in the Coreans of to-day. These people, crossing over from the peninsula, and landing on the southern and western coasts, entered at various points from Kiushiu to Echizen. They were already organized under forms of feudalism, and when, through the first trustworthy light of tradition, we are able to distinguish historic figures, we find a powerful tribe dominating the central portion of the main island from Idzumo to Yamato. By their prowess, arms, intelligence and discipline they rapidly subdue the surrounding tribes in every direction. The mikado is their chief, and his captains or lords hold their lands of him, by feudal tenure. These people worship the sun and forces of nature, and the mikado and great men claim kindred with the heavenly gods, and after death are deified and worshiped. The cardinal doctrines of their cult are purity, and reverence for the spirits of the departed This simple faith, Kami-no-michi, (the way of the gods), afterward called, in imported Chinese equivalent, Shinto, becomes a tremendous engine to complete the work of conquest, and to identify government and religion with the family whose chief is the mikado. As the area of conquest is increased, the mikado is obeyed, though with frequent revolts which compel constant war, and with frequent raids into and from Corea, over all the islands south of the thirty-seventh parallel of latitude. This is the picture of primitive Japan, before the advent of Chinese arts and letters, or of Buddhism: an agricultural people, inhabiting villages, but often called upon to invade or repel the attacks of their "savage" neighbors, so called. Their political life is simple feudalism, and their religion a rudimentary cult. They are without letters, or means of recording time beyond the methods employed by the North American Indians. The level of their civilization was probably about that of the Iroquois of New York, yet with a tendency toward higher development. Into this simple national life a marvelous infusion of new germs and perfected forms of culture was poured, when, during the fourth and fifth centuries of our era, there were introduced, through Corea, the letters, writing, almanacs, arts and sciences of China, together with Corean teachers, artisans, and an increasing train of civilizing influences. This was the first of the three great waves of civilization from the west to Japan. The second was from Europe in the sixteenth century, and the third from the United States and the world in the nineteenth century. In 552 A. D. there were introduced from Shinra, in Corea, to the imperial residence at Nara, then the capital, the images, sutras, literature and teachers of a new religion that was destined to completely overshadow the indigenous cult. This religion was Buddhism. Though bitterly opposed at first from patriotic and conservative motives, the faith of India spread steadily until it embraced the archipelago. From this time forth, the court at Nara became the centre of art, science and letters, as well as of religion and government. In 645 A. D. history began to be founded on chronology, and a system of registering dates was begun. In 712 A. D. literary culture had so far advanced that books were composed, political and statistical documents compiled, and the floating legends crystallized in the Kojiki (Book of Traditions), and the Nihongi (Chronicles of Japan)—the Eddas, or Bibles of the Japanese. In these books the scheme of creation is fully stated, in

the following order: Chaos, separation of heaven and earth, evolution of a germ or sprout from which other beings evolved or sprouted, tending toward perfection of form, until finally sex or differentiation was apparent. Then the creator and creatrix, Izanagi and Izanami, stood on the High Plain of Heaven, and Izanagi plunged his glittering spear into the turbid waters of chaos beneath. The drops trickling from the weapon, solidified and became Onokoro-Jima (island of the congealed drop) or Awaji. Other islands were formed by their creative power, and Great Japan was gradually finished. The sun and moon were evolved from the earth. Of their offspring, Ama-Térasu (heaven-illuminating), their daughter, was given the sun for her kingdom, and Susanoö, her brother, the moon for his realm, while many lesser *kami*, or gods, were created to inhabit the earth. These in time becoming unruly, Ama-Térasu, the "sun-goddess," sent her grandson Ninigi to earth to rule. Descending from Heaven, with a great retinue, and bearing the three divine regalia—mirror, seal (or crystal ball) and sword—Ninigi reached the mountain of Kirishima in Kiushiu. His great-grandson, whose mother was a sea-monster, was Jimmu Tenno, who set out on the conquest of the islands Advancing through Kiushiu, he reached the neighborhood of Kiōto, and "ascended the throne" 660 B. C. The first seventeen mikados, in the line founded by the alleged person, to whom many centuries afterward the name and title Jimmu Tenno were given, are credited with an average life of 108 years, and an average reign of 62 years. In Japanese mythology, "the earth" means Japan, the mikado (sacred gate, or sublime porte) is the Tenno (son of Heaven) and the representative and incarnation of the Heavenly Gods, and the Japanese equivalent of 1882 A. D. is the "2542d year of the Japanese empire"; April 3d being duly observed by all the people as the date of Jimmu's "coronation." There have been, including Jingu Kōgō, 123 mikados (seven of whom were females, and two of whom reigned twice, under different names), the average length of the reigns being twenty-one years; or, excepting the first seventeen on the list, and not counting the present ruler, the average is thirteen years. The great influence of Chinese culture on Japanese politics was soon shown in the creation of a library of books on government, the codification of the laws, and a profound change in the form of government The centralizing system of the Tang dynasty of China, with boards or ministries, was in 603 A. D. substituted for simple feudalism previously in force. Under the Jin Gi Kuan (Council of the Gods of Heaven and Earth) were the eight boards (*sho*) or ministries of the interior, ceremonies, civil affairs, revenue and census, war, justice, treasury and imperial household. In 786 A. D. the Dai Jō Kuan (Council of the Great Government) was formed, superseding the Jin Gi Kuan in the control of the eight boards. In it were the four great ministers of state, Dai Jō Dai Jin (Great Minister of the Great Government), Sa Dai Jin, U Dai Jin, Nai Dai Jin (Minister of the Left, Right, Interior) Under them were the eight boards. The country was divided into districts (*gun*) over which governors, appointed by the Dai Jō Kuan for four years, and sent out from the capital, ruled. These *gun* were subdivided into *ken* or prefectures. This was the *gun-ken* system, which lasted from the seventh to the twelfth century, and a virtual return to which, since 1868, has constituted "the recent revolutions in Japan" — This centralizing system was not relished by the tribes distant from the capital. Under feudalism, comparative freedom was the rule, but now close obedience to the governors from the Dai Jō Kuan, and prompt payment of taxes, were enforced. The natural consequence was, that revolts became so frequent as to require something like a permanent militia to suppress them. The farmers were so often enrolled, that numbers of them, usually the more robust, abandoned their usual labor of tilling the soil, and became professional soldiers. The generals (shōgun) who led the expeditions to chastise the rebels were chosen from those noble families of the capital, which had been founded by the sons of the mikados by concubines. At the court, the mikados no longer living the active life of warriors in the field, became students, monks, Buddhist devotees, or gave themselves up to debauchery. Succession to the throne, in case of failure of direct issue, was then, as now, provided for from the four Shin-no or relatives of the imperial houses. Their numerous offspring outside of the legitimate line were provided for by being made founders of families, on the condition that neither they nor their descendants should ever lay claim to the throne, though the mikado's wives, or empresses, could be taken from them. Thus, in succession, the Fujiwara, Taira, Minamoto, and many other less famous families, sprung up. In the development of their history it resulted that the Fujiwara monopolized the civil offices; while the Taira and Minamoto furnished the military leaders, under the red and the white flags respectively The precedent was early established that the Dai Jō Dai Jin must be of Fujiwara blood; as was, later, that which permitted a shōgun to be taken only from the Minamoto stock. As successive expeditions made the sceptre of the mikado respected from Yezo to Satsuma, the soldiers throughout the country gradually became attached in loyalty to their captains rather than to the distant and shadowy court at Nara, or Kiōto. More and more the fighters became separated from the tillers of the soil, and made the material for a new order of things. The existence of this military class was recognized by the court as early as the eighth century; and by the eleventh the real power was in their hands, while that of the court weakened. Bred to arms, suffering and rejoicing in common, the relation of the warriors and commanders grew from that of leader and led to that of lord and retainer. The substance of

authority was with the generals (shōgun); the shadow was with the once active warrior-mikado, now become a puppet-figure set up and pulled down at the will of palace officials. During the twelfth century most of the emperors were children, and reigned only in the nursery. The orders of the court, which sought to sever the relation of lord and vassal, by forbidding the men-at-arms to follow either the red or the white banner, were ignored. Though despised as *buké* (military or inferior courtiers) by the *kugé* (civil court-nobles) the Minamoto and Taira families gradually encroached upon the administrative power, so that at Kiōto (made the capital in 794 A. D.) the Taira leader, Kiyomori, became successful in palace intrigues. At the opening of the twelfth century most of the high offices of the court and provinces were filled by Taira men, who exceeded the Fujiwara in nepotism. Until 1156 the followers of the red and white flags were friendly rivals. In that year a quarrel in Kiōto broke out between them, the prize of victory being possession of the palace, and the person of the mikado, the fetich and talisman in Japanese politics. Whichever party holds this divine personage has the loyal army (*kuan-gun*) and the imperial court, and constitutes the government; the other party are *chotéki*, or rebels. Blood was shed in this first feud. The Taira were victors; the palace was first garrisoned by a military clan. Then began that domination of the military classes which, with few intermissions, lasted until 1868. Intoxicated with success, Kiyomori, defying precedent, became in 1161 Dai Jō Dai Jin, and by marrying his daughter to the boy emperor, Takakura, became the virtual ruler of Japan. He planned the extermination of his enemies, and in 1181 died, asking with his last breath that the head of Yoritomo (chief of the Minamotos) be cut off and placed upon his tomb. With the help of a prince of the blood, Yoritomo now rose, even through defeat, to power. Calling his followers together, he founded the city of Kamakura, twelve miles from the modern Yokohama. In 1182 the Minamoto army entered Kiōto, and Yoshitsuné, their leader, drove the Taira south, and in a great land and naval battle near Shimonoséki, nearly annihilated them. The white flag was now triumphant everywhere. Yoshitsuné, shamefully treated by his jealous brother, fled to Yezo, and thence, it is said, to Manchuria, becoming the great conqueror known as Genghis Khan. In 1190 the foundations of the second feudal system of Japan were laid by Yoritomo, under whose influence his captains and retainers were appointed *military* magistrates throughout the eastern half of the country. He secured from the court this division of the two governmental functions: collection of the land taxes, and maintenance of public order, which had been before united in the *ken* governors appointed by the Dai Jō Kuan, for terms of four years. Yoritomo himself was invested with a *civil* title, which made him the chief of these *military* magistracies. The system worked so well in the eastern provinces, that it was gradually extended to the central and western provinces, and thus the ambition of Yoritomo was effectually concealed; until, in 1192, being able to control the court, he was created Sei-i Tai Shōgun, or Great General for the quelling of Barbarians, and the complete separation of the civil and military functions of government was thus, in effect, attained. Henceforward, until 1868, the throne and the camp were the two factors of history, and Japan had two capitals and two rulers. Yoritomo died in 1198, and his line ended in 1219. The Hōjō family of rulers, following out Yoritomo's plans, set up puppet shōguns to be the figure-heads of government at Kamakura, themselves holding the reins of power. It was during their rule, that Japan, through Marco Polo, was made known to Europe, the Mongols repulsed, and Buddhism revived and extended. The Hōjō came to an end through misgovernment and luxury, in 1333 A. D., being overthrown by Nitta Yoshisada, who fought in the name of the mikado, and whose portrait now adorns the national "greenback" bank note currency. For two years the shōgunate was in abeyance, and the mikadoate existed feebly. The rewards to the victors were in the form of fiefs of land, so firmly had the procedure of feudalism become fixed. A quarrel over an unfair division of rewards led a rival captain, Ashikaga Takauji, to seize Kamakura again, and the duarchy was restored. Setting up Kogen, a scion of imperial blood, as mikado, and his claims being resisted by the court, civil war at once broke out and raged for fifty-six years, reducing the land to desolation. A compromise and union was made in 1392, and the usurping branch of the imperial family became extinct in a few generations, and the original line of rulers filled the impotent throne. The Ashikaga line of shōguns reared higher the edifice of feudalism, by making the military magistracies hereditary in the families of their own nominees The details and etiquette which characterized the Japanese as known to Europeans were settled; castles were built; and the rise and fall of daimiō families, with almost constant civil war, the decay of the shōgun's power, the neglect of learning, contrasting with the spectacular splendors of feudalism, the transformation of the Buddhist monks into clerical militia, and the ravaging of the coasts of Corea and China by Japanese pirates, belong to this period (1335–1573). In many interesting aspects the state of society in Japan under the Ashikagas was marvelously like that of feudal Europe. In 1539 the first Europeans landed in Japan, bringing gunpowder and firearms, thus introducing new elements in Japanese civilization The Jesuit missionaries, then in the freshness of their astonishing vigor, led by Xavier, in 1542 entered Japan and speedily secured a following of thousands of converts, while at the same time the Portuguese merchants opened a thriving trade in the southern ports. — In the latter half of the sixteenth century began another series of influ-

ences upon Japan from Europe and the outer world, which for nearly eighty years poured a steady infusion of new ideas into the national mind. The chronic state of war in Japan at this period hindered the due influence of western ideas, which, though without the effect of the earlier importation from Corea in the fifth and sixth centuries, vastly enlarged the horizon of the native mind. Heretofore, also, a salient point in Japanese history was the rise to power of *noble* families. The striking phenomena of this pivotal half-century was the rise to loftiest power of three individuals of plebeian origin. Nobunaga, born in 1533, extinguished the Ashikaga line, endeavored to curb the rampant Buddhist power, favored Christianity for political purposes, endeavored to unify all Japan and to reduce the feudal chaos and anarchy to order, under and for the mikado. He rose to be Nai Dai Jin, but was assassinated in 1582. His retainer Hidéyoshi (Taiko Sama) completed his work, curbing even the proud Satsuma clan, laid the foundations of the policy afterward carried out by Iyéyasu invaded Corea, to give the warlike clans employment after being thus suddenly pacified after chronic war, and perhaps to be rid of his Christian soldiers, and then turned his attention to the Jesuits, whom he banished with partial success. Setting aside the precedent requiring the Dai Jō Dai Jin to be of Fujiwara blood, he himself filled that office. He died in 1599. Tokugawa Iyéyasu, a retainer of Hidéyoshi, who founded the city of Yedo and the Tokugawa line of shōguns, succeeded, after the battle of Sékigahara, in 1600, in obtaining the appointment, in 1603, of Sei-i Tai Shōgun, and thenceforth devoted himself to a policy of unification, peace, the perfection of the duarchy, and the promotion of learning. Henceforth, like a crystal which, by the laws of its formation, secures perfection by casting out whatever is foreign to its substance, the history of Japan, expelling all outer influences, crystallized into the elaborate feudal and dual systems, which excited the wonder of Europeans. Long after the last traces of feudalism had begun to fade out of Europe, Japan was perfecting as minute and peculiar a form of it as the world ever saw. In 1637 Christianity was annihilated by the massacre at Shimabara, and all foreigners were expelled and warned off, except a dozen or so of Hollanders imprisoned, for the sake of trade, and limited to an annual ship's visit from Europe, upon Dé-shima (outside island), near Nagasaki. The throne and the camp were now perfectly separate; Kiōto was the fountain of honors and titles, Yedo, of power and revenue. "The mikado all men love, the shōgun all men fear," was taught in every household. Learning revived, and profound peace for 254 years followed. Fifteen shōguns of Tokugawa blood ruled in Yedo — "The history of Japan, as manifested in the current of events since the advent of Commodore Perry, has its sources in a number of distinct movements, some logically connected, others totally distinct from the rest. They were intended to effect. 1, The overthrow of the shōgun, and his reduction to his proper level as a vassal; 2, The restoration of the true emperor to power; 3, The abolition of the feudal system, and a return to the ancient imperial régime; 4, The abolition of Buddhism, and the establishment of pure Shinto, as the national faith and the engine of government. These four movements were historically and logically connected. The fifth was the expulsion of the 'foreign barbarians,' and the dictatorial isolation of Japan from the rest of the world; the sixth, the abandonment of this design, the adoption of western civilization, and the entrance of Japan into the comity of nations. The origin of the first and second movements must be referred to a time distant from the present by a century and a half; the third and fourth to a period within the past century; the fifth and sixth to an impulse developed mainly within the memory of young men now living" ("North American Review," April, 1875—"The Mikado's Empire," p 291.) Into the details of these internal movements we have not space to enter. Suffice it to say that the seed of them was sown when the ancient texts, so long neglected during two centuries of civil war, were deciphered, re-edited and studied, when the scholars of Mito had published their historical researches, and when Rai Sanyo had written his masterpiece, Nihon Guaishi ("Military History of Japan"), all of which opened the eyes of students to the fact that the shōgun was a usurper and the mikado the true sovereign. When all within the country was ripe for revolution, the coming of foreigners precipitated the crisis. The resultant of the two motions—that within and that without—was an acceleration of movement in the unexpected direction of western civilization such as has astonished the world, and the Japanese themselves. In producing the results which opened this secluded nation to the world, the United States has borne an honorable and leading part, as becomes her geographical position. The edict of Iyéyasu, compelling all native craft to be built so as to be unseaworthy, was the cause of hundreds of fishing and trading junks being driven by storms into the Kuro Shiwo, the gulf stream of the Pacific, whence they stranded on the Aleutian islands and along the coast of America from Alaska to San Francisco. Over fifty known instances of such wrecks with survivors on board, since 1785, are recorded. ("The Mikado's Empire," Appendix.) The majority of these waifs were picked up by captains of American ships. In 1837 Mr. Clarence A. King dispatched the American brig Morrison from Macao to Yedo bay to return three shipwrecked Japanese picked up in Washington territory. The ship was fired upon, and returned. In 1839, 1840 and 1841 American captains rescued more waifs, one of whom afterward translated Bowditch's "Navigator" into Japanese, and in 1860 sailed a Japanese steam vessel across the Pacific. In 1845 Capt.

Mercator Cooper of the Manhattan, rescued at sea, and delivered up near Yokohama, twenty-two Japanese. In the same year Gen. Zadoc Pratt, of Ulster county, N. Y., chairman of the committee on naval affairs in congress, on the 15th of February, reported a bill for the effecting of commercial arrangements with Japan and Corea. In 1848 Commodore Biddle, with the United States steamers, Vincennes and Columbus, was sent to open trade if possible, but without success. Two American ships having been wrecked on the Japan coasts, Commodore Glyn on the Preble was sent to Nagasaki to bring away the sailors, all of whom had been required, in Dutch fashion, to trample on the crucifix to show that they were not Portuguese. The discovery and settlement of California and the increase of our Asiatic trade and whale fishery in the Pacific increased the desire to have access to Japanese ports, while the increasing frequency of shipwreck made such access necessary. Daniel Webster, secretary of state, prepared a letter from the president to the "emperor" (shōgun) of Japan, but the expedition was delayed until after his death, when Matthew C. Perry was appointed commander and envoy. With consummate tact, Perry, arriving in the bay of Yedo, July 8, 1853, after stating his object, left, but appeared again, and with a fuller force, Feb. 12, 1854. In the negotiations, Perry treated with the shōgun (an official of the sixth rank; though of *de facto* power) as if he were the emperor; while the latter styled himself "Tycoon" (*Taikun*, great prince). Treaties on the Perry model were soon after made with England, France, Russia and Holland, until twenty nations had entered into relations with Japan. These outward events only served to precipitate the crisis within. Enraged at the signing of a treaty, the admittance of foreigners on the sacred soil of the God-country, and the culmination of a long series of usurpations by assumption of the title of tycoon, the "patriots" or mikado reverencers raised the cry, "Honor the mikado and expel the barbarian." Townsend Harris, the consul general of the United States, secured a second convention with the Yedo government, which the regent Ii signed without the consent of the mikado. This fanned the flames of patriotism, and at once began a systematic assassination of foreigners, and the firing of their legations. The daimiōs broke through the law of centuries compelling their residence at Yedo, and the political centre of gravity shifted to Kiōto. To further embroil the shōgun with the treaty powers, fresh acts of violence were committed, and, as a result, Kagoshima in Satsuma and Shimonosŏki in Chōshiu were bombarded; the former by a British, the latter by an allied squadron; and heavy indemnities were exacted. Kiōto was burned in the civil war between the Chōshiu clan and the Yedo troops. On Jan. 3, 1868, the coalition of clans hostile to the shōgun secured possession of the palace and the person of the mikado, and proclaimed the ancient form of government. When, therefore, the followers of the shōgun Keiki, who had resigned his title and authority, regretted his action and attempted to re-enter Kiōto in force, they were fired on, and in the three days battle of Fushimi beaten, thus becoming *choteki*. The result of the two years civil war which followed with American rifles and the iron-clad ram Stonewall on the loyal side, was that the mikado's authority was re-established all over Japan, and the ancient imperial régime established. Among the first acts of the new government was to ratify the treaties in the name of the mikado, to make Yedo the *kio* or capital, which they named Tōkiō, to take from the mikado an oath and promise to establish a national deliberative assembly to decide measures by public opinion, and to seek for intellect and learning from foreign countries, "to establish the foundations of the empire." Rapidly in succession followed the abolition of the feudal system, the mediatizing of the daimiōs, and the commutation of the hereditary pensions of the *samurai* or military class, the reconstruction of society into three classes, the restoration of the *eta* to citizenship, and reforms innumerable on a national scale. Fourteen years of absolute government have followed the restoration. The new rulers, nearly all of whom were men sprung from the middle class, had their hands too full to remind the mikado of his oath, or to wish it fulfilled. Other able men outside the government firmly demanded that the promise be kept, and the vigorous press and able political lecturers—new engines in politics—seconded the demand. Meanwhile in the southern part of Japan, the samurai, their occupation gone, irritated at the unforeseen drift of the restoration, using various pretexts—under all of which was plainly visible the warlike spirit of feudalism and Old Japan—rose repeatedly in rebellion, which taxed the power of the new government to the utmost, and, during the Satsuma uprising in 1877, threatened its very existence. To suppress these, cost the nation 20,000 lives and $100,000,000. This sum, with the amount expended on national improvements, lighthouses, railroads, commuting pensions of the samurai, etc., etc., has created a national debt (June, 1880) of $358,040,000. At last, in 1881, the government yielded to the pressure of a growing public opinion, and the mikado issued a proclamation granting the formation and powers of a true national deliberative assembly in 1890. — The constitution of the government is as follows: The supreme council (Dai Jō Kuan), consisting of the premier (Dai Jō Dai Jin) two vice-premiers (U Dai Jin and Sa Dai Jin), a varying, but small, number of councilors (Sangi), and the ministers or heads of departments of foreign affairs, interior, finance, war, marine, public works, justice, colonies and agriculture, all of whom receive salaries much lower than those of a corresponding grade in western countries. The second of the governing bodies of the state is the senate, or Genro-in (house of elders), composed of nobles, and men

of eminent service or political ability, nominated and paid by the government. Its powers are more restricted than those of the British house of lords, the initiative of its business being given by the Dai Jō Kuan, though the tendency of its nature is to broaden the law-making power. In 1878 a long step was taken toward representative institutions, by the formation of local assemblies sitting once a year, dealing, under the supervision of the minister of the interior, with questions of local taxation, with the right of petition to the central government on other matters of local interest. The qualifications of members and electors, men only, are limited by ability to read and write, and the payment of an annual land tax of at least $5. Under the Dai Jō Kuan, are the three cities and the thirty-five *ken*, which are ruled by governors (*rei*). The three classes of society are nobility (kuazoku), gentry (shizoku), and common people (heimin). Under every department the work of administration has been more or less conformed to modern and western procedure and usage, a fair proportion being based on American models. In foreign affairs, legations and consulates are now established in many foreign capitals and ports, and the steady aim is now to obtain from the treaty powers recognition of Japan's sovereignty, the removal of the extra-territoriality clauses from the treaties, and the right to regulate her own tariff and commerce. In finance, the total revenue, for 1879–80, was $61,860,000; and the expenditure, $59,610,000. The chief revenue is from the land tax, which, in 1877, was lowered to 22 per cent. upon the assessed value. $108,680,000 of paper money is in circulation. Of the total debt of $358,040,000, five-sevenths was inherited from the past, incurred in commuting pensions, assuming the debts of the daimiōs, etc. 152 national banks, established on the American principle, possess a capital of $41,921,100, and have reduced the rate of interest from 14 to 11.2 per cent., besides greatly developing commercial enterprise and general prosperity. The whole amount of taxation levied by the government, in nineteen kinds, is $54,550,000, of which the land tax yielded, in 1879–80, $41,900,000, or about four-fifths of the whole; customs duties yielding, in 1878, $2,350,000, and all other taxes $8,670,000. The value of the government assets, forest and building land, public works, etc., etc., is appraised at $300,000,000. 4,000 miles of telegraph connect the chief towns of Japan with the rest of the world. Postal lines, on which a letter may be sent for two cents, amount to 40,000 miles, and Japan is in the international postal union, besides having at home all the equipment necessary even to postal cards and savings banks, and forwarding nearly 50,000,000 covers annually. About 100 miles of railroad lines are opened. Thirty-five lighthouses, besides buoys, beacons and harbor improvements, have greatly aided foreign as well as native commerce. 460,000 vessels of native model and 400 of foreign, many of them steamers, form the mercantile marine, and 27 vessels, with 4,242 men and 149 guns, compose the navy. 400,000 wheeled vehicles in the country now pay tax, though before 1868 they were in very limited use, horses for draught being nearly unknown. The army, on a peace footing, consists of 35,560 men, and in war time of 50,230, with a reserve of 20,000 men. The police force, which in spirit and organization equals the army and can be used as military, numbers 23,334 men. Newspapers, 211 in number, have an aggregate circulation of 29,000,000 copies. The number of schools in 1879 was 25,459, with 59,825 teachers (of whom 1,558 were female), and 2,162,962 scholars (of whom 568,220 were girls). The voluntary private contributions in aid of education, from 1872 to 1879, were $9,000,000. The old judicial system has been reformed; the penal laws are based on the Code Napoleon, and the system of tribunals from the supreme court (Dai Shin In) in Tōkiō to the humblest magistrate's bar, are being steadily conformed in theory and practice to the models of christendom. The mere statement of these facts is sufficient to prove the sincerity of Japan's purpose to cast away the Chinese and adopt the western model of progressive civilization. In spite of many mistakes and discouragements her rulers have persevered, until it is doubtful whether history has recorded so sudden and thorough a transformation of an entire nation. Christianity is also working among the masses, the way being well prepared for her by the rapid adoption of those institutions and forms of life with which this faith always assimilates. (See also COREA, MUTSUHITO, RIU KIU, and biographical notices of Japanese statesmen in this work.) The ministers of the United States to Japan have been: Townsend Harris, consul general (1856–61). Robert H. Pruyn (1861–5); R. Van Valkenburgh (1866–70) — these three were of New York, the two latter being ministers resident; Charles E. De Long of Nevada (1870–74) and John A. Bingham of Ohio (1874–82) being ministers plenipotentiary. — Among the numerous writers on Japan, Kaempfer, Thunberg and Tetsingh are the best among the older ones. Of modern writers before the restoration, F. L. Hawks' *Narrative of the American Expedition under Commodore Perry*, R. Hildreth's *Japan as it was and is*, Boston, 1855, and R. Alcock's *The Capital of the Tycoon*, London, 1863, are best suited to the student of political science. Writers since the restoration are F. O. Adams, *History of Japan*, London, 1875; W. E. Griffis, *The Mikado's Empire* (History, Travels, Essays, Social and Political Life, Statistics, etc.), New York, 1876–8; G. Bousquet, *Le Japan de nos jours*, Paris, 1877; C. Le Gendre, *Progressive Japan*, New York, 1878; E. J. Reed, *Japan*, London, 1881; J. J. Rein, *Japan, Natur und Volk des Mikadoreiches*, Leipzig, 1881. Especially valuable are the *Transactions of the Asiatic Society of Japan*, 1872–8, and the various publications in English issued by the Japanese government.

W. E. GRIFFIS.

JAY, John, was born in New York city, Dec. 1 (O. S.), 1745, and died at Bedford, N. Y., May 17, 1829. He was graduated at Columbia in 1764, was admitted to the bar in 1768, and took high rank as a lawyer. He was a leader in the early revolutionary movements in New York and in forming the state constitution in 1776. He was a delegate to congress 1774–7 and 1778–9, was on its leading committees, and was president during his last term. In the meantime he had also been chief justice of his state, 1778–9. In 1779 he became minister to Spain, and was one of the American negotiators in 1783. Returning in the following year he became secretary of foreign affairs until 1789. Sept. 24, 1789, he was appointed chief justice of the United States. (See JAY'S TREATY.) Before his return from the English negotiation he was elected governor of New York by the federalists, was re-elected, and served until 1801. He had been nominated in 1792, but was defeated by the official rejection of a part of the popular vote. (See NEW YORK.) In 1801 he retired peremptorily and permanently from public life. (See FEDERAL PARTY.) — Jay's best political writings are his early revolutionary state papers, his share of the "Federalist" (see that title), and his opinion in Chisholm *vs.* Georgia. (See JUDICIARY.) His instinctive integrity is well marked by his indorsement on the back of a letter from an influential federalist, written after the democratic victory in New York in 1800, and suggesting the calling of a special session of the federalist legislature to assume legally the appointment of electors: "Proposing a measure for party purposes, which I think it would not become me to adopt" — See Jay's *Life of Jay;* Sparks' *Life and Writings of Jay;* Renwick's *Life of Jay;* Jenkins' *Governors of New York,* 74; 2 Flanders' *Chief Justices;* Van Santvoord's *Chief Justices;* Parton's *Life of Burr,* 253; 37 Harper's *Magazine;* 1 Hammond's *Political History of New York* (see index).

ALEXANDER JOHNSTON.

JAY'S TREATY (IN U. S. HISTORY). The acknowledgment of the independence of the United States by the definitive treaty of peace of Sept. 3, 1783, made the United States a member of the family of nations *de jure,* but not *de facto.* The articles of confederation had given congress the power of "entering into treaties and alliances, provided that no treaty of commerce shall be made whereby the legislative power of the respective states shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever." This restriction upon the powers of congress practically prohibited the negotiation of any commercial treaty, since it was impossible that any other government would knowingly concede valuable commercial privileges to the citizens of the United States in return for a treaty which the government of the United States had no power to enforce, and which the respective states had a vested right to nullify at pleasure. Under the confederation, treaties, having more or less bearing upon commerce, were, it is true, negotiated with the Netherlands (Oct. 8, 1782), with Sweden (April 3, 1783), with Prussia (Sept. 10, 1785), and with the Barbary States (see ALGERINE WAR); but all these treaties contained stipulations really beyond the powers of congress, and were only allowed to exist without objection because of the almost entire absence of present commercial intercourse between the United States and the other contracting parties. The most important commerce of the United States was then with Great Britain, and that country not only refused to make any provisions for commercial relations in the definitive treaty of peace, but continued her refusal to make a commercial treaty with the United States throughout the period of the confederation and until 1794. Powers to make such a treaty were given to the American commissioners in 1783, to John Adams in 1785, to Gouverneur Morris in 1789, and to Thomas Pinckney in 1792, but the British government preferred to regulate trade with America by act of parliament. — By the terms of the definitive treaty of peace special obligations were imposed upon both parties Great Britain agreed to withdraw her fleets and armies from the United States without carrying away negroes; and the United States agreed that there should be no lawful impediment to the collection of debts due to British subjects, and that congress should "recommend" to the states the restoration of the confiscated estates of tories and a cessation of confiscations for the future. The use of the word "recommend," and the contemporary debates in parliament, show that the British commissioners fully understood the limitations upon the powers of congress at the time; nevertheless, though congress punctually fulfilled its agreement by twice strongly recommending the state legislatures, in 1783 and 1787, to abstain from further confiscations, the British government chose to consider the inattention of the state legislatures an infraction of the treaty, and refused to withdraw its troops from the northwestern forts. Until 1796, therefore, the posts of Michilimackinac, Detroit, Fort Erie, Niagara, Oswego, Oswegatchie (on the St. Lawrence), and Point au fer and Dutchman's Point (on Lake Champlain) all lying within the territory of the United States, were garrisoned by British troops, whose officers exercised jurisdiction over the surrounding country. After Wayne's victory over the Indians in 1794, it was with great difficulty that the American general restrained his troops from assaulting and capturing a newly built British fort, just south of Detroit, which they met in the pursuit. As a matter of course, this refusal to withdraw the British troops was a very fair excuse for the state legislatures to continue their inattention to the recommendations of congress. — After the inauguration of the new form of government in

1789, under which entire constitutional power over treaties was intrusted to the federal government, two efforts were made by President Washington, as above stated, in 1789 and 1792, to establish commercial relations with Great Britain on a treaty basis; but the British government, apparently unconscious or unwilling to believe that a vigorous national government, capable of retaliation, had been developed in the United States, persisted in its course of unfriendliness, refusing to send a minister resident to the United States, to pay for about 3,000 negroes carried away by retiring British fleets, to enter into a commercial treaty, or to order the evacuation of the northwestern posts. — In arranging the duties on imports the 1st congress made no attempt at retaliation upon Great Britain, but was governed mainly by the pressing necessity for raising a revenue, though protection to American interests was also kept in view. Great Britain's continued refusal to enter into a commercial treaty gradually brought up the idea of retaliation, and a house resolution of Feb. 23, 1791, called out an elaborate report from Jefferson, secretary of state, dated Dec. 16, 1793, upon "the nature and extent of the privileges and restrictions of the commercial intercourse of the United States with foreign nations" The strongest points which this celebrated report made against Great Britain were that parliament had only consented to modify the original prohibition of any American trade with Great Britain by allowing American productions to be carried thither in American ships; and that even this privilege was made dependent on the king's permission, given annually by proclamation, in default of which American vessels would be again entirely interdicted from British ports. The report advised a resort to the power of congress to "regulate commerce with foreign nations," 1, by favoring the commerce of any nation which should remove or modify its restrictions upon American commerce, and 2, by an exactly equivalent retaliation upon any nation which should impose high duties upon American productions, prohibit them altogether, or refuse to receive them except in American vessels. — Jefferson's report fired a train which very nearly resulted in a war with Great Britain. To the inflammable material previously accumulated in the grievances against that country, the interests attaching to the French revolution had already been added, and the anti-neutral "orders in council" to the British navy raised popular excitement almost to the war point during the winter of 1793–4; so that the proposal of retaliation was not at any time discussed from an economic point of view, but was supported by the republicans (or democrats), and opposed by the federalists, mainly because it was considered a means of throwing the moral weight of pronounced American sympathy into the anti-British scale, while avoiding open war in alliance with the French republic. (See DEMOCRATIC-REPUBLICAN PARTY, II.; FEDERAL PARTY, I.; EMBARGO, I.) The first step was the introduction of a series of resolutions in the house, Jan 3, 1794, by Madison, designed to carry Jefferson's second recommendation into effect. The first resolution, asserting the general principle of retaliation, passed the house, Feb. 3, by a vote of 51 to 46, and the other resolutions were postponed until March by their supporters to await the progress of events. But in the meantime the anti-British feeling in the house had been growing steadily stronger. Madison's resolutions were practically superseded, March 26, by the passage of a joint resolution laying an embargo on ships in American ports; on the following day a proposition was introduced by Jonathan Dayton, a New Jersey federalist, to sequester all debts due by Americans to British subjects, and turn them into a fund for indemnifying American sufferers from British spoliations, and this, in its turn, was superseded by a proposition, April 7, to prohibit commercial intercourse between the United States and Great Britain, after November 1 following, until the latter country should cease its anti-neutral naval policy and evacuate the northwestern posts. Before the non intercourse resolution could be passed, President Washington again intervened, as he had done a year before (see GENET, CITIZEN), to check the torrent of anti-British feeling and action, and, April 16, sent to the senate the nomination of John Jay as minister extraordinary to Great Britain, for the purpose of securing peace and "a friendly adjustment of our complaints." The nomination was confirmed by the senate, 18 to 8, nevertheless the house persisted in passing, by a vote of 58 to 38, April 21, its non-intercourse resolution, which was only defeated in the senate by the casting vote of the vice-president. — The president had abandoned his first selection, Hamilton, for the mission, chiefly on consideration of the bitter opposition which would inevitably meet any treaty negotiated by him. His second choice, Jay, was a much more fitting one, his great ability, tact, diplomatic skill and experience, popularity, known moderation, and freedom from partiality either to France or to Great Britain, made him, to quote Hamilton's own words to the president, "the only man in whose qualifications for success there would be thorough confidence, and him whom alone it would be advisable to send." There were but two objections to his nomination, his position as chief justice, and the needlessness of any extraordinary nomination while there was already a minister to Great Britain. It is difficult to answer the former objection; only imperative necessity and the lack of pressing occupation for the court itself, could excuse such an experiment upon the independence of the judiciary. In the second objection there was no force. In nominating Jay, the president had made an opportunity to declare that his confidence in Mr. Pinckney, the resident minister in London, was undiminished. The *extraordinary* nomination had a different reason, it was intended and seems to have

been taken as an assurance to Great Britain that the *executive* of the United States intended, if possible, to maintain neutrality. No such assurance was necessary to France, for that country was already assured of the mass of popular sympathy in the United States. In this case, therefore, Washington deliberately cast the weight of his personal and official influence into the lighter scale, as Adams, his successor, in the exactly parallel case of 1798–9, threw his into the opposite scale when it became the lighter. (See X. Y. Z. MISSION, EXECUTIVE.) — Jay reached London June 15, and entered without difficulty or delay upon the work of his mission with Lord Grenville, the English negotiator; and the two arranged the terms of a treaty, Nov. 19, in twenty-eight articles. Of the three American claims, the treaty settled but one outright: the northwestern posts were to be surrendered on or before June 1, 1796, but no compensation was to be paid for their previous wrongful detention; the American claims for compensation for illegal seizures were to be referred to commissioners for settlement; and the claims for compensation for negroes carried away were waived by Jay because of the flat refusal of the English negotiator to consider them. (See SLAVERY.) Joint commissioners were to settle the northeastern and the (then) northwestern boundary of the United States, and the British debts whose collection had been prevented during the confederation; and no debts were in future to be confiscated by either party in the event of war. These points having been settled in the first ten articles, which were to be permanent, the other articles made up a treaty of commerce and navigation, limited to twelve years. Trade between the United States and the British dominions in Europe was to be reciprocally free; direct American trade to the British East Indies, but not the coasting trade there, was permitted; trade to the British West Indies, in vessels of not more than seventy tons, was permitted; and neither country was to allow its citizens to accept commissions of war against the other, or to permit privateers of a third (enemy) power to arm, enlist men, or take prizes within cannon shot of its coast. Neutral persons unlawfully commissioned or enlisted were to be considered pirates. Contraband goods were specified in general terms, and it was agreed that such articles as provisions, when made contraband by particular circumstances, should be paid for, and that the forfeiture of contraband goods should not forfeit the whole cargo. The article relating to West Indian trade was specially limited to two years after the conclusion of peace between Great Britain and powers at war with her in 1794, and the Americans were to renounce, in return for it, the exportation of sugar, molasses, cocoa, coffee, and cotton, to Europe. — June 8, 1795, the treaty was laid before the senate in special session, and after a secret debate of over two weeks it was ratified, June 24, by a vote of 20 to 10, the exact two-thirds majority necessary for the ratification of a treaty; but the ratification was made conditional on the addition of an article to suspend that part of the 12th article relating to the West Indian trade. The principal objection to this article arose from its prohibition of the exportation of certain articles, above named, from the United States. The colonial system of European nations then included a general prohibition of trade to their colonies; and when Great Britain permitted a modified trade to her West Indian colonies, she demanded in return a renunciation of American trade in sugar, etc., in order that these colonial productions should not thus be indirectly transmitted through the United States to foreign nations. Jay seems not to have known that the culture of cotton had already been introduced into the United States. The additional article was finally added to the treaty, Oct. 28, 1795, but full navigation with the British West Indies was not obtained until October, 1830. — Jay had reached New York, May 28, and from that time the whole country had been intensely anxious to know the nature of the treaty. After its ratification by the senate that body had still prohibited its publication; but, while the president was still in doubt whether or not to complete the conditional ratification by his signature, Senator Mason, of Virginia, sent a copy of the treaty, June 29, to the Philadelphia "Aurora," a democratic newspaper, for publication. Its appearance in print, July 2, was the signal for an outbreak of political excitement which was probably never paralleled until slavery took a place in politics. The newspapers were filled with articles, signed with Latin names, Cato, Camillus, Caius, Atticus, Decius, and Cinna, in the fashion of the time, mainly against the treaty; and town meetings and mass meetings, from Boston to Savannah, passed resolutions calling upon the president to withhold his signature. The ablest series of letters was that of Hamilton in defense of the treaty, over the signature of Camillus; the most venomous was that of "A Calm Observer," in the "Aurora," commonly attributed to John Beckley, clerk of the house. At first the attacks were directed against Jay; and the treaty, in its implied recognition of the British right of search, impressment and power to make any class of goods contraband, in its regulation of the West Indian trade, and in its failure to obtain compensation for the retention of the northwestern posts or for the negroes carried away from New York city, offered so many vulnerable points that attack was easy. The opponents of the treaty, however, went further than mere resolutions. Jay was repeatedly burned in effigy, and one society "lamented the want of a guillotine" for him; in New York Hamilton was stoned while defending the treaty at a public meeting; in Philadelphia the mob burned a copy of the treaty before the British minister's house; and in Charleston, after a meeting led by John Rutledge, who had just been appointed chief justice in Jay's place, the British flag was dragged through the streets and burned before the house of the British consul. — Notwith-

standing the defects of the treaty, Washington believed it to be the best that could be obtained, and signed it, sending to the British government, at the same time, an urgent remonstrance against a recent order in council which made provisions contraband. The remonstrance secured the repeal of the order. The democratic leaders (see DEMOCRATIC-REPUBLICAN PARTY, II.) of the republican party at once attacked the president personally, with the object of destroying his influence in congress and of inducing the house to deny the appropriation (about $90,000) necessary for carrying the treaty into effect. From August until the following spring the attacks upon the president became progressively more open and bitter. From the beginning he was accused of usurpation, in collusion apparently with the senate majority, in having negotiated a treaty which endeavored to shut out the house of representatives from a share in the constitutional powers of regulating commerce, of establishing rules of naturalization, of defining piracy, of making rules concerning captures, and of laying taxes. Side issues were then brought in: he was accused of having neglected to ransom American captives in the Barbary States, of having written letters designed to procure submission to Great Britain during the revolution, and of having drawn more than his salary from the treasury. Only the last named charges seem to have moved the president, though he complained that they were all couched "in terms so exaggerated and indecent as could scarcely be applied to a Nero, a notorious defaulter, or even to a common pickpocket." The alleged letters he demonstrated to be forgeries, and the secretary of the treasury disproved the other charge. But toward the time when congress was to meet, the attacks on the main issue grew warmer; an impeachment of the president was suggested; hints were given of the necessity of a Brutus for this "step-father of his country"; and some effect was produced not only on congress but on state legislatures. The house of delegates of Virginia, Nov. 20, voted down a resolution expressing their undiminished confidence in the president; and the federal house of representatives, Dec. 16, struck out a paragraph declaring their confidence in the president, which their committee had inserted in their draft of a reply to the message. — On the other hand, the tide had really been turning, throughout the country, not so much in favor of the treaty as in support of Washington. The other state legislatures, with the exception of South Carolina, refused to follow Virginia's lead, and either voted strong declarations of their confidence in the president, or refused to consider the matter; commercial bodies of all the states approved the treaty; and the current of public meetings, at first entirely against the treaty, had turned before February, 1796. Nevertheless, a struggle in congress was inevitable, and it began with a resolution offered in the house, March 2, 1796, by Edward Livingston, of New York, calling on the president for Jay's instructions. Upon this resolution the debate lasted from March 7 until March 24, when it was passed by a vote of 62 to 37. March 30, the president, although he had already published the instructions by sending them to the senate, refused, as a matter of precedent, by yielding to the demand for the envoy's instructions, to countenance the idea that the assent of the house was necessary to the validity or execution of a treaty. April 7, the house, by resolution, which was passed by a vote of 57 to 35, declared that it claimed no agency in the making of treaties, but that it claimed, as part of congress, a right to deliberate upon the expediency of carrying into effect a treaty containing regulations on the subjects given by the constitution to the control of congress. April 15, debate began upon a federalist resolution that the treaty ought to be carried into effect. The first vote was taken in committee of the whole, April 29, and stood 49 to 49, but the speaker, though opposed to the treaty, voted for the resolution in order to give further opportunity to consider it. The report of the committee of the whole was considered in the house, on the following day, and a proposition was made to amend the resolution so as to read "That, although, in the opinion of this house, the treaty was highly objectionable," it was nevertheless expedient, considering all the circumstances, to carry it into effect. By the casting vote of the speaker, the vote standing 48 to 48, the word "highly" was stricken out; the entire amendment was then lost by a vote of 49 to 50; and the original report was adopted by a vote of 51 to 48. This ended the first and greatest struggle in congress against the application of the treaty power. — The conflict had the good result of laying open to view a difficulty in the practical workings of the constitution, which could not well have been guarded against, and which has only been avoided by the steadily forbearing and pacific policy of successive executives. (See EXECUTIVE.) The treaty power is certainly limited, but it is impossible to locate the limiting line exactly. Treaties are not, as it is sometimes loosely said, "the supreme law of the land"; "this constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States," together make up the supreme law of the land, and treaties, therefore, can at best hold but a co-ordinate rank. It is easy to see that a treaty involving the establishment of a foreign prince upon the throne of the United States, though made under every constitutional form, would be invalid, and that Jay's treaty, though clashing slightly with the powers of congress, was not invalid; but between these two extreme cases there are countless supposable cases open to question. It is impossible, for instance, to believe that in 1798 a federalist house of representatives would have voted money for the execution of a treaty of offensive and defensive alliance with France, passed by a democratic

president and senate. It is equally impossible to conceive a republican house of representatives in 1882 submitting to the abolition of the protective system and the establishment of free trade by treaties made by a democratic president and senate. And yet the reasoning of Washington's message of March 30, 1796, makes it the duty of the house in *all* these cases to remain entirely passive. Perhaps the easiest solution of the difficulty is that offered by Story, as cited below: "Whether there are any other restrictions [than that treaties shall not abrogate the organic law] necessarily growing out of the structure of the government, will remain to be considered whenever the exigency shall arise." — Curiously enough, when the difficulty next appeared for consideration, upon the annexation of Louisiana by treaty in 1803 (see ANNEXATIONS, I.), the federalists opposed, and the republicans supported, the supremacy of the treaty power and the obligation upon the house to execute its arrangements. In 1819–20 (see COMPROMISES, IV.) the difficulty did not appear naturally, but was forced in, for it is not easy to see, in a treaty stipulation for all "the privileges of citizens" to the people of Louisiana, an obligation upon congress to admit any state government which they might form. The question was again unsuccessfully raised when the bills appropriating money for the Gadsden purchase in 1854 and for the Alaska purchase in 1867 (see ANNEXATIONS, V., VI.), came before the house. In future discussions of the question, however, it must be remembered that the final decision of the house to vote the money necessary for the execution of a treaty has never yet been made on the distinct ground of obligation to do so; expediency has so far been the only test. — In examining the question the reader will find most useful an opinion of Caleb Cushing and an article by Dr. Spear, both cited among the authorities; the former inclines toward, and the latter against, the supremacy of treaties over laws. — See authorities under CONFEDERATION, ARTICLES OF; 1 Lyman's *Diplomacy of the United States*, 190; Trescott's *Diplomacy of the Administrations of Washington and Adams*, 119; 4 Hildreth's *United States*, 522, 544; 1 Schouler's *United States*, 289; 2 Sparks' *Life of Gouverneur Morris*, 4; 1 Benton's *Debates of Congress*, 22, 458, 639; 1 Wait's *State Papers*, (2d edit.), 422, (Jefferson's report); 2 J. Adams' *Letters*, 156; 1 Flanders' *Lives of the Chief Justices*, 401; 4 Hamilton's *Works*, 519, 531; Jay's *Life of John Jay*, 310; 7 Hamilton's *Works*, 172, (the *Camillus* letters); 1 von Holst's *United States*, 121; 6 Hamilton's *United States*, 272; 2 Adams' *Life of John Adams*, 195; 11 Washington's *Writings*, 36, 513; 1 Gibbs' *Administrations of Washington and Adams*, 218; 3 Rives' *Life of Madison*, 511; 2 Randall's *Life of Jefferson*, 267; 2 Benton's *Debates of Congress*, 23; 2 Marshall's *Life of Washington* (edit. 1838), 370; Hunt's *Life of Edward Livingston*, 67; Monroe's *Conduct of the Executive*, 147; 4 Jefferson's *Works* (edit. 1829), 317, 464, 498; 2 Elliot's *Debates*, 367; *Federalist*, 64, 75; Rawle's *Commentaries*, 171; Story's *Commentaries*, § 1499; Carey's *American Remembrancer* is a useful collection of essays, etc., on both sides; for the treaty of peace of Sept. 3, 1783, and Jay's treaty, see 8 *Stat. at Large*, 80, 116; 6 *Opinions of the Attorneys General*, 291 (Cushing's opinion); 17 *Albany Law Register*, 460 (Dr. Spear's article on Extradition).

ALEXANDER JOHNSTON.

JEFFERSON, Thomas, vice-president of the United States 1797–1801, and president 1801–9, was born at Shadwell, Va., April 2, 1743, and died at Monticello, Va., July 4, 1826. He was graduated at William and Mary college in 1762, was admitted to the bar in 1767, was a member of the house of burgesses 1769–74 (see REVOLUTION) and of the continental congress 1775–8 (see DECLARATION OF INDEPENDENCE), and was governor of Virginia 1779–81. He served as minister, first to Europe in general and then to France, 1784–9, and became secretary of state at the formation of the constitution. (See ADMINISTRATIONS, I.) His subsequent public career is a part of the history of the party which he founded. (See DEMOCRATIC-REPUBLICAN PARTY, I.–III.) — An estimate of Jefferson's character and work involves much the same difficulties as in the case of his great rival, Hamilton. (See HAMILTON, ALEXANDER.) Each was opposed in his own way to the advance of that curious complication of conflicting forces whose sum makes up American political history, and each has had warm, and often unreasonable, assailants and apologists. But, as Jefferson's maintenance of individual liberty involved an opposition to the development of nationalization in the United States, his private and public character have been subjected to criticism more minute, merciless and bitter than has ever been applied to Hamilton's. His infidelity, his cowardice, his shiftiness, his love of theory and lack of practicality, his bigotry in applying his theories to his opponents and his looseness in applying them to his friends or to himself, and, above all, his responsibility for the doctrine of nullification, have been dealt with by hands more skillful than have ever attacked Hamilton. The country has, in one sense, been growing away from Jefferson and toward Hamilton, so that the latter has always been, and will always be, more sure of a sympathetic criticism from the abler class of critics than the former. — Jefferson's "infidelity" seems to have early settled down into a mild form of unitarianism, and his letters and those of President John Adams, show that the two were almost entirely at one in all essential points of religious belief. The different treatment of the two men, in this regard, by standard writers, is characteristic. In Adams' case, it is always slurred over as a matter interesting only to himself; in Jefferson's, the language of the orthodox New England clergy of his time is still the canon of criticism. The charge of cowardice rests only on his hurried escape from the British, while governor of Vir-

ginia. His responsibility for the doctrine of nullification is elsewhere considered. (See NULLIFICATION.) The charge of shiftiness and other bad qualities above specified rests on a different basis. It is really due to the needlessly high plane on which he set his political theory to work. His doctrine that every broad construction of the doubtful powers of the federal government is a violation of the organic law, is, in brief, *illegal*, was never recognized by his opponents or maintained in practice by himself or his disciples. The former recognized only expediency or inexpediency as a test of construction; and the latter, whenever they yielded in any degree to the irresistible current of events and relaxed their rule of action, laid themselves open to the charges of bigotry in applying their political theory to their opponents and of looseness in applying it to themselves. (See DEMOCRATIC-REPUBLICAN PARTY, VI.) — Before 1789 Jefferson's political work consisted in his authorship of the act for religious toleration in Virginia, and of the declaration of independence. After 1789 his work consisted in the organization of the democratic-republican party (which see). This last work deserves consideration from several different sides. 1. From the point of view of the individual it was almost wholly beneficent. The individual American citizen is very largely indebted to the spread of Jeffersonian ideas for his unrestricted right of suffrage, his voluntary religious status, and his active individualistic life, free equally from the control of classes and from sympathy with the prejudices of classes, to which Hamilton was strongly addicted. 2. From the point of view of the states its influence was mixed, good and bad. On the one hand, by maintaining between the individual and the national government the shield of a powerful series of state corporations, it protected the individual, simplified the work of the national government, and made its expansion over an enormous territory a possibility and a success. On the other hand, its secondary development was naturally into a state feeling for the sake of the state or of a section, not of the individual. (See STATE SOVEREIGNTY.) On the whole, in spite of the heavy weight of the war of the rebellion in the scale of evil, the good seems to have largely predominated. 3. From the national point of view the influence of Jefferson's work seems at first sight to have been wholly bad. It hampered the efficiency of the national government, indirectly endangered its existence by the development of the excrescence of state sovereignty, and in a variety of ways impeded the growth of a real national feeling. Nevertheless, even in this apparent evil, the good has predominated. If the growth of national feeling has been slower because of the adverse influence of Jeffersonian ideas, it has been all the healthier for it, and will last the longer. Rapid growth implies early decay, and it is almost equally reason for gratitude that the national idea has been established and that it has been established slowly and naturally. Again, while Jefferson's work could never have prevented the final establishment of nationality, it has succeeded in guarding under it the rights of the individual, for which the original Hamiltonian idea had comparatively little regard. (See NATION.) On the whole, the ultimate combination of the two forces could hardly be better stated than in the words of a writer in "The Nation" (cited under HAMILTON, ALEXANDER): "At the present moment Jefferson rules in the manner and after the methods prescribed by Hamilton. Hamilton's theory perished before the advance of democratic principles; but Jefferson utterly failed to destroy the wise system devised by his opponent."—Jefferson's *Works* have been twice collected The best and most comprehensive edition is that of H. A. Washington in nine volumes (1853); the most convenient is that of T. J Randolph, in four volumes (1829). The best *Life* is that of H. S. Randall (1858); see also Carpenter's *Memoirs of Jefferson* (1809). Rayner's *Life of Jefferson* (1834); Tucker's *Life of Jefferson* (1837); Smuckers' *Life and Times of Jefferson* (1839); DeWitt's (Church's trans.) *Jefferson and the American Democracy* (1862); Parton's *Life of Jefferson* (1874); Abbott's (or Lincoln's) *Lives of the Presidents;* 1 *Statesman's Manual* (for his messages); 2 Brougham's *Eminent Statesmen* (edit. 1854), 320, Parker's *Historic Americans*, 235; Cobb's *Miscellanies*, 5; *Atlantic Monthly*, January, 1862; *Lippincott's Magazine*, September, 1868, *National Quarterly Review*, March, 1875. The favorable view of Jefferson's work will generally be found in the authorities under DEMOCRATIC REPUBLICAN PARTY; the other side in the authorities cited under FEDERAL PARTY, see also Danvers' *Picture of a republican magistrate of the new school* (1808); H. Lee's *Observations on the Writings of Jefferson* (1832); Dwight's *Character of Jefferson, as exhibited in his Writings* (1839). For his private life see J. E. Cooke's *Youth of Jefferson* (1854); Pierson's *Jefferson at Monticello* (1862), S. N. Randolph's *Domestic Life of Jefferson* (1871), and his autobiography in his *Works*.

ALEXANDER JOHNSTON.

JOHNSON, Andrew, president of the United States 1865–9, was born at Raleigh, N. C., Dec. 29, 1808, and died in Carter county, Tenn., July 31, 1875. After holding various state offices, he served as representative from Tennessee (democratic) 1843–53, as governor 1853–7, and United States senator 1857–62. He was appointed military governor of Tennessee (see that state) in 1862, and in 1864 was elected vice-president by the republican party. He became president upon President Lincoln's death, and served until 1869. (For the political events of his administration see RECONSTRUCTION; FREEDMEN'S BUREAU; CIVIL RIGHTS BILL; TENURE OF OFFICE; VETO, IMPEACHMENTS, VI.; REPUBLICAN PARTY.) He was again elected United States senator in 1875, serving until his death. — President Johnson was an exceptionally favorable and fortunate specimen

of the southern "poor white." He was absolutely without the influences of early education until after his character had been fairly formed: it was only after his marriage that he was taught by his wife to read, write and cipher, and he then passed almost at once from the tailor's bench into politics. In this field he was steadily battling against "the aristocracy," from his first formation of a working-man's party in Greenville, Tenn., in 1828, up to the day on which, as president, he offered heavy rewards for the arrest of Jefferson Davis and the other alleged participants in Lincoln's assassination. To his mind the great work had then been done by the overthrow of the slaveholding aristocracy, and the status of the negro in the south was a question of almost as great difficulty as before. When congress undertook to reconstruct southern state governments, and to compel southern whites to recognize the political equality of the negro in the work, congress, in Johnson's eyes, took the place of oppressor upon the southern people which the "aristocracy" had held before the war, and he simply changed his opposition accordingly. It does not matter whether reconstruction by congress was accomplished wisely or unwisely: it is certain that President Johnson was eminently unfitted by nature, by education, and by life-long devotion to an entirely different object, to deal with the problem of reconstruction. The tone of his answer to the first negro delegation which met him after his accession to the presidency was sufficient to forewarn his failure, and to show the reason for it. Even his sincerity, his persistency, and a certain frankness which was often far from engaging, made him a more certain victim to the difficulties of his position. — See Savage's *Living Representative Men*, 347; Savage's *Life and Public Services of Andrew Johnson;* Moore's *Life and Speeches of Andrew Johnson;* Foster's *Life and Speeches of Andrew Johnson;* and authorities under articles referred to.

ALEXANDER JOHNSTON.

JOHNSON, Herschel V., was born in Burke county, Ga., Sept. 18, 1812, and died in Georgia, Aug 16, 1880. He was graduated at Franklin college in 1834, was admitted to the bar in 1837, was democratic United States senator from Georgia 1848–9, was governor of Georgia 1853–7, and received the democratic nomination for the vice-presidency in 1860 in place of Benj. Fitzpatrick, declined. (See DEMOCRATIC-REPUBLICAN PARTY, V.) He was in the senate of the confederate states, 1864–5.

JOHNSON, Reverdy, was born at Annapolis, Md., May 21, 1796, and died there, Feb. 10, 1876. He was admitted to the bar in 1815, was a whig United States senator 1845–9, attorney general under Taylor, democratic United States senator 1863–8, and minister to England 1868–9. (See ALABAMA CLAIMS.)

JOHNSON, Richard Mentor, vice-president of the United States 1837–41 (see DISPUTED ELECTIONS, III.), was born at Bryant's Station, Ky., Oct. 17, 1781, studied law, and became a colonel of volunteers in the war of 1812. He was a democratic representative in congress 1807–19 and 1829–37, and United States senator 1820–29. He was the democratic candidate in 1840 for vice-president, but was defeated. (See DEMOCRATIC-REPUBLICAN PARTY, IV.)

JOINT RULE. (See PARLIAMENTARY LAW.)

JOURNAL. (See PARLIAMENTARY LAW.)

JUDAISM. (See MOSAISM.)

JUDICIARY, Elective. The term judiciary is very generally used to designate the collective body of the judges. It is also used to designate that branch of the government in which judicial power is vested, and the officials serving thereunder. In this more comprehensive sense, in which the word will generally be used in this article, it would include sheriffs, coroners, justices of the peace, commissioners of jurors, marshals, constables, bailiffs, and all the clerks and other subordinates of the courts of every grade; and among them would be county clerks, and other keepers of judicial records. The keepers of land titles, as distinguished from the keepers of judicial records, can in no sense, perhaps, be regarded as judicial subordinates; yet it seems plain that the same consideration which should govern the selection of the latter should also prevail in the selection of the former. In a sense it may be said that the sheriff is an executive rather than a judicial officer; for he is to help preserve the peace, which is a part of the duty of the president—to take care that the laws are faithfully observed. The sheriff is also to arrest offenders, which is an executive act and yet the execution of a judicial order. In a similar sense it may be held that the judges themselves are but subordinates of the executive for executing the laws. Blackstone, the great commentator on English laws, thus views the matter, presenting the judges as representatives of the king for doing justice. Indeed, kings originally dispensed justice in person, and the judges were at first selected as their substitutes. In its last analysis the distinction between executive and judicial officers is lost in metaphysics. — The arguments for and against an elective judiciary strike deep both into the theory and into the practical effects of government. Mr. Mill declares ("Considerations on Representative Government," London, 1861, p. 31) that "all the difference between a good and a bad system of judicature lies in the contrivances adopted for bringing whatever moral and intellectual worth exists in the community to bear upon the administration, and making it duly operative on the result." Without much considering either theory or experience, we have in later years yielded with equal facility

to blind hopes of reform from mere change, and to cunning devices of partisans for attaining their own ends. The consequences have been disastrous. The great contrariety of methods which now prevails for selecting judges, and the serious abuses which exist in our judicial administration, equally illustrate the gravity of the question and the lack of well considered views in regard to it. — Considered upon theory, a fundamental and radical view of the matter which seems favorable to the election of judges would be this: that each department of the government alike should rest upon the direct approval of the people. The president and the governors, who are at the head of the executive departments, are elected, and they appoint their subordinates The members of the assemblies and the senates, which are at the head of the legislative department, are elected, and they appoint their subordinates. Why should not the judges of the courts—the heads of the other departments—who appoint their subordinates, be also elected? Yet neither the president nor the members of the national senate are elected by the people; and if the analogy as to the appointment of subordinates is to be followed, all the officials before named, subordinate to the courts, would have to be appointed or nominated by them, subject to confirmation by the senates, which would make appointive many judicial officers who are now elective. — But the view just considered overlooks other considerations quite as fundamental and far more important. Members of congress and of legislatures are representative officers sent to speak and act in conformity to the interests and opinions of sections and classes which they represent, not forgetting, however, the general welfare; and that because the great body of the people can not appear in their own behalf. These interests and opinions frequently change. The views of the majority must prevail. These views are generally expressed through a party. It is not, therefore, practicable to disregard the political opinion or the party of a representative official. A real representation is manifestly attainable only through popular elections and short terms of office. The representation would be all the more exact and complete if the official term were but a year; or but for six months, as was once the case in Connecticut and Rhode Island; or but for two months, as was for a time the fact in some of the Italian republics. So, too, the president and governors, as to a part of their functions, are representative officers, taking part in making the laws. For that reason they should be elected and for short terms. Other parts of the functions of those officers are not representative, but are strictly executive, and to a large extent are merely ministerial; involving the business details of the great departments, where the tenure of the inferior officers should be irrespective of party politics. The prostitution for party ends in this branch of executive duties has developed the demand for civil service reform. (See the article under this head.) — On these theories our national and all our earlier state constitutions were framed When we come to the judiciary the facts are widely different. There is nothing representative in its functions; nothing dependent upon majorities or party policies; nothing that should conform to mere opinions or interests, whether general or local. To interpret the laws according to their meaning and to adjudicate the controversies on the basis of principle and justice —absolutely, universally, continuously, in every part of the country and for every citizen irrespective of his peculiar opinions and interests—constitute the supreme duty and safety. For a judicial officer, in the discharge of his duty, to yield to the popular majority or to make a compromise based on the conflicting interests and opinions of the people, as a legislator may in many cases fitly do, is the beginning of corruption and despotism. The very nature of such functions, the need of conforming to fixed principles and of resisting all temporary interests and emotions—not less than the need of long experience for giving a steady, intelligent and consistent interpretation to the statutes—proclaim the utility of a stable judicial tenure—of long terms of office, if indeed any fixed term be provided. To stand upon the precedents and to give effect to the statutes according to their legal import, however the majority may clamor and whatever the interest of his section or his party, is the test and the glory of the true judge It is for the public interest, therefore, that the manner of his selection and the influences thrown about him should be such as most tend to develop a judicial frame of mind, and to make him stand more in fear of the common sense, of propriety and justice, than of any party or any combination of private interests. He whose duties require him to be impartial toward all, ought not to be able to see in the members of one party only those who voted for him, and in the other only those who voted against him. For these reasons, if the election of judges is defensible, it can hardly be on any ground of principle, but must be solely because, as matter of experience, the practical effects of that method of choice have been found beneficial — It may be said, irrespective of all such analogies, that to question the capacity of the people to select the highest officials of any kind is to distrust republican institutions. Without here considering what methods republican governments have provided in this particular, it is well to note an important distinction between judicial and other officers In the case of representative officers the decisive question, whether the candidates would be representative of the interests and opinions of the people, is peculiarly one of which the voters are the most competent judges. And whenever the qualifications and duties of an officer are such as fall within the common intelligence and experience of the voters, there are abundant reasons why their selection may be safely trusted to them. Such

would not seem to be the facts in the case of judges. No one but well educated lawyers of large practical experience, and of such none but those of a well balanced, candid judgment, (or to use a phrase which in itself illustrates the limitation intended), none but those of a "judicial frame of mind," are fit to be made judges. The wisest choice is limited, first, to the members of a single learned profession, and, next, to that portion of its members which, very generally, have qualities the least likely to arrest popular observation; and of which, persons of a high order of intelligence, who are likely to be presidents, governors and legislators, are (outside of the legal profession itself) by far more competent judges than the average voter. The average citizen may decide, intelligently, whether a given lawyer would be a good representative of his district, or can make an effective speech before a jury, or is a man of good reputation, but he can hardly form a very intelligent opinion as to his having that exact knowledge of the law and that sound judicial judgment which qualify him beyond his fellows for the bench. As a general rule it may be said that the lawyers, above the inferior class, having the more showy endowments by which the average citizens would be impressed, as well as those who are most likely to seek and gain popularity in partisan circles, are precisely those who are least likely to possess the qualities most needed on the bench. Though there are exceptions, yet, as a rule, those lawyers most competent to be judges are those who practice least before juries, where the people are present, and most in the higher courts, where the people are not present.— Looking at the matter, therefore, in the light of principle, and assuming that neither corrupt motives nor partisan coercion much affect the choice, it would seem that we should be likely to secure the better lawyers for judges by making their selections through appointments rather than through popular elections. When such vicious influences are powerful, the problem becomes exceedingly complicated. It is possible to conceive a state of facts under which, temporarily, the appointing power might be more demoralized than the public conscience, and therefore that unworthy men could be appointed judges when they could not be elected. The nearest approach to that state of facts, perhaps, was under the council of appointment many years since in the state of New York, and again during the domination of Tammany Hall, in New York city. Yet Barnard, Cardozo, McCunn and all the judicial officers of a lower grade, by which New York was disgraced, were elected by popular vote. No judges of capacity or character so low had ever reached the bench until many years after 1846, when judges were first made elective in that state. And if it be conceivable that a governor and legislature, or either acting alone, would have put such men upon the bench, it is certainly impossible that any worse could have been selected. That the wide-spread bribery and corruption of the voters by which, through popular elections, such men reached the bench, were far more disastrous than anything which would have attended the appointment of the same men, can hardly be doubted. And it is not conceivable as a continuing condition, or except under very anomalous circumstances, that the moral tone of those who would control nominations can be lower than that of those who would control the action of the party majorities, by which, after appointments have given place to popular voting, the choice of judges is almost invariably given these officers. Whenever in a community there is such independence of partisan bias and coercion that the voters will leave their party, or the judicial candidate of their party, in order to vote for a better candidate of the other party, or in order to vote for some better man of their own party than its convention has nominated, it is quite certain that the appointing power must be in worthy hands. The very causes which would produce a bolt from the nomination of a bad candidate, would secure the election of governors and legislators who would not venture to prostitute a power of appointing judges We are therefore, in this view of the matter, thrown back again upon the relative merits, intrinsically considered, of the two possible methods of selection. — If from theory we turn to practice, we find that almost the sole experience of an elective judiciary among the more enlightened nations is limited to this country, and to the last thirty-eight years. Yet at an early period most of the sheriffs in England were chosen by the inhabitants of the several counties, though some of them were hereditary. But tumultuous elections caused them to be made appointive in the time of Edward II., and such they have since remained. A statute of Richard II. (well worthy our consideration) provides that no person shall be selected by those having the appointing power for justices of the peace or sheriff, "that *such either privately or openly* to be put in the office, but only such as they shall judge to be the best and most efficient." Office seekers are thus made ineligible. Coroners in England have, from early times, been chosen for life by the freeholders of the county court, and upon this precedent our practice of electing coroners seems to have been based; though in England, as with ourselves, the popular election of such officers has been found as vicious in its effects as it is repugnant to all sound principles. No other judicial officers have been elective in Great Britain. — The inconsiderate facility with which judicial officers were first made elective in the early years of this generation, is a striking and significant fact in our politics. But the authors of the "Federalist" pointed out that, by reason of the few who can give intelligent consideration to judicial matters, changes could be made in the judicial department more easily than in the others. In 1787, when the federal constitution was adopted, each of the thirteen states, except Rhode Island and Con-

necticut which had retained their charters, were under constitutions of their own creation. The elections of judges, and (with slight exceptions) the elections of judicial officers of every grade, were unknown except in Georgia. In Massachusetts, Maryland and New Hampshire the judges were appointed by the executive. In New York and Pennsylvania the appointments were made by the executive and a council of appointment. In Delaware the executive and the legislature appointed. In New Jersey, Virginia, North Carolina and South Carolina they were appointed by the legislature. In South Carolina the legislature appointed justices of the peace and sheriffs, and in Georgia it appointed justices of the peace and registers of probate. The tenure was generally that of good behavior. The one striking exception to these general principles was the first constitution of Georgia, adopted in 1777, which contains very peculiar provisions. The legislature was a single body. Juries were made judges of both the law and the facts. No person could practice law without a permit from the legislature. The judges of the two higher courts were made *elective by popular vote for one year only.* This seems to be the first instance of the election of judges by popular vote, or of their being given a fixed term in this country. Two years later the term in Georgia was extended to three years and a state senate was created, but judges were left elective. The elective system did not give satisfaction, and it greatly divided public opinion. Before 1852 judges had become appointive by the legislature. In that year they were again made elective by the people. In 1861 it was provided that the governor should nominate and the senate confirm them; the highest grade holding for a term of twelve years. Georgia has not since made her judges elective.— The debates pending the adoption of the federal constitution, equally with its provisions, disclose a profound sense of the need of making the bench independent of the pressure of partisan and selfish interests. Neither the president, who is to nominate, nor the senators who are to confirm, are directly elected by the people. The judges are to hold their places "during good behavior," and they are to "receive for their services a compensation which shall not be diminished during their continuance in office." The general purity, efficiency and dignity of the federal courts, the high estimation in which they have been uniformly held by the people, as well as the indisposition to make any change in the method of selecting the federal judges, would seem to be the best test of principles upon which these courts are based. A proposition to make the judges of the supreme and other federal courts elective by popular vote would doubtless be received with something like universal repugnance; and few, probably, would think it could be carried into practice without serious danger to the government. — The partisan interests and theories which, during the last forty years, have caused so great changes in the judiciaries of the states, have produced obvious effects upon the federal courts. The federal judges in the territories have been made appointive for a term of only four years; thereby involving their tenure in presidential elections, and tempting them to take part in local politics; a temptation of which it is easy to trace the mischievous consequences in the judicial administration of the territories. It would seem to be plain that such a term of office, illustrating the advance of the spoils system in our politics, is repugnant to the spirit if not to the letter of the federal constitution, which declares that the judges, both "of the supreme and *inferior* courts, shall hold their offices during good behavior." Is not a territorial court an "inferior" court? The lamentable effects upon the federal judiciary, of bringing party politics upon the bench, and of state judges standing as candidates for political offices, is further illustrated in the apparent willingness of the late chief justice of the supreme court and of several associate justices in recent years, to be presented as candidates for the presidency. And when, soon after his appointment, Chief Justice Waite refused the use of his name as a presidential candidate, for the reason that it would compromise the becoming independence of his position, he displayed a high sense of duty and propriety which deserves more attention than it has received. When, in his letter of refusal, he inquired whether, "if he allowed his name to be used to promote a political combination," * * "he could, in all cases, remain an unbiased judge in the estimation of the people," and further declared that "there can be no doubt that, in these days of politico-juridical questions, it is highly dangerous to have a judge who looks beyond the judiciary to his personal ambition," he acted upon reasons which condemn the whole theory under which popular elections and short terms of office have made the judiciary of so many states responsive to political influence and party majorities. The causes which, in the last thirty-five years, have led to the selection of so many judges by popular elections and for short terms, were of slow growth. They need not be traced here; but see TERM AND TENURE OF OFFICE, and SPOILS SYSTEM. — Prior to 1820 the subordinate officers of the executive departments (with the single exception of marshals) had no fixed terms. In that year collectors, district attorneys and some others were given a term of four years. The change was made without debate and in obedience to a growing demand for more patronage, re enforced by increasing despotism in party management. Jackson's administration explained the significance of the changes. Under him, in 1832, Marcy of New York proclaimed, in the senate, the doctrine that "to the victor belong the spoils," which shows pretty clearly the spirit that was then being developed in his state. (See SPOILS SYSTEM.) In 1836 a four years' term was extended to all postmasters having a salary of $1,000

and over. This increased patronage but emboldened the demand for more places to fill, to which each of those laws was a surrender. Had not the provisions of the federal constitution been in the way, it may well be feared that the offices to which the four years term was extended would have been made elective. But why should not judges as well as postmasters and collectors have short terms? And since a state may be induced to elect them, why should they not, as well as legislators, be elected by the people? This was the logic of the patronage mongers and the spoilsmen. When urged by persuasive orators before popular audiences of farmers and lumbermen in the border states, it is by no means easy to resist. Nor is it much less effective with a large class of voters in the older states, when jointly urged by the lawyers who wish the ways easy and numerous to the bench, and by the politicians who seek more patronage to disperse and more frequent elections to manipulate. Judges were made elective in Missouri in 1820; in Mississippi in 1832; in Alabama in 1833; in each case for short terms; being for the presidential period of only four years in Mississippi. But the latter state, alarmed at the prospect, has since made her judges appointive. These dates indicate the development of those influences which introduced partisan proscription at about the same period into the executive service of the nation. It was natural that New York, where the spoils system was most developed, should be the first of the older states to commit her judiciary to popular elections and short terms. In 1846 she made her judges elective for the first time, and reduced the tenure of good behavior to a term of eight years. Various subordinate judicial officers were also made elective. The state was divided into eight judicial districts, and the judges were declared elective by popular vote separately in each of these districts. To careful observers the injurious effects of the new system very soon appeared, in a vicious partisan activity steadily increased, in judges who were greater politicians and lesser lawyers than had before been on the bench, and in more uncertainty in the law and less respect for the courts. The deplorable corruption in the judiciary of that state to which such abuses finally led, need not be described The purest and ablest of the judges, lawyers and statesmen of New York, and the great body of her more enlightened citizens, have joined in lamenting this introduction of judicial elections. They made an effort in 1873 to reverse the disastrous experiment, but partisan influence prevailed; though the term has been extended from eight years to fourteen; the districts have been reduced from eight to four; the highest court has been made permanent; and in New York city the elective system for inferior criminal justices was overthrown, and such justices have been made appointive; important steps back toward the original system for which public opinion in that state is steadily growing more favorable.

—On the occasion of the election in 1873 the association of the bar of New York city (composed of more than 700 of the leading members, after full discussion) adopted, by a majority of more than five to one, a statement of reasons why judicial elections had been disastrous and should be abandoned in that state, from which we make the following extracts: "The change to an elective system was not made because the people demanded it, or because the method of appointment in this state or elsewhere had developed any judicial abuses; for there was no such demand; and in the whole period prior to 1846 not a scandal had touched the character of a single New York judge in connection with his judicial functions." * * "When the elective system was submitted to the people in 1846, there was almost no discussion before them." * * "Judicial elections have, in our opinion, as a rule, been unfavorable to the selection of men of the greatest ability and attainments for the bench, and not less unfavorable to the prevalence of courage and fidelity in the discharge of judicial functions. The judicial canvass is in its very nature demoralizing; and the temptation is dangerously strong to make commitments unfavorable to justice. The judge who reaches the bench through a party contest at the polls, where one portion of the people support and the other oppose him, by no means finds it as easy to be impartial, nor do lawyers and suitors find it as easy to believe him impartial, as if he had been appointed by the governor and confirmed by the senate." * * "Such selections have also been prejudicial to learning and character among lawyers. Lawyers of inferior capacity, aspiring to the bench, have been induced to intrigue for caucus and party influence, and thus the more honorable conditions of professional advancement have been disparaged and neglected. Much in the same ratio in which inferior lawyers have been able to reach the bench, under the elective system, persons of small education and uncertain character have made their way at the bar." * * "The election of judges, by giving more offices to be made the subject of bargaining and intrigues by the managers of popular elections, has increased the number and power of those party mercenaries who live by the spoils of elections, and the same cause has aggravated the excessive power of the mere party majority." * * "It has been one of the results of our elective system"—responding to party majorities and local influences—"that our decisions have wanted consistency, and our whole judicial system has been fluctuating and feeble. In the period during which Massachusetts has had only eighteen supreme court judges, or judicial terms, and all England has had only forty-one in her three higher law courts, New York had had *one hundred and sixty* judges or judicial terms, in her supreme court, and *one hundred and twenty* in her court of appeals. And our excessive appeals and overrulings and reversals of decisions have been much in the

same ratio as compared with those of England and Massachusetts." * * "This system, to the knowledge of all of us, calls to the polls every vicious and criminal voter by all the direct interest he feels in his own safety for the past, and by his hopes of impunity for the future It appeals to the honest and virtuous voter only by a remote interest, or a mere disinterested sense of duty." — In the work of Mr. Mill, already cited, he says: "Of all officers of government, those in whose appointment any participation of popular suffrage is the most objectionable are judicial officers. While there are no functionaries whose especial and professional qualifications the popular judgment is less fitted to estimate, there are none in whose conduct absolute impartiality and freedom from connection with politicians are of anything like equal importance. The practice, introduced by some of the new or revised state constitutions of America, of submitting judicial offices to periodical popular re elections, will be found, I apprehend, to be one of the most dangerous errors ever committed by democracy." — Massachusetts, New Hampshire, Connecticut, Vermont, Rhode Island and New Jersey have never adopted the elective system; though Connecticut introduced a term of eight years for her appointive judges. New Hampshire has on two occasions—and apparently only in order to give the dominant party an opportunity to secure patronage—abolished its judicial system and created another into the offices of which the dominant party proceeded to put its favorites by appointment. Pennsylvania was but four years behind New York in yielding to the pressure for the election of judges; exchanging, in 1850, her appointments and her tenure of good behavior for popular elections and a term of eight years. The effects, only a little less disastrous than in New York, caused the term to be extended to twenty-one years in 1874. In 1875 Missouri, the first state after Georgia to adopt the elective system, was compelled for the same reasons to extend her judicial terms from six to ten years. Ohio also has felt the same influences. Her constitution of 1802 made her judges appointive by the general assembly for seven years. In 1851 the term was reduced to five years, and the judges were not only made elective but they were required to be residents of the district where they were elected. These facts sufficiently indicate the causes to which the change of system has been due and its effects, and we have not space for further particulars. It would be instructive, if we had space, to point out the uncertainty in the law, the increased litigation, the greater number of appeals, the loss of respect for the courts, and the incompetency upon the bench, which have been the consequence of these short terms and of popular elections. — There appear to be twenty-four states in which the judges are now elective by the people. The terms vary in length from two years in Vermont—though Vermont keeps her judges, by reappointments, a long time in office—to twenty-one years in Pennsylvania; the average length being about ten years. In most of the states where the judges are appointed, there is no fixed term, but a tenure of good behavior. Nearly all the recent changes in the judicial system where terms exist, have increased their length. Several states have within a few years returned to the method of appointment. The spirit of reaction against an elective political judiciary appears to be still on the increase. — There is one part of the system of popular elections, that of electing the superior judges in separate districts, which hardly fails to have a pernicious influence, for, while suggesting to the people the idea that judicial action should be representative, it also brings the judges into a dangerous dependence upon local interests and feelings. They are naturally expected by the people of their district to so interpret the law as to protect their part of the state. Some of the states have even required each judge to be a resident of the district where he is elected; as if he was, in a strict sense, a representative officer. This district system is unfavorable to the election of the abler men whose reputations are known over the whole state. A very ordinary lawyer may secure popularity in a district. It is of the utmost importance that the people should feel that the interpretation of the law and the principles of justice are the same not only at all times but in every part of the state, identical in spirit, uniform in administration, recognizing neither locality nor occupation. This local district system teaches the contrary. There is reason to think that not a few decisions made by these local judges, which have in so many instances been reversed on appeal, can be traced to the bias or the fears which have been caused by such local influences. Between such causes and the effects of short terms and of electing popular lawyers by popular votes, the proportion of appeals and of reversals of decisions in our state courts is not probably approached in the judicial procedure of any other enlightened nation. — It may be said in defense of the method of popular election, that no people under republican institutions can reasonably expect to secure judges, on the average, above the standard which the people regard as appropriate for the bench, and that, by allowing every man to vote, the result will represent that standard. Abstractly considered, this view has much force. But we have seen that there are peculiar reasons why the people generally are not likely to rightly estimate judicial qualifications. Besides, it follows, almost as a necessity, that the nominations for judges are made by the same party conventions which nominate representative officers, and that the election of both is, for that reason, generally dependent upon the same party management. The better class of voters who desire learned and able judges more than party victories, do not all belong to one party. They are kept from acting together, and their influence is divided and weakened by

the very process of putting the candidates in nomination. These facts, besides constantly teaching the people that a judge is both a representative official and a party candidate, tend to cause the members of one party to expect favor and the other to fear injustice from the bench where he presides. The very fact of the nomination being made by one party tends to cause a distrust of the candidate on the part of the members of the other. Many decisions involve, if not party questions yet the interests of party chieftains. Nor are these the only cases in which lawyers and their clients do not disregard the politics of a judge and the obligations implied in his election. In the case of an appointment, it is only a few and not the whole voting population that get heated and prejudiced from the method of the selection. And it is not only the people who by the very methods of election are drawn into distrusts and divisions, but the bar itself. Its members belong to the different parties; and on the platforms and at the polls the elective system divides them into advocates and opponents of the candidates before some of whom they are to ask impartial judgments for their clients, among whom the same divisions have been in the same way produced. That this false teaching has affected the public estimate of the relation which judges should sustain toward politics, can hardly be doubted. Where is the statesman among us who would dare put forward a candidate for a judge who was not of his own party? The nomination even of Mr. Conkling, the most intense partisan of his time, for the supreme bench, has just met with only moderate dissent. But in Great Britain, where an elective judiciary is unknown, Mr. Gladstone has just made Sir John Holker, the tory attorney general of Lord Beaconsfield, a lord-justice of appeal, with the approval of his own party. When the ordinary voter casts his ballot, the fit inquiries he makes are these: Does the candidate uphold the principles of my party? Will he protect the interests of my district? These questions he can properly answer. But, when among the same parcel of votes he finds one the wise and just casting of which requires him to disregard those principles and to rise above those interests, and to answer this question alone: Is this candidate an upright lawyer, having that learning, experience and judicial frame of mind which fit him for the bench? it will be fortunate indeed if he shall have both the freedom from party bias and the special information needed to answer that question properly. — It seems quite clear that during the period in which there was the strongest tendency to make judges elective and their terms short, there was also a tendency, stronger than ever before, to reduce the period of study and the scrutiny of examinations, required for admission to the bar and for graduation at the law schools. And, on the other hand, since the reaction against popularizing the judiciary, these periods of study have been generally increased and the examinations for admission to the bar have generally been made more severe. The law schools and the rules of court in the state of New York and the law school at Harvard university may, among others, be cited as examples of the true significance of the reaction. — It can not be doubted that the evils which have attended an elective judiciary, as well as the causes which have enlisted supporters for it, have been in an influential manner connected with the growth of the spoils system in our executive administration. The patronage of bestowing the subordinate appointments under the judges has been a chief object on the part of the partisan managers who have generally dictated the judicial nominations. We have no space for presenting the facts But in New York, and in varying degrees elsewhere, this patronage has been apportioned and made sure of before the nominations have been made. The tender of the nominations has been accompanied with a demand of the patronage, and without the pledge of it the nomination would be withdrawn. In New York the subordinate positions under the judges have been crowded with supernumeraries in order to make places for the dependents of great politicians and for those henchmen who were effective at the polls. The shorter the terms and the more compliant the candidate, the more abundant and valuable is this patronage to the party manipulators. We may be sure this evil and kindred abuses will increase with the growth of cities and the development of luxury. Already in New York there are good reasons for believing that judicial nominations have very recently been made upon the condition of the payment of a large sum into the treasury of the party making them. If the reform methods already shown to be practicable (see CIVIL SERVICE REFORM) shall be introduced, according to which real tests of merit, and not mere official favoritism and partisan influence, will secure entrance to these subordinate places, the zeal of parties for judicial elections would be greatly abated. It would then be far easier to return to the method of appointment, whereby the growing evils of too many elective officers would be diminished, at the same time that some of the most objectionable accompaniments of appointments would be removed. For, it is equally true that the patronage of these subordinate places has been the cause of what has been most objectionable and corrupt when judges have been appointed as well as when they have been elected. — The method of selecting judges by appointment has not been uniform. In several states they are selected by the legislature alone; in others they are nominated by the governor and confirmed by the senate; in others still they have been nominated by the governor and confirmed by the two houses of the legislature. Changes so frequent and methods so discordant are abundant proof that the whole subject needs careful study; and they make it probable that some better system

may yet be devised for separating the judiciary from party politics and active interests, while uniting the better men of both parties in common efforts for advancing the fittest lawyers to the bench. — Of all departments of the government the judiciary is that which needs to be most self-poised and most independent of party politics and temporary interests and excitements And yet, if it is not by popular elections made directly dependent upon such influences, it is by appointments made to rest upon the favor of presidents, governors and legislators, by whom those influences are, both in theory and in fact, represented. In other words, our appointments for one department stand upon the two others as a basis. The problem is to give the judiciary an independent foundation, and yet as far as practicable a non-partisan and non-representative foundation. There is also a great need of a more thorough supervision than we now have of the action of our judicial tribunals—of those of the lowest rank not less than those of the higher; and of the doings of sheriffs, coroners, marshals, constables, jailers, wardens, and of the whole prison system as well—the results of which should every year be presented in full detailed reports. The comparative expense and efficiency under each court and the other several classes of officers should be made public. Such reports would bring to light and hence defeat much extravagance, injustice and inefficiency. They would at the same time increase the official sense of responsibility. We have been treating the administration of justice, and especially the duties of subordinate judicial officers, as if they only concerned the localities. We have allowed something like secrecy and great confusion and injustice in our lower courts. May it not be practicable, especially in the larger states where the need will be greatest, to create a body which, in addition to performing these latter duties of supervision, shall be clothed with the authority (now accorded to governors) of making judicial nominations? It might also have the duty of presenting impeachments of judicial officers now given to legislative assemblies. It is very likely that strong objections will at first be made to so novel a mode of nominations. But it may be hoped that on reflection no objection can be sustained which would not be equally valid against a nomination by a governor, while various objections to the latter would be avoided. If such a body or board could be made up of three or five ex judges of the higher courts, (either to be elected, or to succeed to their places *ex officio*), with terms so arranged that changes in the board should be gradual, it would seem that nominations might be made that would be in great measure free from party politics and mere local interests. Men long trained to judicial habits would not bring the political ambition, spirit or dependence of a newly elected governor. It would also be possible, and largely upon the basis of English statutes, to greatly increase the peril of making appointments and removals for unjustifiable reasons. We have thus far treated the power of nomination rather as a perquisite than as a trust, (see REMOVALS), and from this cause have sprung grave objections to the appointment of judges, which it is quite possible to remove by adequate legislation. DORMAN B. EATON.

JUDICIARY (IN U. S. HISTORY). Under the colonial régime the judges held office at the king's pleasure. In Virginia, Maryland and New England the assemblies were at first the final court on appeal, and the New England assemblies for this reason assumed the special title of "the great and general court" (see ASSEMBLIES); but the crown ultimately succeeded in maintaining its right to appoint all the judges, though the assemblies retained the right to pay them. (See REVOLUTION.) When royal authority was overthrown, the control of the judiciary fell to the states. In Massachusetts, New York and Maryland their appointment was given to the governor and council; in the other states, to the legislature. There was no federal judiciary, and congress was dependent upon state courts for the definitive interpretation even of the articles of confederation. In territorial disputes between the states congress was itself a court, (see CONFEDERATION, ARTICLES OF, IX); and by the ordinance of April 5, 1781, congress established courts for the trial of piracies and felonies on the high seas; but there was no power in either case to enforce decisions. This lack of any general judicial power, extending throughout the states, and empowered to define the boundaries of federal authority and to enforce its decisions by federal power, was one of the most serious evils of the confederation, and there was hardly any opposition in the convention to the proposition for supplying it by the creation of the judiciary system of the United States. — I. ORIGIN. The "Virginia plan," as introduced, May 29, 1787, in the convention, proposed in its ninth resolution that "a national judiciary be established, to consist of one or more supreme tribunals and of inferior tribunals, to be chosen by the national legislature, to hold their offices during good behavior," and to have jurisdiction over all "questions which may involve the national peace and harmony." In committee of the whole, June 4, "the first clause, that a national judiciary be established, passed in the affirmative, *nem. con.*" June 13 the jurisdiction of federal judges was limited to "cases which respect the collection of the national revenue, impeachments of any national officers, and questions which involve the national peace and harmony"; and their appointment was given to the senate. July 18, it was proposed to give the appointment to the executive, with the advice and consent of the senate, as was finally decided; but this was lost, July 21, and the judiciary resolution went unchanged to the committee of detail, Aug. 4, except that congress was to appoint inferior judges. The report

of the committee, Aug. 6, did not essentially change the jurisdiction or constitution of the judiciary. It was not until the report of the committee of eleven, Sept. 4, that the judiciary took its present form: the appointment of the judges was given to the president with the confirmation of the senate; and the power of trying impeachments was taken from it and given to the senate. Its jurisdiction had previously been settled, Aug. 27, and was perfected by the committee on revision, appointed Sept 8. In their report it stands as it was finally adopted. (See CONSTITUTION, ART. III.) — In the constitution of the federal judiciary two points are to be specially noted, before considering its history and jurisdiction. 1. The supreme court itself was the only one which was imperatively called for by the constitution; inferior courts were to be such as "congress may from time to time ordain and establish"; but in all the courts the judges were to hold office during good behavior, and their salaries were not to be *diminished* during their continuance in office. Congress, by the judiciary act of 1789, organized the district and circuit court system of inferior tribunals, from which scarcely any essential departure has since been made. (See FEDERAL PARTY, I.) The territorial courts are not a part of the judiciary contemplated by the constitution, but are organized under the sovereign power of the federal government over the territories; their judges, therefore, hold office for a term of four years. There are also consular courts, held by American consuls in foreign countries, such as Egypt and China, which have sometimes even acted as courts of probate; but these are entirely out of the scope of any constitutional view, and if defensible at all can only be defended under the treaty power. 2. To create a judiciary, and even to assign to it a jurisdiction, did not seem sufficient to bind down the state courts which had hitherto been sole possessors of judicial powers. The constitution, therefore, further provides (in article VI.) that the constitution, and the laws and treaties made by virtue of it, shall be "the supreme law of the land, and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding." This, the most sweeping and energetic of the very few distinctly national features of the constitution, seems hardly to have been taken at its full measure by the convention itself. There was no such provision in the "Virginia" or nationalizing plan; it was first introduced in the "Jersey plan," June 15; and when brought up, June 27, by Luther Martin, then the most ultra of particularists, "was agreed to, *nem. con.*" Nor was there any more opposition to the two slight changes, Aug. 23 and 25, which brought the clause into exactly its present form. It seems to have been regarded mainly as a repetition of the *promise* of the states "that they shall abide by the determinations of the United States in congress assembled," which had been the only guarantee for the faithful observance of the articles of confederation. It would probably have amounted to no more than this but for the coincident creation of the federal judiciary. The conjunction, accidental or purposed, of the two provisions had an effect that could hardly have been anticipated. By defining *law*, as well as law courts, it vested in the federal judiciary the power to define the boundary line between federal and state powers, and bound the state judges to acquiescence. When the consequences became apparent, an instant revulsion followed. Jefferson and the whole democratic party at once denied the "power of the federal government thus to define its authority"; and on their accession to power in 1801 the "supreme law" clause became a practical nullity until toward 1820, when the judiciary, under the lead of Chief Justice Marshall, again began its assertion. It met with renewed opposition, which was gradually weakened until the close of the rebellion left the "supreme law" clause universally acknowledged as above stated. (See KENTUCKY RESOLUTIONS, CHEROKEE CASE, NULLIFICATION, PERSONAL LIBERTY LAWS.) However necessary it may be, it is certainly open to one criticism. The judiciary has always held that it can not interfere with the *political* exercise of power by congress or the president. It is evident, then, that there is a large class of cases in which the supreme court, by its own decisions, can not and will not act as the "interpreter of the constitution," (see STATE SOVEREIGNTY, SECESSION), and in these cases congress and the president must be the final judges of their own powers. The United States is thus practically made a national democracy, limited only by its own desire for representative institutions and for the preservation of state lines. To some minds this has always seemed a national tyranny; to others, the surest method of encouraging the political self-control of congress, the president, the state governments, and the national democracy itself. — II. HISTORY. One of the first subjects which claimed the attention of congress under the constitution was the organization of the judiciary. A committee to prepare a bill for that purpose was appointed in the senate, April 7, 1789, the day after the first permanent organization of that body. The first judiciary act became law Sept. 24, 1789. It provided for a supreme court, to consist of a chief justice and five associate justices, and to hold two sessions annually, in February and August, at the seat of government; for district courts, each to cover within its jurisdiction a state, or some defined part of a state, as the district of Maine in Massachusetts, or the district of Kentucky in Virginia; for circuit courts, each to cover within its jurisdiction several districts, to hold two courts annually in each circuit, and to be presided over by one of the supreme court justices and the district judge of the district; for a marshal and an attorney for each district; for an attorney general of the United States; and for forms of writ and process. This organization, produced without

any precedents as guides, has remained substantially unaltered to the present day. The number of supreme court justices has been gradually enlarged to nine, eight associate justices and a chief justice; a distinct class of circuit judges has been created; the territorial limits of the circuits have been variously modified; the number of districts has been increased from fifteen to fifty-three; but the organization is still the same. — The only doubtful point in the organization of the judiciary was, whether the circuit courts, presided over by supreme court justices, were "inferior courts," such as congress was authorized to establish. This, with other reasons, led to the passage of the act of Feb. 13, 1801, which organized a distinct class of circuit courts, with sixteen justices to preside over them. The appointees were federalists; their clerks and other officers were of the same party; and the whole bill was denounced by the democrats as a federalist scheme to provide offices for life for a number of federalist politicians who were now to lose all hold on power. The story that President Adams was kept busy until midnight of his last day of office in signing commissions under the act, seems to have given strength to the popular clamor for the removal of the "midnight judges." It was difficult to find a way to the removal, for the constitution distinctly provided that the term of all judges should be during good behavior. The democratic majority, however, decided that the official existence of the judges was bound up with that of their courts, and the act of March 8, 1802, got rid of the judges by abolishing their courts and restoring the old circuit court system. The ousted judges petitioned congress for employment or for pay, but were refused both. — Suits "between a state and citizens of another state" are placed by the constitution under the jurisdiction of the supreme court. Suits were at once begun in the supreme court against various states, but it was not until February, 1793, in the case of Chisholm *vs.* Georgia, that the court decided that such suits would lie against a state as against any other corporation. Georgia protested, and refused to appear; judgment by default was given for the plaintiff in February, 1794; but its execution was stopped by the adoption of the 11th amendment. (See CONSTITUTION, III.) The jurisdiction of the court was thus limited to suits in which a state is plaintiff and a citizen or citizens of another state defendants. — Among the last appointments of President Adams were those of certain justices of the peace in the District of Columbia which the incoming president, Jefferson, refused to complete. An attempt was made through the supreme court to compel completion of the appointments. In this case, Marbury *vs.* Madison (the secretary of state), the court laid down the rule, to which it has always adhered, that "questions in their nature political, or which are by the constitution and laws submitted to the executive, can never be made in this court." By observing this rule the judiciary has successfully avoided any clashing with the other departments of the government. (See EXECUTIVE, III.) — For the first thirty years of its history the federal judiciary came very little into contact or antagonism with state sovereignty or state courts. The first occasion of heart-burning was removed by the 11th amendment, and thereafter the supreme court carefully avoided any conflict until 1806, when, for the first time in our history, a state law was "broken." (See YAZOO FRAUDS.) The war of 1812 increased the national feeling so widely that the federal judiciary could not but reflect it. The first case which brought the change to clear view was that of Martin *vs.* Hunter's Lessee, in February, 1816. The 25th section of the act of 1789 had given a right of appeal to the supreme court from a final judgment of a *state* court in what are now often called "federal questions," that is, in questions whose decision invalidates any law or treaty of the United States, or upholds a state law claimed to be repugnant to "the constitution, treaties or laws of the United States." In February, 1813, the Virginia court of appeals refused to obey a mandate of the supreme court in an appeal of this kind, on the ground that no act of congress could constitutionally give any such right of appeal. Story's opinion in the above case in 1816, and still more Marshall's in the case of Cohen *vs.* Virginia, in February, 1821, upheld the constitutionality of the 25th section, and in doing so brought out for the first time to full view the "supreme law" clause of the constitution, with all its consequences. These, and the almost contemporary bank cases of McCulloch *vs.* Maryland, in February, 1819, and Osborn *vs* The Bank of the United States, in February, 1824, (see BANK CONTROVERSIES, III), roused immediate opposition. Their root doctrines were ably controverted by Judge Roane, of Virginia, in a series of articles in the Richmond "Enquirer," May 10–July 13, 1821, over the signature of "Algernon Sidney", were warmly dissented from by at least one of the supreme court justices; and organized opposition to them in several of the states was only checked by the overshadowing importance of the Missouri question. (See COMPROMISES, IV.) Nevertheless the federal judiciary swept on to the assumption of its full limits of power. In 1827, in the Ogden case, it overthrew the insolvency laws of the states; and in 1831 it brought the state of New York before it, at the suit of New Jersey, in order to decide a disputed question of boundary. In January, 1838, the "Democratic Review" thus angrily summed up the progress of the federal judiciary since the beginning of the century: "Nearly every state of the Union, in turn, had been brought up for sentence; Georgia, New Jersey, Virginia, New Hampshire, Vermont, Louisiana, Missouri, Kentucky, Ohio, Pennsylvania, Maryland, New York, Massachusetts, South Carolina, (Delaware just escaped over Black-bird creek), all passed through the Caudine forks of a subjugation which has more

than revived the suability of states. Beginning with Madison's case, there are nearly forty of these political fulminations from 1803 to 1834, viz.: one each in 1806, 1812 and 1813, two in 1815, one in 1816, four in 1819, three in 1820, two in 1821, two in 1823, two in 1824, one in 1825, four in 1827, five in 1829, three in 1830, two in 1832, two in 1833, and one in 1834; a great fabric of judicial architecture as stupendous as the pyramids and as inexplicable." The development was undoubtedly checked by the failure of the supreme court to compel obedience by Georgia in 1832 (see CHEROKEE CASE); but it was entirely arrested for a time by the political revolution in the court itself in 1835–7. In this brief space the seats of two associate justices and the chief justice were vacated by death or resignation, two new justiceships were created, and the appointments by Jackson and Van Buren completely changed the complexion of the court. In 1845–6 three new vacancies occurred which were filled by democratic appointments, and the court thereafter was rather a check than a provocative to the advance of the nationalizing spirit. (See NATION, III.; DRED SCOTT CASE.)—The outbreak of the rebellion in 1861 found the national government divided in politics: congress and the president were republican; the supreme court was unanimously democratic, and two of its members, Catron and Wayne, were from the seceding states of Tennessee and Georgia respectively. Nevertheless, except in one instance (see HABEAS CORPUS), there was no sign of variance; the same court which had pronounced the Dred Scott decision unhesitatingly upheld the power of the national government to prosecute war against the rebellion. (See INSURRECTION, I.) The circuits in the seceding states were suspended during the war and after its close until (in 1867) martial law had ceased to operate, for the obvious reason, as given by Chief Justice Chase, that "members of the supreme court could not properly hold any court the proceedings or process of which was subject, in any degree, to military control." Circuit courts were held by various district judges in seceding states, but the supreme court declined to consider appeals from them. — The first reconstruction act, as originally introduced, Feb. 6, 1867, prohibited the granting of writs of *habeas corpus* in the insurrectionary states without military permission; as passed, March 2, 1867, it contained no such provision, but reached much the same end by directing the punishment of disorders and violence to be by military commission. (See RECONSTRUCTION.) As the process of reconstruction went on, its leaders began to entertain more misgivings as to the possible action of the supreme court. One McArdle, in Mississippi, had obtained a writ of *habeas corpus* from a federal circuit judge to the military commission which was trying him. The circuit court refusing to discharge him, he appealed to the supreme court, and it seemed likely that the fate of the whole scheme of reconstruction would be involved in the final decision of the court. An act of congress was therefore passed repealing that section of the act of Feb. 5, 1867, which authorized such appeals in *habeas corpus* cases. The bill was vetoed, March 25, 1868, and passed over the veto. A bill also passed the house to forbid a declaration of the unconstitutionality of any act of congress by the supreme court, unless two-thirds of the justices should concur; but it failed in the senate. — The misgivings of congressional leaders had been unfounded. In December, 1868, the court fully sustained reconstruction by congress, in the case of Texas *vs.* White. It was already becoming republican in its sympathies by new appointments, and the continued control of the appointing power by the republican party made it progressively more so, until there is now (1882) but one democratic justice in the court, S. J. Field. In December, 1869, there was still some doubt as to the political leanings of the court. It then decided against the constitutionality of the action of congress, in 1862, in giving a legal tender character to the paper currency, but in March following, a new judgeship having been created by law and another new judge having been appointed to fill a vacancy, the legal tender question was again introduced, and the previous decision was reversed by the votes of the two new judges. In 1873, in the slaughter-house cases, the court began its construction of the war amendments, and upheld the validity of congressional action under them. This work it has not yet carried to its completion. (See CONSTRUCTION, III.)—The powers and duties of the district and circuit courts are great, but not extraordinary. Those of the supreme court can not be paralleled or approached by those of any other judicial body which has ever existed. The imagination of a lawyer of earlier times could hardly have soared to the ideal of a court empowered to wipe out at a touch the legislation not only of great states like New York, equal in population and wealth to at least a kingdom of the second class, but even of that which is now the most powerful republic, and will very soon be the most powerful nation, of the world. And the powers of the court are not based on its overmastering force, for it has always carefully avoided the use or even the suggestion of force. It is, said Marbois long ago, a power "which has no guards, palace or treasures, no arms but truth and wisdom, and no splendor but its justice and the publicity of its judgments" Its controlling influence, nevertheless, is firmly established, though very charily used. Congress and the president would resort to almost any expedient rather than have the supreme court formally pronounce against them; a law which this court has finally declared unconstitutional can be disobeyed or set at defiance with impunity all over the country, for no other court would allow a conviction under it; and, apart from both these considerations, the popular reverence for the court's wisdom and discretion is so deeply

fixed that its final decision has been sufficient, as in the case of the general election law in 1879, to control even the passionate feeling of a great national party. This influence is due not only to the distinguished ability of the members of the court, but to their invariable integrity, freedom from partisan feeling, and self-restraint. Throughout the whole history of the court there has never been the faintest suspicion upon the integrity of the supreme court justices; and this is equally true of the inferior courts, with the single exception of one district judge in Louisiana in 1872–3. (See LOUISIANA.) Nearly every justice has been prominent in politics before his appointment, and some of them, as Taney, Barbour, Woodbury and Chase, very actively; but all have dropped partisanship on entering the court. The drift of the court this way or that has been due to no desire for party advantage, but to the general cast of mind of its majority for the time being. Even the Dred Scott decision must fairly be ascribed to the honest conviction of the court. The self-restraint of the court has been equally conspicuous. Its greatest period of amplification, 1815–35, was not a usurpation, but a long delayed assumption of its legitimate powers; and since that time it has not hesitated to decide, again and again, in favor of states and individuals and against the federal government or even against the jurisdiction of the supreme court itself. — The chief justices have been as follows, with the dates of their appointments: John Jay, of New York, Sept. 26, 1789; John Rutledge, of South Carolina, July 1, 1795 (rejected by the senate); Wm. Cushing, of Massachusetts, Jan. 27, 1796 (declined); Oliver Ellsworth, of Connecticut, March 4, 1796; John Jay, of New York, Dec. 19, 1800 (declined); John Marshall, of Virginia, Jan. 31, 1801; Roger Brooke Taney, of Maryland, March 15, 1836; Salmon Portland Chase, of Ohio, Dec. 6, 1864; Morrison R. Waite, of Ohio, Jan. 21, 1874. The first associate justices, appointed Sept. 26, 1789, were John Rutledge, Wm. Cushing, John Blair, of Virginia, James Wilson, of Pennsylvania, and Robt. H. Harrison, of Maryland. The court is now constituted as follows: Chief Justice Morrison R. Waite, of Ohio, Jan. 21, 1874; Samuel F. Miller, of Iowa, July 16, 1862; Stephen J. Field, of California, March 10, 1863; Joseph P. Bradley, of New Jersey, March 21, 1870; John M. Harlan, of Kentucky, Nov. 29, 1877; Wm. B. Woods, of Georgia, Dec. 21, 1880; Stanley Matthews, of Ohio, May 12, 1881; Horace Gray, of Massachusetts, Dec. 20, 1881; Samuel Blatchford, of New York, March 13, 1882. Among the associates in the intervening period are the following: Wm. Paterson, of New Jersey, 1793–1806; Samuel Chase, of Maryland, 1796–1811 (see IMPEACHMENTS, II.); Bushrod Washington, of Virginia, 1798–1829; William Johnson, of South Carolina, 1804–34; Thomas Todd, of Kentucky, 1807–26; Brockholst Livingston, of New York, 1806–23; Joseph Story, of Massachusetts, 1811–45, (see his name); Gabriel Duval, of Maryland, 1811–36; Smith Thompson, of New York, 1823–43; John McLean, of Ohio, 1829–61; Henry Baldwin, of Pennsylvania, 1830–44; James M. Wayne, of Georgia, 1835–67; Philip P. Barbour, of Virginia, 1836–41; John Catron, of Tennessee, 1837–65; Peter V. Daniel, of Virginia, 1840–60; Samuel Wilson, of New York, 1845–72; Levi Woodbury, of New Hampshire, 1846–51; Robert C. Grier, of Pennsylvania, 1846–69; Benj. R. Curtis, of Massachusetts, 1851–7; Nathan Clifford, of Maine, 1858–82; David Davis, of Illinois, 1862–77; Noah H. Swayne, of Ohio, 1862–81. — III. SUPREME COURT. No attempt is here made to give the practice of the federal courts. For information under this head the reader is referred to the treatises cited among the authorities It is only intended to give a general idea of the jurisdiction of the court.—1. *Original Jurisdiction.* According to the 3d article of the constitution the court is to have original jurisdiction, that is, suits are to be *begun* in this court, in but two classes of cases, those which "affect" ambassadors, other public ministers, and consuls, and those in which a state shall be a party. Cases "affect" an ambassador only by personally concerning him. By the 11th amendment the state can only be a party as plaintiff; but the power to issue writs of error to state courts often brings a state before the supreme court as defendant. The judiciary act of 1789 undertook to give the supreme court further original jurisdiction in the issue of writs of mandamus, but the court itself, in the case of Marbury *vs.* Madison, decided that congress had no such power. — 2. *Appellate Jurisdiction.* This necessarily covers the original jurisdiction of the district and circuit courts, and cases under it come into the supreme court on appeal. It includes "all cases of admiralty and maritime jurisdiction; controversies to which the United States shall be a party; controversies between citizens of different states, and between citizens of the same state claiming lands under grants of different states;" and "federal questions," that is, "all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority." How far congress may also give to inferior courts any part of the supreme court's original jurisdiction, is an unsettled question. — The act of 1789 provided for the admiralty jurisdiction of the inferior courts; but it was long held that this extended no further than the ebb and flow of the tide. The growth of inland navigation began to suggest the idea that the admiralty jurisdiction should properly extend to navigable rivers and lakes also. In 1825, in the case of The Steamboat Thomas Jefferson, the supreme court, following English definitions, declined to assume any inland admiralty jurisdiction. The act of congress of Feb. 26, 1845, gave such jurisdiction, in cases of tort and contract, in the case of vessels of more than twenty tons engaged in commerce on lakes and navigable

waters between different states or with a foreign nation. In 1851, in the case of The Genesee Chief, the court upheld the act, and federal courts at once proceeded to act under it. Since that time, however, the court has swerved toward the opinion that the admiralty jurisdiction had never been limited to the ebb and flow of the tide; that neither the act of 1789 nor that of 1845 was intended as a restraining act; and that inland maritime jurisdiction is fully conferred by the constitution itself. This has been the fixed doctrine of the court since 1866–8. — The idea that the federal courts possessed a common law criminal jurisdiction was held by the first corps of supreme court justices, and was not formally disavowed for many years. (See ALIEN AND SEDITION LAWS.) Since 1810 the criminal jurisdiction of the judiciary has been limited to offenses against acts passed under such powers of congress as those to lay and collect taxes, etc., to regulate commerce, to punish counterfeiting and felonies committed on the high seas, and to govern the territories. (See CONSTITUTION, ART. I.; CONGRESS, POWERS OF.) The 14th and 15th amendments, which give congress power to enforce them by appropriate legislation, have enlarged the criminal jurisdiction of the judiciary also. — IV. CIRCUIT COURTS. The original jurisdiction of these courts comes under the appellate jurisdiction of the supreme court. From the final decision of the circuit court, when the matter in dispute exceeds the value of $5,000, an appeal lies to the supreme court. The amount was $2,000 until May 1, 1875, when it was increased by the act of Feb. 16, 1875. Patent and revenue cases are not limited as to amount involved. — The number of associate justices was originally five; was increased to six in 1807; was increased to eight in 1837; was increased to nine in 1863; was decreased to eight in 1865, and to seven in 1867; and was increased to eight in 1870. — Besides the associate justices of the supreme court, who, with the district judges, were to hold circuit courts, there is now a distinct class of circuit judges, nine in number. In each circuit, court may be held by the associate justice alone, by the circuit judge alone, by the two together, or by either one with the district judge. — Each circuit is composed of several states; the process of the court, however, is not limited by circuit lines, but runs everywhere throughout the territory of the United States. Territorial arrangements have varied from time to time. The following gives the number of the circuits in 1882, the states composing each, and the names of the associate justice and circuit judge of each: 1. Maine, New Hampshire, Massachusetts and Rhode Island—Horace Gray, John Lowell; 2. Vermont, Connecticut and New York—Samuel Blatchford, William J. Wallace; 3. New Jersey, Delaware and Pennsylvania—Joseph P. Bradley, Wm. McKennan; 4. Maryland, Virginia, West Virginia and North and South Carolina—Chief Justice Waite, Hugh L. Bond; 5. Georgia, Florida, Alabama, Mississippi, Louisiana and Texas—Wm B. Woods, Don A. Pardee; 6. Ohio, Michigan, Kentucky and Tennessee—Stanley Matthews, John Baxter; 7. Indiana, Illinois and Wisconsin —John M. Harlan, Thomas Drummond; 8. Minnesota, Iowa, Missouri, Kansas, Arkansas, Nebraska and Colorado—Samuel F. Miller, George W. McCreary; 9. California, Oregon and Nevada — Stephen J. Field, Lorenzo Sawyer. — V. DISTRICT COURTS. The territorial unit for these courts is in general still the state, but the growth of population, or other reasons, has caused the division of the following states into more than one district: Alabama, 3; Arkansas, 2; Florida, 2; Georgia, 2; Illinois, 2; Michigan, 2; Mississippi, 2; Missouri, 2; New York, 3; North Carolina, 2; Ohio, 2; Pennsylvania, 2; Tennessee, 2; Texas, 3; Virginia, 2; Wisconsin, 2 From these courts an appeal lies to the circuit court where the matter in dispute is of a greater value than $500, and a "federal question" is involved. — VI. TERRITORIAL COURTS. Though these courts are not strictly a part of the federal judiciary, as provided for in the constitution, an appeal lies from them to the supreme court. The history and practice of this class of judicial bodies will be found very fully treated in the case of Clinton *vs.* Englebrecht, cited among the authorities, to which the reader is referred. — VII. PROPOSED AMENDMENTS Space will not allow any consideration of the various changes which have been proposed in judiciary legislation, with a view to relieving the supreme court of some portion of its rapidly accumulating business. It is only designed to notice the amendments to the constitution which were proposed at various times in the first forty years of our history for the purpose of vitally altering the constitution of the judiciary. No such change has been seriously proposed since 1840. — 1. The failure of the Chase impeachment (see IMPEACHMENTS, II.) brought out the following amendment, proposed in the house by John Randolph, March 1, 1805: "The judges of the supreme and all other courts of the United States shall be removed by the president, on the joint address of both houses of congress, requesting the same, anything in the constitution of the United States to the contrary notwithstanding." It was postponed to the following session, was again introduced Feb 24, 1806, but was never brought to a final vote. It was reintroduced in the house, Jan. 29, 1811, by Wright, of Maryland, but the house refused to consider it; again in the senate, March 18, 1816, by Nathan Sanford, of New York, but without success. — 2. The revival of the "supreme law" clause by the supreme court, heretofore referred to, caused the introduction in the senate, Jan. 14, 1822, by Richard M. Johnson, of Kentucky, of the following amendment: "That in all controversies where the judicial power of the United States shall be so construed as to extend to any case in law or equity, arising under the constitution, the laws of the United States, or treaties made, or which shall be made, under their author-

ity, and to which a state shall be a party; and in all controversies in which a state may desire to become a party, in consequence of having the constitution or laws of such state questioned, the senate of the United States shall have appellate jurisdiction." The amendment was not brought to a vote. Johnson's speech upon it, as cited among the authorities below, is a very convenient résumé of the cases up to its date in which the federal judiciary had come into conflict with the states. — 3. Propositions were made in the house, Jan. 28, 1831, and Jan. 24, 1835, to amend the constitution by limiting the term of office of federal judges; but the former was voted down, and the latter was not considered. These ended the attempts to change the basis of the existence of the federal judiciary. (See CONSTRUCTION, III.; STATE SOVEREIGNTY; SECESSION; NULLIFICATION.) — See 1 *Stat. at Large* (Bioren and Duane's edit.), 67, 73, 670 (ordinance of April 5, 1781); I. 5 Elliot's *Debates*, 128, 131, 155, 192, 205, 380, 478, 507, 564; II. 1 *Stat. at Large*, 73 (act of Sept. 24, 1789); 2 *Stat. at Large*, 89, 132 (act of Feb. 13, 1801, and repealing act); 2 Bancroft's *History of the Constitution*, 195; 2 Benton's *Debates of Congress*, 427 (and see index under "Judiciary"); 2 *Dallas*, 419 (Chisholm *vs.* Georgia); 1 *Cranch*, 137 (Marbury *vs.* Madison); 1 *Wheat.*, 304 (Martin *vs.* Hunter's Lessee); 6 *Wheat.*, 264 (Cohens *vs.* Virginia); 4 *Wheat.*, 316 (McCulloch *vs.* Maryland); 9 *Wheat*, 738 (Osborn *vs.* Bank); *Letters of Algernon Sidney* (collected); 4 Jefferson's *Works* (edit. 1829), 371; 12 *Wheat.*, 264 (Ogden *vs.* Saunders); 1 *Democratic Review*, 143; 4 Elliot's *Debates*, 523, Tyler's *Life of Taney*, 432; Schuckers' *Life of Chase*, 533; 7 *Wall.*, 700 (Texas *vs.* White); authorities under RECONSTRUCTION; Flanders' *Lives of the Chief Justices;* Van Santvoord's *Lives of the Chief Justices;* III.–VI. *The Federalist*, 22, 77; Story's *Commentaries*, (edit. 1833), § 1567; 2 Wilson's *Law Lectures*, 201; Sergeant's *Constitutional Law* (1822); Grimke's *Nature of Free Institutions*, 379; Duponceau's *Jurisdiction of U. S. Courts* (1824); Law's *Jurisdiction of U S. Courts* (1852); G. T. Curtis' *Jurisdiction of U. S. Courts* (1854); A. Conkling's *Treatise on U. S. Courts* (1856); Murray's *Proceedings in U. S. Courts* (1868); Boyce's *Manual of Practice in U. S. Circuit Courts* (1868); Abbott's *Treatise on U. S. Courts* (1869); Phillips' *Statutory Jurisdiction and Practice of U S. Courts* (1872); Miller's *Supreme Court of the United States* (1877); B. R. Curtis' *Jurisdiction of U. S. Courts* (1880); 13 *Wall.*, 434 (Clinton *vs* Englebrecht); VII. 3 Benton's *Debates of Congress*, 553; 4 *ib.*, 351; 5 *ib.*, 468; 7 *ib.*, 145 (Johnson's speech); 11 *ib.*, 303.

ALEXANDER JOHNSTON.

JULIAN, George W., was born near Centerville, Indiana, May 5, 1817, was the free-soil candidate for vice-president in 1852, was a free-soil congressman 1849–51, and a republican congressman 1861–71. A. J.

JURY, Trial by. The jury system, both as a judicial and as a political institution, is one of the most conspicuous features in the modern state, and it is peculiarly the offspring of the English people. It has been carried into the remotest parts of the earth and established there by Englishmen, and in those parts of the civilized world into which it has not been introduced by them, it has been established by others, who confessedly adopted it from England. Our own writers have made the system of trial by jury the subject of extravagant praises, and those of other peoples have lauded it as one of the foundations of English greatness and of English liberty. De Tocqueville, for instance, says, "If it had been as easy to remove the jury from the manners as from the laws of England, it would have perished under the Tudors; and the civil jury did in reality, at that period, save the liberties of England." Other writers have in like manner exalted it, and at every new distribution of political power on the continent, trial by jury has been specified as one of the rights of the people, the introduction or extension of which has been most loudly demanded. — There have been many theories of the origin of the jury, which need here only to be referred to; they are elaborated in the works the titles to which are given at the end of this article. From them it will be seen that the jury has been derived from the institutions of the Greeks and Romans, as well as from the earliest tribunals of the Teutonic peoples, and that analogies have been carefully drawn between it and the ancient Scandinavian assemblies. Blackstone thinks it was in use "among the earliest Saxon colonies"; it was long popularly supposed to have been established as a completed institution by Alfred the Great, and it has been traced to the *assises de Jerusalem* of Godfrey de Bouillon, and thought to have been introduced into England by the Normans. Without considering any of these theories, and without undertaking to fix the very time or place of the origin of the jury system, it will be sufficient for the purposes of this article to begin with that in its history which is certain, and to give a brief account, I., of its development from that point; II., of its present form, III., of its extension; and IV., of its advantages, its evils and the remedies for them. — I. *History.* The jury was undoubtedly developed from the early judicial customs of the Teutonic peoples, and can be directly connected with the system of compurgation which prevailed among the Anglo Saxons. Its positive history may be said to begin with a trial between Gundolph, the bishop of Rochester, and Pichot, one of the king's sheriffs, of the title to certain lands in Kent, of which the ownership was in dispute between the king and St. Andrew. This is the first case of which we have any record, in which the decision was rendered by a limited number of suitors, or *pares curiæ*, upon oath. From the record it appeared that the king commanded that all the men of that county, Kent, should be convened, in order to decide which had

the better title. But they, being intimidated by the sheriff, affirmed it to be the land of the king rather than that of St. Andrew. The bishop of Baieux, the king's justiciary, however, did not trust to their decision, and commanded, that if they knew what they said to be true, they should select twelve of their number, who should confirm by their oath that which all had said; but the twelve, after they had retired to consult and had been alarmed by a message from the sheriff, swore on returning, that what they had already said was true. And so the land remained in the king's hands. But in the same year, a monk by the name of Grim came to the bishop, and, having heard what the twelve had sworn, with wonder and detestation asserted that they were all of them perjured. For Grim himself had been the overlooker of the lord of Fracheham, and had taken services and customs for that manor, and had had one of those who had so sworn under him in the same manor. This was communicated by the bishop of Rochester to the bishop of Baieux, to whom Grim gave the same account. The justiciary then caused one of those who had so sworn to come before him, who, when he had come, falling at the bishop's feet, confessed his guilt. Another, who had sworn the first, made the like confession. The rest of the jurors were then, by the order of the bishop as justiciary, sent to London. All being assembled at London, it was adjudged both by French and English that all the twelve were perjured. On this condemnation the bishop of Rochester had his land again. It appears also, from this account, that twelve others *de melioribus comitatus* were called to account for having confirmed what the others had sworn, and that when these affirmed that they had not agreed with those who had so sworn, the bishop said they should prove their assertion by the ordeal of iron; this they promised to do, but being unable to perform their promise, were by the judgment of the county fined in the penalty of £300 to the king. (*Textus Roffensis*, Thorpe. 31.) Mr. Forsyth insists that the twelve here were merely compurgators, while Mr. Starkie thinks the case a precedent which must have had much weight, and which established if it did not introduce the trial by jury. The weight of authority, as well as the apparent probabilities of the case, indicate that the practice or custom described in the foregoing account was the beginning from which that institution which was incontestably the trial by jury was developed by the Norman lawyers during the time of the Plantagenets. — The next landmark is the treatise of Glanvil, which was written about 1187. Glanvil speaks of trial by ordinary assize and *jurata patriæ* as forms of trial already in existence, and thus describes the grand assize which has been recently established as a method of trying the title to land, rights of advowson, and claims of vassalage. "This," he says, "is a certain royal benefit bestowed upon the people and emanating from the clemency of the prince, with the advice of his nobles—*regale beneficium clementia principis populis indultum*. So effectually does this proceeding preserve the lives and civil condition of men, that every one may now possess his right in safety at the same time that he avoids the doubtful event of a duel. This legal institution flows from the most profound equity * * *; by so much as the testimony of many credible witnesses in judicial proceedings preponderates over that of one only, by so much greater equity is this institution regulated than that of the duel; for, since the duel proceeds upon the testimony of one juror, this constitution requires the oaths of twelve lawful men at least." (Glanvil, lib. ii., c. 7.) He then continues to describe the workings of the grand assize as follows: "When the assize proceeds to make the recognition, the right will be well known either to all the jurors, or some may know it and some may not, or all may be alike ignorant concerning it. If none of them are acquainted with the truth of the matter, and this be testified upon their oaths in court, recourse must be had to others until such can be found who do know the truth of it. Should it, however, happen that some of them know the truth of the matter and some not, the latter are to be rejected, and others summoned to court, until twelve at least can be found who are unanimous. But if some of the jurors should decide for one party, and some of them for the other, then others must be added until twelve at least can be obtained who agree in favor of one side. Each of the knights summoned for this purpose ought to swear that he will neither utter that which is false nor knowingly conceal the truth. With respect to the knowledge requisite on the part of those sworn, they should be acquainted with the merits of the cause, either from what they have personally seen and heard or from the declaration of their fathers, and from other sources equally entitled to credit as if falling within their own immediate knowledge."— From this description it is clear that at this time the jurors of the grand assize were mere recognitors, that is, that they were to deliver their verdict upon their own knowledge of the facts in question. In order to obtain the required unanimous verdict of the twelve, resort was had to the practice of afforcing, by which was meant, dropping jurors who were ignorant of the facts in cases of disagreement, and adding others in their stead, until twelve were obtained who were unanimous. Afforcement, however, appears to have very early fallen into disuse, and there was some doubt whether thereafter the verdict should be rendered by a majority of the original jurors—as was done, for instance, in one case in 20 Edw. III., in which C. J. Thorpe took a verdict from eleven of the jurors, for which, however, he was reproved—or whether a unanimous verdict was required, which latter rule seems to have become established during the reign of Edward III. The names of those who were to serve on the grand assize being known beforehand, endeavors to make sure of a favorable verdict were naturally to be anticipated, and in proof of this fact it is to be no-

ticed that three different statutes of Edward III. are directed against the bribing of jurors. — The precise time of the establishment of the grand assize is not known, but the use of recognition by twelve or more witnesses is provided for in the constitutions of Clarendon, 1164, in cases of dispute as to the title of lands between a layman and a clerk, and the statute of Northampton, 1176, provides for the recognition of the claims of heirs before the itinerant justices. The grand assize was, it has been suggested, only the technical form of the *jurata patriæ*, which was a form of trying the title to lands by the swearing as to the same by the whole community, and afterward by a number selected from the community. Certainly the distinction between the *jurata patriæ* and the grand assize seems to have been very early lost, and both became known as the jury. With the establishment of justices in Eyre and the increasing number of suitors who resorted to the king's courts, the grand assize superseded the ordinary assize referred to by Glanvil, and recognition of facts in the manner described by him became part of its regular business. Trials in these courts were both by assizes and juries, but the former gradually fell more and more into disuse, although as a distinct manner of trial it existed until 1838, and was only abolished by 3 and 4 Wm. IV., c. 27. — The writers succeeding Glanvil are Bracton, Britton, and the author of Fleta, by each of whom the jury of the assize is further described. Bracton, stating the grounds for exemption from service on the jury, says, that the same causes which disqualified a man from testifying were good grounds of objection to his serving on the assize, and he enumerates as such, conviction for perjury, serfdom, consanguinity, affinity, and enmity or close friendship with the other party; and he continues, the objections having been disposed of, the jury were sworn and retired to consult upon the verdict, and until they had agreed no one was allowed access to them. If they could not agree, new recognitors, equal in number to the minority, were added, and the verdict was then rendered by the twelve who were found to agree. If, however, any of the jurors were ignorant of the facts of the case, others who knew the truth, were added in their stead, and the truth was then declared. Down to the time of the writers last mentioned the jurors were, as we have seen, mere recognitors deciding upon their own knowledge. The next step forward consisted in adding to their own knowledge that of others, thus making the jurors judges of evidence; but before considering this, it is proper to examine the jury for the presentment and trial of criminals. Its origin is not clear, but from the time of Henry IV. its development is marked by stages which correspond to those in the history of the assize It has been supposed that a law of Ethelred, which is still extant, was the source both of this and of our whole system of jury trial. That law reads as follows: "Et habeantur placita in singulis Wapentachiis; et exeant seniores xii. tayni et prepositus cum eis, et jurent super sanctuarium quod eis dabitur in manus quod neminem innocentem velint accusare vel noxium concelare et omnis infamatus homo vadat ad triplex ordalium, vel reddat quadruplum." But while the whole jury system can not be traced to this statute, as some writers seem to have supposed, the jury provided for by it may certainly be considered the foundation of the subsequent grand jury. The criminal jury has also been traced to this statute, but not definitely, and while its origin may not be determined, its history, says Mr. Stubbs, from the year 1166 is clear, and he continues: "By the assize of Clarendon, inquest is to be made through each county and through each hundred, by twelve lawful men of the hundred and by four lawful men of each township, by their oath, that they will speak the truth. By these, all persons of evil fame are to be presented to the justices, and then to proceed to the ordeal. If they fail in the ordeal, they undergo the legal punishment; if they sustain the ordeal, yet as the presentment against them is based on the evidence of the neighborhood on the score of bad character, they are to abjure the kingdom. The jury of presentment is reduced to a still more definite form, and receives a more distinct representative character in the assizes of Northampton, and in the articles of visitation of 1194 In the latter capitulary the plan used for nominating the recognitors of the grand assize is applied to the grand jury, for so the body now constituted may be termed. In the first place, four knights are to be chosen for the whole county, who by their oath shall choose two lawful knights of each hundred or wapentake, or, if knights be wanting, legal and free men, so that these twelve may answer under all heads concerning the whole hundred or wapentake. The heads on which they answer include not only the assizes which have been already referred to in connection with the jury, but all the pleas of the crown, the trial of malefactors and their receivers, as well as a vast amount of fiscal business. The latter development of these juries does not fall under our present inquiry, but it may be generally stated thus. At an early period, even before the abolition of ordeal by the Lateran council of 1215, a petty jury was allowed to disprove the truth of the presentment, and after the abolition of ordeal that expedient came into general use. The further change in the character of the jurors by which they became judges of fact instead of witnesses, is common to the civil and criminal jury alike." (Stubbs' "Constitutional History of England," vol. i., chap. xiii.) — We have now only to follow the course of that change. The first step toward it was, as has been seen, the addition of witnesses to the jury. The verdicts of both the jurata and the assize were in the beginning based exclusively upon the personal knowledge of the jurors. Naturally, however, each juror must have more or less supplemented his own knowledge by that of his cojurors. This would be espe-

cially true in cases where the issues were complicated, and the appreciation of this inevitable fact very soon created two apparent exceptions to the rule that verdicts were rendered only upon the personal knowledge of the jurors. These were, first, the trial *per patriam et testes*, which had become a common practice during the reign of Henry III., in cases where the question was of the existence of a deed; and, second, the trial *per sectam*, which appears to have grown up between the time of Glanvil who does not mention it, and of Bracton who describes it. The trial *per patriam et testes* was at first allowed only in cases where deeds were in dispute, and it grew naturally from the early practice of deciding such cases by single combat, in which one of the attesting witnesses served as the plaintiff's champion. When the single combat fell into disuse, the writ to the sheriff, in those cases which had formerly been decided in this manner, commanded him to summon the witnesses named in the deed, which had been brought into court, together with a certain number of witnesses, to make recognition as to the fact in dispute. Subsequently merchants and traders were in like manner allowed to prove the fact of payment or of debt, *per testes et patriam*. The trial *per sectam* was where a party had made his claim *inde producit sectam, i. e.*, offered to produce a number of witnesses who had been present at the transaction in dispute, to sustain his position. If the defendant could then produce a greater number of *secta*, he had his cause; if not, he lost it: but if he offered any other defense than a denial, such as a deed, then the plaintiff was not allowed to offer rebutting *secta*, but the trial must be had *per patriam*, or *per patriam et testes nommatio in carta quam*, etc These exceptional methods of trial prepared the way for the change from mere recognition by the jurors on their own knowledge, to the system in which the jury ceased to be witnesses, and gave their verdict upon the evidence submitted to them by others. The first step toward this important change which can be clearly distinguished, is the adjoining of the witnesses to the jury, in the twenty-third year of Edward III. This was for the purpose of assisting the jury by means of the knowledge of the witnesses so adjoined. The latter, however, had no voice in the verdict, which was to be accepted even though it was opposed to the evidence of these witnesses. The range of the jury was thus greatly extended; and although the jurors still decided on their own knowledge, and were still, therefore, taken from the vicinage, this enlargement of the sources of their knowledge carried with it some important consequences. First, the educating influence of service on the jury was greatly increased by requiring jurors to draw conclusions from the testimony of others. Second, it was the foundation for the law of evidence. Very early, great care had been found necessary to exclude from the consideration of the jury all improper or corrupted evidence. This was done by requiring the evidence to be given in the presence of the court, and subsequently by the establishment of rules respecting its production. This change began probably very soon after witnesses were adjoined to the jury, as is shown by the report of a case in the eleventh year of Henry III., in which a verdict was set aside because a jury, on retiring to consider their verdict, had taken with them an escrow which had neither been proved in evidence nor delivered to the court. A third consequence of this enlargement of the functions of the jury was the creation of a field of activity for the advocate. With the handling of witnesses and the construction of their testimony for the juries, came the opportunity for the whole of the lawyer's forensic activity. Finally, it is to be noticed that through this change the cruel practice of attainting the jury fell into disuse. Attainting the jury was the only means of obtaining a new trial in cases of a mistaken or corrupt verdict. Twenty-four jurors were summoned to try the truth of the former verdict, and if they found the former jury to have rendered a false verdict, all of its members were arrested and imprisoned, their lands and chattels forfeited, they became no longer "oathesworthe," says Bracton, and at one period it was provided that their wives and children should be turned out of their homes, and their houses and fields destroyed—a punishment which, however, was subsequently commuted by a pecuniary penalty. So long as the verdict of the jurors was rendered solely on their own knowledge, a verdict which was false must have involved perjury, and these severe punishments were perhaps justifiable; but when the verdict might, if wrong, be merely in consequence of a mistaken view of the evidence of the witnesses, such punishment became manifestly excessive. Some attempts to punish jurors under color of attaint were made under the Tudors, and the system of attaints was then expressly repudiated; but although it had long fallen into complete abeyance, it was not abolished until 6 George IV. After its disuse the means of correcting mistakes in a verdict were left unprovided for until the seventeenth century, when the introduction of new trials afforded a remedy, and the first of these of which we have any record was in 1665.—The last step in the history of the development of the jury, is the limitation of its functions to rendering a decision solely upon the evidence submitted to it by the witnesses, and in eliminating the traces of the original functions of the jurors as recognitors and mere witnesses. The principles which necessitated such a change it has been said are obvious: the discovery of the truth was made more difficult, rather than more certain, by the fact of the residence of the jurors in the neighborhood of the disputed fact, and the rules as to venue grew after awhile so complicated and troublesome that it became desirable to get rid of them. The number of hundredors on the inquest was altered from time to time, and finally the laws requiring jurors to be summoned from the hundred or vicinage were abolished in all civil actions by 4 and 5 Anne,

c. 16, and 24 Geo. II., c. 18, and the jurors were thereafter drawn from the whole county. These statutes, says Mr. Starkie, are indirect authorities for the position that jurors should not still render verdicts on their knowledge of the facts. The granting by the courts of new trials, on the ground that the verdict was against evidence, is a direct authority to the same effect. In the first year of Anne's reign this transition may be said to have been completed and clearly defined by a decision found in 1 Salk., 405, to the effect that if a jury give a verdict of their own knowledge they should so inform the court *that they may be sworn as witnesses*, and that they ought fairly to tell the court that they had evidence to give as witnesses, before they were sworn as jurors. — We have thus arrived at the existing form of the jury. Resting upon the earliest legal institutions of the Teutonic races, it was at first a body chosen for its special knowledge of the facts in dispute, the members of which decided those facts upon their personal knowledge of them. Next, witnesses were added, and the jurors decided upon the evidence given by them as well as upon their own personal knowledge. Finally, the witnesses were separated from the jury, and the jurors became thereby the judges of the evidence of witnesses, and found their verdict solely from such evidence. — The origin of the rule that the verdict of the jury, both in civil and criminal cases, should be unanimous, lies in the fact that the jurors were at first only witnesses. The opinion of twelve was fixed as the least amount of evidence which would be accepted as final, and the jury was afforced until at least twelve agreed. In what manner *twelve* came to be selected as the requisite number, admits perhaps of no more scientific explanation than that offered in the "Guide to English Juries, by a Person of Quality," published in 1682, and ascribed to Lord Somers. The author says: "In analogy, of late the jury is reduced to the number of twelve; like as the prophets were twelve to foretell the truth; the apostles twelve, to preach the truth; the discoverers twelve, sent into Canaan to seek and report the truth; and the stones twelve, that the Hierusalem is built on; and as the judges were anciently twelve to try and determine matters of law; and always when there is any waging law, there must be twelve to swear in it." — II. *Present State of the System.* The jury, the growth of which has thus been outlined, was cherished by the English colonists who brought it hither, as one of the dearest of their institutions. It was in general use during the colonial period, and it is expressly protected by the 5th, 7th and 8th amendments to the constitution of the United States, and in the constitutions of most of the states. From these constitutions, and from the statutes passed under them, it appears that in this country the system of trial by jury in criminal cases is universal, and that while in civil causes it is generally used, it may, in most of the states, be waived upon the consent of the parties. Four distinguishing elements also are manifest. — 1. The jury must be composed of twelve persons. It is, however, provided in Arkansas, Colorado, Connecticut, Indiana, Iowa, Kentucky, New York and Texas, that the parties may agree upon a smaller number in certain cases. In several of the states, also, provision is made for a jury of six in the justices' and county courts, and the constitutions of Georgia, Colorado, Louisiana and Michigan declare that the legislatures of these states *may* provide for a jury of less than twelve, but of this power no use has been made. — 2. The jury must be drawn from the vicinage — the district or county within which the trial is held — and from the whole number of the qualified citizens not expressly exempted by statute. The origin of the rule as to vicinage has already been given. The statutory definitions of those qualified to serve are, generally, that a juror must be in possession of his faculties and of fair character and intelligence. In some states a property qualification is also required. It seems clear from these statutes that jury service is a duty due from the citizens to the state, which the state may exact from all, and which it does exact from the largest possible number. Certain persons are exempted because their occupations are either necessary to the public or are of such a nature that they can not be delegated, or that they can not be withdrawn from them without great loss. These exemptions include, generally, all public officers, active professional men, teachers, telegraph operators and firemen; and the exemption laws in many states throw a curious and suggestive light upon the progress and pursuits of their people. Such, for instance, are those in the west, exempting one miller to each grist mill, and a ferryman to each ferry, in the east, exempting factory employés, bankers and police; in New York, exempting employés upon the canals; and in Kentucky the disqualification of any one as a grand juror who within six months preceding has for a reward stood a horse, jack or bull. In the states of Kentucky, Oregon and Maryland, the statutes declaring who may be summoned still speak only of *white* persons. These provisions, however, have been made practically nugatory by the decisions of the United States supreme court in Strauder *vs.* West Virginia, 100 U. S. 303, Virginia *vs.* Rives, 100 U. S. 313, Ex parte Virginia, 100 U. S. 340; and Neal *vs.* Delaware, 103 U. S. 370. These cases declare the civil rights bill constitutional, and hold that, under it and the 14th amendment, it was a right of colored men, when charged with criminal offenses, to be tried by a jury indifferently selected without regard to the color of the jurors. The decision in Ex parte Virginia goes further, and decides that the enjoyment of this right by colored criminals renders it necessary that colored men shall be called to serve, and thus indicates that jury service is to be considered not only as a duty which may be exacted by the state, but as a privilege which may be claimed by the individual. — 3. The verdict of the jury must be unanimous. This is the invariable rule

in criminal cases; generally also in civil cases; but in California three-fourths may render a verdict in such cases, and in Louisiana "if nine or more agree upon a verdict it shall be recorded." The historical origin of the requirement of unanimity has been given, but it appears now to be arbitrary and unreasonable, and the tendency of the better professional opinion seems to be clearly in favor of a modification of the rule. The law writers and philosophers have been unsparing in its condemnation. Hallam speaks of it as "a preposterous relic of barbarism"; Bentham disapproves of it; the common law commissioners in 1830 said, "It is difficult to defend the justice or wisdom of the rule"; and, in his "Fundamental Constitution of Carolina," Locke declared, "that it should not be necessary for a jury to agree, but that the verdict should be according to the opinion of the majority."—4. The jury must be impartial. This is of its essence. It is in the main sought to be accomplished by the manner of selecting the jurors, and by giving to the parties the right of challenging the jurors chosen. *First.* Manner of selecting jurors. The method of selecting ordinary jurors is invariably by some form of lot. Lists of jurors are prepared by designated county officers, and from these lists county or court officers select the panel required, usually by drawing the requisite number of names from a box containing all of those upon the prepared list. The particular arrangements, however, are various, and minutely regulated in each state by statute. The complaints and criticisms of the jury system arise largely from the execution of these statutes, and in several of the large cities a class of hangers-on about the court houses, and of disreputable attorneys, have become known as "jury fixers." They pretend to be, and in many cases undoubtedly are, able, through political influence or open bribery, to secure the impaneling upon a jury of one or more persons through whom a disagreement or verdict may be obtained. It need only, however, be pointed out that such results are attained through the evasion or breach of purely administrative laws. Such abuses furnish an argument for the purification and reform of the civil service of that locality in which they occur, but they have nothing whatever to do with the merits or demerits of the system of trial by jury. In 1879 congress sought to provide a remedy for some of the alleged evils in the selection of jurors in the United States courts, by enacting that all jurors should be "publicly drawn from a box containing the names of not less than 300 persons, * * *, which names shall have been placed therein by the clerk of such court and a commissioner to be appointed by the judge thereof, which commissioner shall be a citizen of good standing, residing in the district in which such court is held, and a well known member of the principal political party in the district in which the court is held opposing that to which the clerk may belong, the clerk and said commissioner each to place one name in said box alternately, without reference to party affiliations, until the whole number required shall be placed therein." The effect of this law, as was well said by Gen. Garfield in the debate upon its passage, is "to put into the jury box a man recognized as a political partisan, and then another beside him recognized as belonging to another political party, to administer justice." While it is difficult to ascertain accurately how such a statute really operates, it seems to be the fact, that in certain political cases, such as those for the violation of the election laws, it amounts to a legalization of "jury fixing." Nevertheless the general adoption of such a system as is provided for by this statute has been urged as a remedy for the packing of juries. But it is an aggravation, not a remedy. *Second.* The right of challenging. Challenges may be made, First, to the array, which is an objection to the entire panel as arranged by the officers in charge because of some error or partiality in obtaining the panel, which must, from its nature, necessarily affect all the jurors obtained. Second, to the poll, for which the causes are: 1st, *propter honoris respectum*, as when a peer is summoned, which does not exist in the United States; 2d, *propter defectum*, which may arise from a lack of the statutory qualifications; 3d, *propter affectum*, which may arise from partiality on account of relationship, from an interest in the result of the trial, from conscientious scruples in capital cases, or from declarations of opinion as to the result; 4th, *propter delictum*, or conviction of a crime. In some states all challenges are decided by the court; in others, triers are appointed by the court, usually two in number, to try whether the jurors challenged "stand indifferently." Third. Peremptory challenges. It is provided that any person on trial for a capital offense or other felony, and, in some states, also for a misdemeanor, shall be entitled to challenge peremptorily, without assigning any cause, a fixed number of jurors. — Under this head of securing impartiality in the jury there are also to be noticed special provisions in some of the states, such as that in New York providing for a "foreign jury" in cases where a claim involving a general interest of the inhabitants of a particular place or county is to be litigated, and it is thought that an impartial jury can not be had in that county or in the neighboring county. In such cases a jury from another county can be obtained, upon sufficient proof of the circumstances. Such also is the provision for trial by a jury *de mediatate linguæ*, which may still be had in Kentucky. This is a jury one-half of which must consist of aliens, and may be had whenever one of the parties is an alien. It originated in a charter of Edward I. providing for the safety of foreign merchants sojourning in his realm, and was abolished in that realm by the naturalization act in 1844. With these safeguards thrown about the system it is next provided in Arkansas, California, Colorado, Connecticut, Iowa, Kansas, Kentucky, Massachusetts, Michigan, Minnesota,

Nebraska, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, the Virginias, and in the United States courts, that a jury may be waived in all civil cases upon the consent of the parties, which must usually be written, and filed with the clerk of the court. In Florida and Missouri a jury may be waived in cases of misdemeanor as well as in civil cases, in Indiana it may be waived in all cases not capital, and in Maryland in all cases. A provision in Connecticut for the waiver of a jury in criminal cases was repealed in 1878. — That which has thus far been said upon the present state of the jury system is applicable mainly to the petit or trial jury. There is also to be considered *The Grand Jury*. This, in criminal cases, presents by an indictment an accusation against an offender, to a court having jurisdiction to take proceedings for his arrest and punishment. The members of the grand jury are drawn by the sheriff or other county officer, and are usually twenty-three in number. Having listened to a charge by the judge, they retire to consider the complaints, and hear the witnesses produced before them. They are the exclusive judges of the evidence submitted to them, and twelve of them at least must agree that it makes out a *prima facie* case against the accused, before the grand jury can find a "true bill," as it is called, against him. If they deem the evidence insufficient for this purpose, they "ignore" the bill. The prosecuting officers of the county present the indictments, with the testimony in support of the same, to the grand jury, and are allowed to be present and advise them, except when they are taking a vote. The proceedings of the grand jury are secret. The constitutions or statutes of the states all provide that no person shall be held to answer for a capital or otherwise infamous crime unless on presentment or indictment of a grand jury. The origin of this rule has been seen. In England, especially during the Stuart reigns, it proved to be another and valuable safeguard for the liberty of the individual, and in times of great popular excitement it might still prove to be necessary as such, with us. It seems now, however, to be cumbersome and generally superfluous. As a matter of fact the duties of the grand jury are substantially performed by the district attorney; and if the inferior magistrates empowered to commit offenders deserve any confidence at all, it should be unnecessary to have the grand jury again go over the ground which has already been covered by them, in order to put an accused person on his trial. — *Coroners' Juries*. It is provided that whenever any person shall have been found dead or dangerously wounded, the body must remain untouched until the arrival of the coroner, who shall then summon a jury of twelve, or of between nine and fifteen persons, from among those qualified for jury service in that county, but who must not be related to the deceased or to his slayer, if he be known or suspected. The jury thus impaneled must then, together, view the body, after which they retire and take testimony as to the manner of the death or wounding. They shall then return a written verdict setting forth the time and place at which the deceased or wounded came to his death or was wounded, who he was, at whose hands it came about, and all the circumstances concerning the same. If any of these facts shall remain unknown to the jury, they shall set that forth. In England a person accused by the coroner's jury may be put on his trial at assizes without further indictment. In Massachusetts the office of coroner has been abolished, and in other states, and especially in large cities, a strong feeling exists that some much more efficacious method may be devised of determining the cause of death, and the identity of the criminal, if there be one, than by the machinery of the coroner and his jury. — *The Special Jury*. This, says Blackstone, was "originally introduced in trials at bar when the causes were of too great nicety for the discussion of ordinary freeholders." Generally in this country where it is made, on proper affidavits, to appear to a court that a fair and impartial trial by jury of an issue of fact can not be had, or that the importance or intricacy of the case demands a special jury, the court will order such a jury to be struck. This is done by the selection, by some county officer, in the presence of the parties or their attorneys, of forty-eight persons from those upon the jury lists. He must select those whom he considers most indifferent to the parties, and best fitted to decide the cause, and from this number the parties strike off alternately the names of proposed jurors until but twenty four remain, from which list the trial jury is then selected in the usual manner. Trials by a special jury are seldom granted; that of Tweed in New York is the most notable recent instance. — *Sheriffs' Juries* are impaneled by that officer to try the title to goods seized by him when they are claimed by a third party. Sheriffs' or special juries are likewise granted in proceedings *de lunatico inquirendo*, and in most of the states also, under certain special laws, such as that to inquire into the value of property claimed as exempt from execution under the homestead acts, and to inquire into various questions of fact arising under laws relating to highways. *A Jury of Matrons* was formerly impaneled upon a writ *de ventre inspiciendo*, in cases where a widow was supposed to intend to defraud the next heir, by claiming falsely to be with child, for the purpose of determining whether she was or not, and also in cases where a female under sentence of death claimed to be pregnant. In the latter case a jury of physicians, as in New York, is now usually provided for. — From the time of Queen Anne, at least, the province of the jury has been to decide the facts in issue upon the evidence of the witnesses, and to render a statement of their decision, called a verdict, *vere dictum*, to the court. In criminal cases this may be partial, finding the accused guilty on some counts and acquitting him

on the rest, or finding one of several accused guilty, and acquitting the others. A general verdict pronounces upon all of the issues, and a special verdict finds only the facts, leaving the court to decide which of the parties should receive judgment, and the courts of most states may direct a special verdict, which must be in writing. The verdict being rendered may be set aside by the court if contrary to the evidence, or if the court holds it to be for an excessive amount, in civil cases. With the growth of democratic ideas there has been a manifest tendency to make the juries in criminal cases the judges of the law as well as of the facts. And in several of the states of the Union they are expressly made such, in cases of libel. This provision has a common origin with the English libel act of 1792, providing that the jury may in libel cases render a general verdict of guilty or not guilty upon the whole matter put in issue, which sprang from Lord Mansfield's celebrated charge and judgment in Rex *vs.* Woodfall, and the ensuing discussion thereon. Our provisions, however, are much broader than Fox's act. In some of the United States—Georgia, Louisiana, Maryland, and optionally in Minnesota—in all criminal cases the jury are to be the judges of both law and fact, a provision which, in Illinois at least, has been practically annulled by the supreme court of that state, and the repeal of which has been actively urged. In Indiana the province of the judge has been further encroached upon by a provision giving to the jury which convicts an offender of a capital offense, the right to decide whether he shall be punished by death. — III. *The Extension of the Jury System into Foreign Countries.* In Scotland the jury seems to have been established at as early a date as in England, but though preserved in criminal it was very early discontinued in civil cases. In criminal cases the Scotch jury has always consisted of fifteen persons, a majority of whom may render a verdict, which need not be "guilty" or "not guilty" as elsewhere, but may be "not proven," which releases the accused while it brands him with the accusation. The civil jury was reintroduced into Scotland by 15 George III., c. 42, in a special court established for the purpose. That court has now, however, been abolished, and the civil jury is used as in England, except that if the jurors fail to agree within six hours they must be discharged. In Ireland the jury is substantially the same as in England, and when provision was made in the repression bill of 1882 for trials in certain cases without juries, the Irish judges met and passed resolutions protesting. In the island of Jersey the grand custoumier of Normandy is still the authority, and some curious features prevail. The petit jury in criminal cases consists of policemen, and an appeal may be taken from their verdict to the grand enquete or jury of twenty-three. — In France. The national assembly declared, April 30, 1790, that there should be a jury in criminal cases, and that there should not be a jury in civil cases. Since that time the principle of trial by jury has remained settled, although almost numberless changes have been made in the features of the system by some sixty different laws on the subject. At present there is no civil jury except *en matiere d'expropriation*, and in criminal cases trial may be had by jury only in cases of felony. There is no grand jury; the verdict of the trial jury is rendered by the majority, and may be accompanied by a recommendation to mercy. No person can serve upon a jury who has not reached thirty years of age and is not in the full enjoyment of his civil and political rights. — In Germany. The jury was introduced by the French into the Rhine lands during the revolution, and has been, with many fluctuations, confirmed and extended in criminal cases since that time. It was established in Prussia in 1819, and again by the constitution of 1848, and by the law of June 3, 1849, but political offenses were withdrawn from its operation in 1851. The system was also adopted by Bavaria and Hesse in 1848, by Würtemberg and Baden in 1849, and by Austria in 1850. With the agitation of the question of a common criminal procedure for the new empire, the abolition of trial by jury was seriously considered. Prussia first proposed the substitution of sheriffs' courts in its stead, but this had to be relinquished, in consequence, as one writer naively remarks, of the overwhelming prejudice of the "non-jurists" — the people — in favor of the jury system. Finally, by sections 79–99 of the *Gerichtsverfassungsgesetz* all criminal offenses except treason, political crimes, and offenses of the press, are made triable by jury. — In Belgium the jury has existed since the separation from Holland, and it is especially provided by the constitution that political offenses and those of the press shall be tried by jury. — In Switzerland all crimes against the confederation are to be tried by jury. For other crimes each canton has its own machinery; in Geneva, the most important, the jury is in vogue, and a verdict is permitted of "guilty under extenuating circumstances" and "guilty under very extenuating circumstances." The jury system has, of course, been established in all the colonies of Great Britain substantially as in the mother country, and is in use in all the South American republics. It was introduced into Greece in 1834, and is guaranteed by the constitution of 1844. It was also established in Portugal in 1837. It has been introduced into Spain, into Italy, into Brazil, and finally into Russia, where the first trial by jury was held Aug 8, 1866; and in each of these countries the verdict is rendered, as in France, by the majority. — IV. *Advantages of the Jury, its Evils and the Remedies* In summarizing the advantages of the jury system it is to be said, that as a political institution the jury has been, and still is, a necessary and most efficacious guaranty against the arbitrary exercise of power; that it diminishes the inevitable antagonism between the government of the state and its individual members by increasing the par

ticipation of the latter; that jury service is one of the duties of citizenship the performance of which best fits men to enjoy the privileges thereof, since it imposes upon individuals a sense of responsibility which directly educates their sense of personal dignity and self-respect. As a judicial institution the jury secures the publicity of the administration of justice, which is one of the safeguards of its purity. A number of ordinary men chosen as jurors are, it is thought, better judges of the ordinary facts of life than any judge or bench can be—a fact which is expressed in Lord Campbell's remark so often quoted of Lord Mansfield's juries at Guildhall, "He learned from them the usages of trade, and in return he took great pains in explaining to them the principles of jurisprudence by which they were to be guided."—The jury is also claimed to be a most valuable if not necessary protection for the individual against great impersonal corporations by which so much of the business of the world is coming to be done; and finally, it obviates the consequences of a rigid application of the logical rules of law; it "relieves against the procrustean application of legal technicalities." On the other hand, it is asserted that the jury affords an opportunity for bribery and corruption which is constantly used; that the practical workings of the jury system are so bad that those persons who still have faith in it are theorists, who really know nothing about it; that it is a source of vast and useless inconvenience to business men; and that in all cases where corporations are concerned its verdicts are hopelessly biased. When we come to the remedies, however, the statements are less precise. The radical remedies which have been proposed look toward the complete abolition of the jury, and the substitution therefor of benches of judges, from whose decision, it is even said, there should be no appeal, but most of these propositions ignore the fact that the jury is a great historical institution, which is everywhere closely interwoven with the whole fabric of the society and the government of English peoples, and that it can not, therefore, even if it be true that it has had its day, be dealt with thus lightly. Most of these propositions, also, are characterized by a certain petulance, and obviously proceed not from a view of the whole system, but from the observation of its operation in a particular instance or in a particular locality. By way of a demonstration of the absurdity of the system as it now is, these propositions have often been prefaced by a supposition of what the views of a learned oriental would be when the jury was first explained to him, and this, although it is tolerably clear from the last thousand years of the world's history, that the views of "a learned oriental," upon any governmental topic, though sometimes interesting, are not of importance. It is further to be remarked, that most of the criticism of the jury system proceeds from the great cities where the conditions of life and society are abnormal, and would, as it is easy to see, affect any substitute for the jury quite as unfavorably as they are said to affect the jury itself. Furthermore, as has already been pointed out, much of that criticism is misdirected; it should be applied to the administrative laws, to the manner of their execution, and to the view of their duties which is taken by the people themselves. With the segregation of occupations, and the close attention which every man is compelled to give to his own, individuals find that jury service is an inconvenience and a cause of pecuniary damage; and in New York, at least, they embark in almost open corruption to escape from it. But they find every other public service equally inconvenient. So, through the natural division of labor, the whole business of politics has fallen into the hands of a class as distinct as that of those engaged in any other pursuit, and it may be that, in like manner, the public will have in time to be relieved of the duty of jury service; but the approach of that possibility has nothing to do with the workings of the jury system. From the cloud of criticisms, however, just and unjust, some measures may be concluded to be remedial and desirable. 1. The amendment of the laws relating to the drawing of jurors, so as to place that operation under officers immediately responsible to the judges. 2. The vesting in and exercise by the judges of a wider discretion to excuse jurors from jury service on the grounds of their personal inconvenience. 3. The establishment in the cities of courts of arbitration of three or more judges. 4 Allowing verdicts to be rendered by three-fourths or two thirds of the jury, either absolutely, or if, after a certain number of hours, the jurors fail to arrive at unanimity. 5. Allowing persons committed by magistrates to be put on their trial without further indictment. 6. The abolition of coroners' juries, or else their elevation by making their findings of guilt equivalent to indictments by a grand jury. Such changes, or some of them, may be wise, and would be accepted as desirable. It is, however, beyond question that the very great preponderance of the best opinion is decidedly in favor of the maintenance of the jury substantially as it now exists, and it is impossible to rise from a survey of the whole system without being impressed with the soundness of the conclusions of Mr. Justice Miller, of the United States supreme court, who, in an address before the New York state bar association in 1878, remarked, "It is probably wise that no man shall be convicted of an infamous crime until twelve fair-minded men are convinced of his guilt. I am also forced to admit, however, that even in civil cases my experience as a judge has been much more favorable to jury trials than it was as a practitioner. And I am bound to say that an intelligent and unprejudiced jury, when such can be obtained, who are instructed in the law with clearness and precision, are rarely mistaken in regard to facts which they are called upon to find." Nor would it be possible to conclude such a survey without full concurrence in the admirable language of Lord Coleridge, who, in charging the grand jury at Exeter,

said, in words which are as applicable and as true in America as they were in England, "I think it unwise, in a complicated state of society like ours, to look at things in themselves alone, and without considering what bearing they have upon the whole machinery of society. The interests of a great number of persons in the discharge of justice, the education to a certain extent which the jury system affords to a large number of persons in our community, is a matter that is far too much lost sight of; and I should think, for my own part, that if it were true that in particular cases a better result might have been arrived at by the single judgment of a judge, than by the united judgment of a judge and jury—if that were so, upon which I express no opinion for the moment—I should say that the advantage was ill purchased by the separation of the general mass of the people from any share in the administration of our courts of justice. I believe that much of the satisfaction which I hope and trust does exist with our administration of justice as a whole, and with all its faults—for, like every other human institution, it has its faults —may to a great extent be traced to the large infusion of what I may call the popular element, and the popular element in the administration of our system of justice is the jury." — BIBLIOGRAPHY. Blackstone, book iii ; Reeve, *History of English Law;* Stubbs, *History of England*, vol. i.; Hallam, *Middle Ages*, notes; Woodeson's *Lectures;* Palgrave, *Rise of English Commonwealth;* Burke, *Abridgment of English History;* Dunscomb, *Trial per Pais*, 8th ed., London, 1766 ; Pettingall, *Jury Among the Greeks and Romans;* Kennedy, *Law and Practice of Juries*, London, 1826; Worthington, *Powers of Juries;* Forsyth, *History of Trial by Jury*, Am. ed., New York, 1875; Bentham, *Art of Packing Applied to Special Juries; Reports of Common Law Commissioners*, London, 1830–53; Hirsh, *Juries*, New York, 1879 ; Proffat, *Trial by Jury ;* Sackett, *Instructions to Juries ;* Thompson, *Charging the Jury;* Starkie, *Trial by Jury;* Erle, *The Jury Laws;* Adam, *Trial by Jury in Scotland;* Meyer, *Origin and Progress of the Judicial Institutions of Europe; Quarterly Review* No. 67; *Westminster Review*, Oct., 1827; Edwards' *Juryman's Guide;* Mr Justice Gray, *Note on Juries, end of Quincy's Reports; Advantages of the Jury System*, N. Am. Review, Nov., 1882; *Is the Jury System a Failure?* The Century, Nov., 1882; *Grand Jury*, Western Jurist, Jan., 1882; Rogge, *Gerichtswesen der Germanen;* Brunner, *Die Entstehung der Schwürgericht*, Berlin, 1872; Gneist, *Die Bildung der Geschworenengerichte in Deutschland*, Berlin, 1849; Glaser, *Zur Juryfrage*, Vienna, 1864; von Bar, *Recht und Beweis im Geschworenengericht*, Hanover, 1861; Meyer, *That und Rechtsfrage im Geschworenengericht*, Berlin, 1860; Biener, *Das Englishe Geschworenengerichte*, Leipzig, 1875; Montesquieu, *Esprit des Lois;* de Tocqueville, *De la Democratie en Amerique;* Cherbuliez, *dans la Revue de legislation* xli., xlii.; Odillon Barrot, *dans le Bulletin de L'Academie des Sciences morales et Politiques*, 1871–2. FREDERICK W. WHITRIDGE

JUSTICE. In the most general acceptation of the term, justice is a moral virtue which leads us to render to every one that which is his due, and to respect the rights of others. The term is sometimes used as synonymous with fullness of right and reason. It is used especially to designate the act of recognizing the rights of a person; and, more particularly, in the language of politics and administration, it is used to indicate the exercise of the power to declare the right, to pass sentence, and, if need be, to inflict punishment. — The Roman law defined justice to be, the constant and perpetual disposition to render every man his due. This is the definition of justice which has been most generally accepted by jurisconsults and publicists. — We may now inquire whether there is a natural justice anterior to all positive law, or whether express laws are necessary to create moral qualities. These questions which men have differed on, both in antiquity and in our own times, belong entirely, as d'Auguesseau rightly says, to the domain of the metaphysics of jurisprudence; and we need not concern ourselves with them when treating not of man in the savage state, but of man in society. — It is certain that men can not live in society without their interests and their passions causing difficulties and differences between them, difficulties and differences which the parties interested can neither properly weigh nor settle. Hence the necessity that some power be instituted to solve these difficulties and settle these differences. This power may be exercised by the father of the family, by elders, by the chiefs of the tribe, by lords or princes, by peoples or kings; it may be exercised directly or by delegates for that purpose; but the power is necessarily found in every country. — The right to administer justice is one of the attributes of sovereignty. It is both a right and a duty. — Justice emanates from the people or the sovereign, according to the form of the government. Hence the old legal formula, *de par le Roi*, by order of the king, a formula which Bentham treated as insignificant, when he demanded that its place should be taken by the nobler form, *de par justice*, by the order of justice. — There are political schools which distinguish the judicial power from the executive power and the legislative power. But if all are agreed in considering the distinction between the legislative power and the executive power, a distinction to be found in the constitutions of nearly all modern states,* as

* Notably is this the case in the constitution of the United States and the constitutions of the several states of the Union. Says Judge Cooley, the eminent American jurist (Constitutional Limitations, p. 34): "Certain things are to be looked for in all these instruments [the constitutions of the several states of the American Union]. We are to expect * * * that the usual checks and balances of republican government, in which consist its chief excellencies, will be retained. The most important of these are the separate departments for the exercise of legislative, executive and judicial power; and these are to be kept as distinct and separate as possible, except in so far as the action of one is made to constitute a restraint upon the action of the others, to keep them within proper bounds, and to prevent

an advance made, there are, nevertheless, a great many writers who continue to place the judicial power within the domain of the executive power, which is charged with the carrying of the law into effect. According to these writers, justice and administration constitute the two chief attributes of the executive power in the state. It is necessary to form a clear idea of the bearing of these distinctions. The judicial power and administration are not connected in the same way with the executive power. When this power gives personal, direct, formal and unceasing direction to political and administrative affairs, it allows judicial action to move in a sphere of its own, in an independent sphere, the limits of which are determined by the laws; and although justice is usually rendered in the name of the chief executive, no one dreams of giving to the executive the right to modify the decisions of the courts or to substitute his will for the judgments or decrees of the courts, just as no one dreams of putting the executive on the bench. — The essential conditions of justice are these: it should be equal; it should know no distinction of rank or class; it should be accessible to all; it should be gratuitous in this, that the parties to an action should not be obliged to remunerate the judge; it should be both prompt and sure; it should be surrounded by guarantees in the mode of procedure calculated to prevent error, and among these guarantees we must assign the first place to the liberty of defense and to the publicity of the proceedings; lastly, and above all, justice must rest on the faithful and rigorous application of the laws. — Judges have sometimes been asked to temper the severity of the laws by appealing to a species of charity applied to matters of justice. But, in the end, want of respect for the rule has always been regretted. Dictated by a feeling of humanity, this charity too frequently serves as a cloak for the ignorance of the judge, or as a pretext for the exercise of arbitrary power. Absolute respect for the laws by the judge himself is the most serious and most efficacious guaranty of justice. With reason does Bacon say: *Optimus judex qui minimum sibi * *, optima lex quæ minimum judici;* and this saying of his is true in every age. FÉRAUD-GIRAUD.

hasty and improvident action. Upon legislative action there is, first, the check of the executive, who will generally be clothed with a qualified veto power, and who may refuse to execute laws deemed unconstitutional; and second, the check of the judiciary, who may annul unconstitutional laws, and punish those concerned in enforcing them. Upon judicial action there is the legislative check, which consists in the power to prescribe rules for the courts, and perhaps to restrict their authority; and the executive check, of refusing aid in enforcing judgments which are believed to be in excess of jurisdiction. Upon executive action the legislature has a power of restraint, corresponding with that which it exercises upon judicial action; and the judiciary may punish executive agents for any action in excess of executive authority. And the legislative department has an important restraint upon both the executive and the judiciary, in the power of impeachment for illegal or oppressive action, or for any failure to perform official duty. The executive in refusing to execute a legislative enactment, will always do so with the peril of impeachment in view." (See CHECKS AND BALANCES.)

JUSTICE, Department of. The attorney general of the United States, although his office was created by congress as early as Sept. 24, 1789 (1 Stat. at Large, 92), was not made the head of a department until June 22, 1870, when the department of justice was created, (16 Stat. at Large, 162). By this act the various law officers of the government, whose functions under previously existing laws were to interpret and apply the statutes governing the business of the various departments and bureaus, and to prosecute violations of United States laws in certain cases, were placed under the supervision of the attorney general. One leading reason for creating a department of justice was to bring about uniformity in the construction and application of the laws, which had not been realized under the previously existing system, with half a dozen independent law officers, responsible to no common head. — The attorney general is made the head of the department of justice, being the chief law officer of the government. He is one of the seven members of the cabinet; he advises the president on questions of law, and, when required, renders opinions to the heads of any of the executive departments upon legal questions arising as to the administration of any one of them. He is the representative of the United States in all matters involving legal questions. He has supervision of the United States district attorneys and marshals in the United States courts of the states and territories. He sometimes appears in the supreme court of the United States to argue causes in which the government is a party, and even sometimes (as in the notable star route cases of 1882) in a subordinate court of the United States. In all other cases, the attorney general directs what officer is to appear and argue cases in which the United States is interested, in the supreme court, the court of claims, or any other court, providing special counsel for the United States when in his judgment it is required. — The office of solicitor general, created by the act of 1870, is the second office in the department of justice. He assists the attorney general, and in case of a vacancy in that office, or the absence of his chief, performs the duties of attorney general. The solicitor general conducts and argues United States cases in the courts at Washington, except when the attorney general otherwise directs. There are also two assistant attorneys general, whose duty it is to aid the attorney general and the solicitor general in the business of the department; one assists in the argument of causes in the supreme court, besides preparing legal opinions when called for; while the other conducts the cases in behalf of the United States in the court of claims. — The official salaries of those connected with the department of justice (including the law officers of the executive departments, who by the law of 1870 exercise their functions under the supervision of the attorney general), are as follows: The attorney general, $8,000; the solicitor general, $7,000, two assistant attorneys gen-

eral, each $5,000; assistant attorney general for the interior department, $5,000; assistant attorney general for the postoffice department, $4,000; solicitor of the treasury, $4,500; solicitor of internal revenue, $4,500; examiner of claims, state department, $3,500; twenty-four clerks and assistants, $73,600. The office of solicitor of the navy, formerly established, has been abolished, and a judge advocate general, with the rank and pay of a captain, has been substituted. — Besides the conduct of law cases involving the interests or authority of the government, the department of justice is charged with the extensive and complicated business connected with the judicial establishment, including the appointment (or recommendation for appointment) of judges, attorneys and marshals of the circuit and district courts of the United States; the examination and allowance of the accounts of these courts, now numbering nine judicial circuits, and fifty-eight district courts in the states, besides nine United States courts in the territories and District of Columbia. The tenure of these judicial officers, and their salaries, are as follows: Judges of circuit courts, for life, $6,000 each; judges of the United States district courts, for life, salaries, $3,500 to $5,000. These judges, like those of the supreme court, may be retired on full pension after ten years continuous service, provided they have reached the age of seventy. The district attorneys and United States marshals are appointed for the term of four years by the president and senate; their salaries are $200 a year, and the fees received in judicial proceedings, as fixed by law, limited, however, to a maximum compensation of $6,000 per annum. The clerks of the United States courts are appointed by the judges, and are paid by fees limited to $3,500 per annum, except in the Pacific states, where the limit is $7,000. The total appropriation for judicial salaries for the year 1882 was $420,300, besides fees. The same year congress appropriated for the expenses of the courts of the United States, $2,950,000, including the fees. This is to cover the entire expenditure for jurors, witnesses, support of prisoners, special counsel, contingent expenses of the courts, etc. — The offices of the department of justice occupy the same building with the court of claims, opposite the treasury department, on Pennsylvania avenue. —Following is a complete list of the attorneys general of the United States, with their terms of office. Those whose names are repeated were reappointed by successive presidents. The list, though already given under the title ADMINISTRATIONS, is repeated here for the sake of convenience.

1.	Edmund Randolph	Sept. 26, 1789
	"	March 4, 1793
2.	William Bradford	Jan. 27, 1794
3.	Charles Lee	Dec. 10, 1795
	"	March 4, 1797
4.	Theophilus Parsons	Feb. 20, 1801
5.	Levi Lincoln	March 5, 1801
6.	Robert Smith	March 3, 1805
7.	John Breckinridge	Aug. 7, 1805
8.	Cæsar A. Rodney	Jan. 28, 1807
	"	March 4, 1809
9	William Pinkney	Dec. 11, 1811
	"	March 4, 1813
10.	Richard Rush	Feb. 10, 1814
	"	March 4, 1817
11.	William Wirt	Nov. 13, 1817
	"	March 5, 1821
	"	March 4, 1825
12.	John M. Berrien	March 9, 1829
13.	Roger B. Taney	July 20, 1831
	"	March 4, 1833
14.	Benjamin F. Butler	Nov. 15, 1833
	"	March 4, 1837
15.	Felix Grundy	July 5, 1838
16.	Henry D. Gilpin	Jan. 11, 1840
17.	John J. Crittenden	March 5, 1841
	"	April 6, 1841
18.	Hugh S. Legaré	Sept. 13, 1841
19.	John Nelson	July 1, 1843
20.	John Y. Mason	March 6, 1845
21.	Nathan Clifford	Oct. 17, 1846
22.	Isaac Toucey	June 21, 1848
23.	Reverdy Johnson	March 8, 1849
	John J. Crittenden	July 22, 1850
24.	Caleb Cushing	March 7, 1853
25.	Jeremiah S. Black	March 6, 1857
26.	Edwin M. Stanton	Dec. 20, 1860
27.	Edward Bates	March 5, 1861
	Titian J. Coffee, *ad interim*	June 22, 1863
28.	James Speed	Dec. 2, 1864
	"	March 4, 1865
	"	April 15, 1865
29.	Henry Stanbery	July 23, 1866
30.	William M. Evarts	July 15, 1868
31.	E. Rockwood Hoar	March 5, 1869
32	Amos T. Ackerman	June 23, 1870
33	George H. Williams	Dec. 14, 1871
	"	March 4, 1873
34.	Edwards Pierrepont	April 26, 1875
35.	Alphonso Taft	May 22, 1876
36.	Charles Devens	March 12, 1877
37.	Wayne McVeigh	March 5, 1881
38.	Benjamin H. Brewster	Dec. 19, 1881

A. R. SPOFFORD.

K

KANSAS, a state of the American Union. Under its present (state) boundaries it is formed mainly from territory acquired by the Louisiana purchase (see ANNEXATIONS, I.); the southwest portion, lying south of the Arkansas river and west of longitude 23° west of Washington (100° west of Greenwich), was part of the territory ceded to the United States by Texas in 1850. (See COMPROMISES, V.) Under its territorial boundaries Kansas did not include this southwest portion, but extended west to the Rocky mountains, thus taking in part of the modern state of Colorado. — The greater part of Kansas was a part of the district and territory of Louisiana, and of the territory of Missouri, until 1821; after that time it remained for thirty-three years without an organized government. About 1843 the increase of overland travel to Oregon led S. A. Douglas to introduce a bill in the house of representatives to organize the territory of Nebraska, covering the modern state of Kansas and all the territory north of it, in order to prevent the alienation of

this overland route by treaties for Indian reservations. This bill he unsuccessfully renewed at each session until 1854, when Kansas was at last organized as a separate territory. (See KANSAS-NEBRASKA BILL.) — The Missouri compromise had forever prohibited slavery in this and all the other territory acquired from France north of 36° 30′ north latitude; the passage of the Kansas-Nebraska bill, which provided that the territory, when admitted as a state, should be received by congress "with or without slavery, as their constitution may prescribe at the time of their admission," began the "Kansas struggle" between free state and slave state immigrants for the settlement of the territory and the control of its conversion into a state. The latter were first in the field, owing to the proximity of the slave state of Missouri. They crossed the border into the new territory, pre-empted lands, and warned free state immigrants not to cross the state of Missouri, which barred the straight road to Kansas. They were thus able to control the first election for delegate to congress, Nov. 29, 1854. A. H. Reeder, the federal governor of the territory, arrived in Kansas Oct. 7, 1854, and ordered an election for a territorial legislature to be held March 30, 1855. Free state immigration had already begun, in July, 1854, under the auspices at first of a congressional association called the "Kansas Aid Society," and afterward of a corporation chartered by the Massachusetts legislature, Feb. 21, 1855, called the "New England Emigrant Aid Company," and other similar associations. Before this evident free state preparation could be effective the March election took place, and was carried by organized bands of Missourians, who moved into Kansas on election day, voted, and returned to Missouri at night. The territorial census of February, 1855, showed 2,905 legal voters in the territory; in the election of the next month 5,427 votes were cast for the pro slavery candidates and 791 for their opponents. These figures alone, leaving aside the testimony to the terrorizing of free state voters, will explain why the free state settlers always refused to recognize the pro-slavery legislature as representing anything beyond a Missouri constituency. — By whatever means the election was carried, this initial success of the pro-slavery element gave it a tremendous advantage during the next two years. Its legislature, which met at Pawnee, July 2, 1855, proceeded to make Kansas a slave territory, adopted the slave laws of Missouri *en bloc*, with a series of original statutes denouncing the penalty of death for about fifty different offenses against the system of slavery, and provided that, for the next two years, every executive and judicial officer of the territory should be appointed by the legislature or its appointees, and that every candidate for the next legislature, every judge of election, and every voter, if challenged, should swear to support the fugitive slave law. The territorial legislature had thus, as far as it was able, made Kansas a slave territory, and guarded against any easy reversal of its action by subsequent legislatures. The free state settlers, therefore, ignoring the territorial legislature, took immediate steps to transform Kansas into a state, without waiting for any enabling act of congress. California and other states had previously formed governments in this manner (see TERRITORIES), but the parallelism was denied by the democratic administration at Washington on the ground that no territory had ever been, or could properly be, thus transformed into a state in direct opposition to the constituted authorities of the territory. The political history of Kansas, for the next few years, is therefore a series of attempts to inaugurate a state government, complicated by disobedience to territorial authorities, indictments of free state leaders for treason, and actual armed conflict between partisans of the territorial and state governments. — In obedience to the call of a private free state committee, a convention met at Topeka, Sept. 19, 1855, and ordered an election for delegates to a constitutional convention. Only free state voters took part in the election. The convention met at Topeka, Oct. 23, and formed the "Topeka constitution," prohibiting slavery, which was submitted to popular vote and was adopted, Dec. 15, by a vote of 1,731 to 46, only free state settlers voting. An election for state officers was then held, Jan. 15, 1856, at which a governor (C. Robinson), a representative to congress, and a complete legislature and state government, were chosen. The bill to admit the state of Kansas, under the Topeka constitution, was passed by the house of representatives, July 3, 1856, by a vote of 107 to 106, but failed in the senate. Nevertheless, on the claim that the state was already in existence (see STATE SOVEREIGNTY), the free state legislature met at Topeka, July 4, 1856. It was dispersed by federal troops under Col. Sumner, by orders from Washington. This action had been foreshadowed by a proclamation of President Pierce, Feb. 11, in which he declared any such attempt to be an insurrection, which would "justify and require the forcible interposition of the whole power of the general government, as well to maintain the laws of the territory as those of the Union." It was the occasion of considerable excitement, in and out of congress, and a provision, or "rider," was added by the republican majority in the house to the army appropriation bill, forbidding the use of the army to enforce the acts of the territorial legislature of Kansas. The senate rejected the proviso, and during the debate the time fixed for adjournment arrived and the session of congress closed, Aug. 18, 1856, with the army bill unpassed. The president at once called an extra session, in which the army bill was passed without the "rider," and congress again adjourned, Aug. 30. (See also BROOKS, PRESTON.) — Long before this time Kansas had become the principal topic of newspaper, political and private discussion. The territory itself had fairly relapsed into a state of nature, the free state settlers disobeying and re-

sisting the territorial government, and the slave state settlers disobeying and resisting the state government. A desultory civil war, waged on public and private account, was marked by the murder of many individuals and by the sack of at least two cities in the free state section, Lawrence (May 21), and Osawatomie (June 5, 1856). All this would have been of no more permanent interest than the early lawlessness of California, but for the premonitions which "bleeding Kansas" afforded all thinking men of the infinitely more frightful convulsion to come. The predominance of a moral question in politics, always a portentous phenomenon under a constitutional government, was made unmistakable by the Kansas struggle, and its first perceptible result was the disappearance, in effect, of all the old forms of opposition to the democratic party, and the first national convention of the new republican party, June 17, 1856. (See REPUBLICAN PARTY.) Kansas, it might be said, cleared the stage for the last act of the drama, the rebellion. — Reeder, the first territorial governor, had quarreled with his legislature soon after it first assembled in 1855. He had convened it at Pawnee city, for the purpose, as was alleged, of increasing the value of his own property in that place, and when the legislature passed an act, over his veto, to remove the capital to Shawnee Mission, he refused to recognize it as any longer a legal legislature, and became one of the free state leaders. At the request of the legislature the president removed him, July 31, 1855, and appointed Wilson Shannon, of Ohio. Shannon was incompetent, and fled from the territory in September, 1856. The next governor, John W. Geary, of Pennsylvania, arrived in Kansas Sept. 9, 1856, and by a skillful blending of temporizing and decided measures succeeded in a reasonable time in disbanding most of the armed and organized forces on both sides, and in bringing about a temporary lull in the open conflict Before the end of the year he even claimed to have re-established order in the territory. Early in the next year he seems to have become distrustful of the sincerity of the federal administration in supporting him, and March 4, 1857, he resigned. Robert J. Walker, of Mississippi (a Pennsylvanian by birth), was appointed in his place. He reached Kansas May 25, 1857, and proved to be one of the most successful of the territorial governors. It must be noted, however, that his work had been much simplified by the enormous increase in the free state immigration, which had by this time almost entirely swamped open opposition.— Nevertheless, Kansas was still governed by the nearly unanimously pro-slavery territorial legislature, backed by the power of the federal government. After a final attempt of the free state legislature to meet at Topeka, Jan. 6, 1857, which was prevented by the arrest of its members by the federal authorities, the free state party abandoned the Topeka constitution forever. Governor Walker was successful in gaining their confidence, and succeeded in inducing them, for the first time, to take part in the election for the territorial legislature, in October, 1857, which resulted in the choice of a free state legislature and delegate to congress. Before losing their hold of the legislature, however, the pro-slavery party had used it to call a constitutional convention, which met at Lecompton, Sept. 5, 1857, and adopted the "Lecompton constitution," Nov. 7. It sanctioned slavery in the state, prohibited the passage of emancipation laws by the legislature, forbade amendments until after 1864, and provided that the constitution should not be submitted to popular vote, but should be finally established by the approval of congress and the admission of the state. Governor Walker had repeatedly promised the free state voters, to secure their participation in the October election, that the proposed constitution should be submitted to popular vote; the convention evaded the fulfillment of the pledge by submitting to a popular vote, Dec. 21, only the provision sanctioning slavery. The vote stood 6,266 "for the constitution *with* slavery," and 567 "for the constitution *without* slavery," the free state party generally declining to vote; but the new territorial legislature passed an act submitting the whole constitution to popular vote, Jan. 4, 1858, when the vote stood 10,226 against the constitution, 138 for it with slavery, 24 for it without slavery. — The whole question then passed into national politics, and occupied most of the next session of congress, 1857–8. Both branches were democratic, but no complete party majority could be secured in the house for the approval of the Lecompton constitution. The president desired and urged it; the senate passed the necessary bill, March 23, 1858; but in the house 22 Douglas democrats and 6 Americans united with the 92 republicans, April 1, to pass a substitute requiring the resubmission of the constitution to the people of Kansas. As a compromise, both houses passed, April 30, the "English bill" (so called from its mover), according to which a substitute for the land ordinance of the Lecompton constitution was to be submitted to popular vote in Kansas; if it was accepted, the state was to be considered as admitted; if it was rejected, the Lecompton constitution was to be considered as rejected by the people, and no further constitutional convention was to be held until a census should have shown that the population of the territory equaled or exceeded that required for a representative. (See APPORTIONMENT.) Aug. 3, the people of Kansas voted down the land ordinance, 11,088 to 1,788, and thus finally disposed of the Lecompton constitution. — Nevertheless, the territorial legislature called a state convention, which met at Leavenworth and adopted a constitution, April 3, 1858, prohibiting slavery. It was ratified by popular vote, but was refused consideration by the senate, on the ground that Kansas had not the requisite population. — The territorial legislature directed the question of a new constitutional convention to be

again submitted to popular vote in March, 1859. It was approved; the convention met at Wyandotte July 5, and adopted the "Wyandotte constitution" July 27, which was ratified, Oct. 4, by a vote of 10,421 to 5,530. The senate was still a barrier in the way of the admission of Kansas, and it was not until the withdrawal of southern senators (see SECESSION) had changed the party majority in that branch of congress that Kansas was at last admitted as a state, Jan. 29, 1861, under the Wyandotte constitution. Under this organic law slavery was prohibited; the governor was to hold office for two years; the suffrage was limited to whites, and Topeka was made the capital. — From the beginning of the war of the rebellion, to which the Kansas struggle was the prelude, it was natural that Kansas should take the side of the Union with even more warmth than the other northern states. To her people it was rather the development of an old war than the beginning of a new one, and they sent a larger percentage of their number to the armies in the field than any other state. In state politics the republican party, whose name had from the first been associated with the efforts to make Kansas a free state, has always had a complete and overwhelming predominance. Every governor, congressman and United States senator has been a republican; almost all the local officers have been republicans; and there have been very few legislatures in which the opposition to the dominant party has risen so high as 20 per cent. of the whole number of members. Indeed, it can hardly be said that there has been any opposition party in the state since 1857. In 1875 the democrats even dropped their party name, and the combined opposition, under the name of "independent reformers," polled 35,308 out of 84,132 votes, and elected 37 out of 136 members of the legislature. With the exception of this year the republican vote has always been from 60 to 80 per cent. of the whole, and party contest has been confined to struggles between factions of the dominant party. (See also PROHIBITION.) — This constant and foregone control of the state by one party has operated to the disadvantage of the abler leaders of Kansas in national politics, since the two great parties have naturally reserved their favors for politicians of other and more doubtful states. After the conclusion of the Kansas struggle (see BROWN, JOHN), it would be difficult to name any leader of the state whose name has obtained a national reputation. Another ill consequence has been that politicians have aimed to influence conventions and legislatures, rather than the people, and have not forborne at times the use of the most questionable means of influence. The investigations of the charges of bribery and corruption, in 1872–3, at the elections of United States senators S. C. Pomeroy and Alexander Caldwell, led to the resignation of the latter, and the permanent retirement of the former from politics at the end of his senatorial term. Similar charges have been freely made in regard to other elections in which the people have not taken part, and, though not sustained by the evidence, have given Kansas politics an unpleasant notoriety which is utterly unmerited by the character of the people or by the general conduct of their political contests. — The name of the state was given from that of its principal river, an Indian word, said to mean "the smoky water," but more probably derived from the name of the Kaws, or Konzas, an Indian tribe living on its banks. — Among those who have been prominent in state politics, outside of the list of governors, given below, are the following, all republicans: Alexander Caldwell, United States senator 1871–3; Sidney Clarke, representative in congress 1865–71; Martin F. Conway, one of the leaders of the free state party, and representative in congress 1861–3, John James Ingalls, United States senator 1873–85; James H. Lane, democratic lieutenant governor of Indiana 1849–53, representative in congress from Indiana 1853–5, the principal military leader of the free state immigrants in the Kansas struggle, and United States senator 1861–6; P. B. Plumb, United States senator 1877–83; S. C. Pomeroy, United States senator 1861–73; and E. G. Ross, United States senator 1866–71. — GOVERNORS: Charles Robinson, 1861–3; Thomas Carney, 1863–5; S. J. Crawford, 1865–9; Jas. M. Harvey, 1869–73; Thomas A. Osborn, 1873–7; George T. Anthony, 1877–81; John P. St. John, 1881–3. — See 1 Poore's *Federal and State Constitutions;* Cutts' *Treatise on Party Questions*, 84; authorities under KANSAS-NEBRASKA BILL; 1 Greeley's *American Conflict*, 235; Greeley's *Political Text Book of* 1860, 87; *Report of the House Special Committee on the Troubles in Kansas* (republican report, pp. 1–67, democratic report, pp 68–109); 1 Draper's *History of the Civil War*, 409; the particulars of the "Emigrant Aid Society" are in 2 Wilson's *Rise and Fall of the Slave Power*, 465; 3 Spencer's *United States*, 514; Harris' *Political Conflict in America*, 168; *Buchanan's Administration*, 28; Claskey's *Political Text Book*, 346; Gihon's *Geary and Kansas* (generally the fairest contemporary account); Robinson's *Kansas;* Gladstone's *Englishman in Kansas;* Holloway's *History of Kansas* (1868); Wilder's *Annals of Kansas* (1875); 4 Sumner's *Works*, 127; Porter's *West in* 1880, 323.

ALEXANDER JOHNSTON.

KANSAS-NEBRASKA BILL (IN U. S. HISTORY), the act of congress by which the territories of Kansas and Nebraska were organized in 1854. Its political importance consisted wholly in its repeal of the Missouri compromise. (See COMPROMISES, IV.) — Before the introduction of the bill it did not seem possible for any further question to arise as to slavery in the United States. In the several states slavery was regulated by state law; in the Louisiana purchase both sections had in 1820 united to abolish slavery in the portion north of latitude 36° 30', ignoring

the portion south of it; all the southern portion, outside of the Indian Territory, was covered soon afterward by the slave state of Arkansas; and in the territory afterward acquired from Mexico both sections had united in 1850 in an agreement to ignore the existence of slavery until it could be regulated by the laws of the states which should be formed therefrom in future. Every inch of the United States seemed to be thus covered by some compromise or other. (See COMPROMISES.) — The slavery question was in this condition of equilibrium when a bill was passed by the house, Feb. 10, 1853, to organize the territory of Nebraska, covering, also, the modern state of Kansas. It lay wholly within that portion of the Louisiana purchase whose freedom had been guaranteed by the Missouri compromise, and the bill therefore said nothing about slavery, its supporters taking it for granted that the territory was already free. In the senate it was laid on the table, March 3, the affirmative including every southern senator, except those from Missouri; but their opposition to the bill came entirely from an undefined repugnance to the practical operations of the Missouri compromise, not from any idea that that compromise was no longer in force. If it had been repealed by the compromise of 1850, those most interested in the repeal do not seem to have yet discovered it in 1853. — During the summer of 1853, following the adjournment of congress, the discussion of the new phase, which the proposed organization of Nebraska at once brought about in the slavery question, became general among southern politicians. The southern people do not seem to have taken any great interest in the matter, for it was very improbable that slave labor could be profitably employed in Nebraska, even if it were allowed. The question was wholly political. The territory in question had been worthless ever since it was bargained away to secure the admission of Missouri as a southern and slaveholding state; but now immigration was beginning to mark out the boundaries of present territories and potential states, which would, in the near future, make the south a minority in the senate, as it had always been in the house, and perhaps place it at the mercy of a united north and northwest. To prevent this result it was of importance to southern politicians, 1, that, if the Missouri compromise was to endure, Nebraska should remain unorganized, in order to check immigration and prevent the rapid formation of another northern state; 2, that, if the Missouri compromise could be voided, Nebraska should at least be open to slavery, for the same purpose as above, since it was agreed on all hands that free immigration instinctively avoided any contact with slave labor; and 3, that, if slave labor could possibly be made profitable in Nebraska, the territory should become a slave state, controlled by a class of slave owners in full sympathy with the ruling class of the southern states. The last contingency was generally recognized as highly improbable; one of the first two was the direct objective point. — When congress met in December, 1853, the southern programme, as above stated, had been pretty accurately marked out. It was not a difficult task to secure the support of northern democrats for it, because the latter had for five years been advocating the right of the people of New Mexico to decide the status of slavery in that territory. (See POPULAR SOVEREIGNTY.) The only step backward that was necessary was to accept the application of the doctrine to *all* the territories, whether south or north of latitude 36° 30'. The excuse for this backward step was thus stated by Douglas in his report of Jan. 4, 1854: "The Nebraska country occupies the same relative position to the slavery question as did New Mexico and Utah when those territories were organized." A wrong premise: for the difficulty in the case of New Mexico and Utah had arisen entirely from the fact that the status of slavery in them was unsettled, and could not be settled without a struggle; while in the case of Nebraska the struggle was rightfully over, and the status of slavery fixed. Congressional action was directed, in the former case, toward an amicable adjustment of the dispute, and, in the latter case, toward a needless reopening of the dispute; and yet the assumed parallelism of the two cases was absolutely the only justification ever offered by Douglas and the Douglas democracy of the north for their introduction and support of the Kansas-Nebraska bill. They seem to have been forced into it by their constitutional arguments in support of "squatter sovereignty"; after arguing that congress had no constitutional power to prohibit slavery in New Mexico in 1850, it seemed difficult for them, without stultifying themselves, to argue in favor of the power of congress in 1820 to prohibit slavery in Nebraska. They seem to have forgotten that the compromise of 1850 was confessedly not based upon constitutional grounds at all, but was a purely political decision, based upon expediency; that the *constitutional* objections to the power of congress to prohibit slavery in a territory applied equally to the power of congress to prohibit a territorial legislature from legislating for or against slavery, and so struck at the very root of the compromise of 1850 itself; and that the expediency which counseled them to refrain from meddling with the slavery question in New Mexico and Utah as imperatively counseled them to refrain from disturbing the settlement of the slavery question in Nebraska. — Dec. 15, 1853, in the senate, A. C. Dodge, of Iowa, offered a bill to organize the territory of Nebraska, but his bill, like the one of the preceding session, made no reference to slavery. Jan. 4, 1854, it was reported with amendments by Douglas, chairman of the committee on territories. The report endeavored to make out a parallel between New Mexico and Nebraska by comparing the Mexican abolition of slavery in the former case with the act of 1820 in the latter case; it

remarked that in either case the validity of the abolition of slavery was questioned by many, and that any discussion of the question would renew the excitement of 1850; and it recommended, though not directly, that the senate should organize the new territory without "either affirming or repealing the 8th section of the Missouri act, or [passing] any act declaratory of the meaning of the constitution in respect to the legal points in dispute." But the report stated the basis of the compromise of 1850 as follows: "that all questions pertaining to slavery in the territories, and in the new states to be formed therefrom, are to be left to the decision of the people residing therein, by their appropriate representatives, to be chosen by them for that purpose." This was, in the first place, incorrect, since the New Mexico and Utah acts left no such power to the territorial legislature (see POPULAR SOVEREIGNTY), and, in the second place, not pertinent, since it was an attempt to expand an act of congress, passed for a particular purpose, into a great constitutional rule which was to bind subsequent congresses. Jan. 16, Dixon, of Kentucky, gave notice of an amendment abolishing the Missouri compromise in the case of Nebraska. This was the first open signal of danger to the Missouri compromise; and on the following day Sumner, of Massachusetts, gave notice of an amendment to the bill, providing that nothing contained in it should abrogate or contravene that settlement of the slavery question. Douglas at once had the bill recommitted, and, Jan. 23, he reported, in its final shape, the Kansas-Nebraska bill, which, in its ultimate and unexpected consequences, was one of the most far-reaching legislative acts in American history. — The bill divided the territory from latitude 37° to latitude 43° 30′ into two territories, the southern to be called Kansas, and the northern Nebraska; the territory between latitude 36° 30′ and 37° was now left to the Indians. In the organization of both these territories it was declared to be the purpose of the act to carry out the following three "propositions and principles, established by the compromise measures of 1850": 1, that all questions as to slavery in the territories, or the states to be formed from them, were to be left to the representatives of the people residing therein; 2, that cases involving title to slaves, or personal freedom, might be appealed from the local tribunals to the supreme court; and 3, that the fugitive slave law should apply to the territories. The section which extended the constitution and laws of the United States over the territories had the following proviso: "except the 8th section of the act preparatory to the admission of Missouri into the Union, approved March 6, 1820, which, being inconsistent with the principles of non-intervention by congress with slavery in the states and territories, as recognized by the legislation of 1850, commonly called the compromise measures, is hereby declared inoperative and void; it being the true intent and meaning of this act not to legislate slavery into any territory or state, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the constitution of the United States." With the exception of these two novel features, the bill was the usual formal act for the organization of a territory. An amendment offered by Chase, of Ohio, allowing the people of the territory to prohibit the existence of slavery therein, if they saw fit, was voted down, 36 to 10. It is difficult to see any reason for the affirmative vote, since the Chase amendment was strictly in the line of "popular sovereignty," but it was probably due in part to a general distrust of any amendment coming from the anti-slavery element, and in part to the idea that the closing words above given, "subject only to the constitution of the United States," excluded the Chase amendment and made popular sovereignty unilateral in the territories, with authority to permit slavery, but not to prohibit it. March 3, 1854, the bill passed the senate by a vote of 37 to 14. In the affirmative were fourteen northern democrats, and twenty-three southern democrats and whigs; in the negative were eight northern anti-slavery senators, free-soilers or "anti-Nebraska men" (see REPUBLICAN PARTY), Bell, southern whig, Houston, southern democrat, and Hamlin, of Maine, James, of Rhode Island, and Dodge and Walker, of Wisconsin, northern democrats — The bill was not taken up in the house until May 8, and was passed May 24, by a vote of 113 to 100. The affirmative vote included forty-four northern democrats, fifty-seven southern democrats, and twelve southern whigs; the negative vote included forty-four northern democrats, two southern democrats, forty-four northern whigs, seven southern whigs, and three free-soilers. May 30, the Kansas Nebraska bill was approved by the president, and became law.— The effects of the bill upon the parties of the time are elsewhere referred to. (See DEMOCRATIC PARTY, V.; WHIG PARTY, III.; REPUBLICAN PARTY, I.; AMERICAN PARTY.) They may be summarized as follows: 1, it destroyed the whig party, the great mass of whose voters went over, in the south to the democratic, and in the north to the new republican party; 2, it made the democratic party almost entirely sectional, for the loss of its strong anti-slavery element in the north reduced it in the course of the next few years to a hopeless minority there; 3, it crystallized all the northern elements opposed to slavery into another sectional party, soon to take the name of republican; and 4, it compelled all other elements, after a hopeless effort to form a new party on a new issue, to join one or the other sectional party. Its effects on the people of the two sections were still more unfortunate: in the north, it laid the foundation for the belief, which the Dred Scott decision was soon to confirm, that the whole policy of the south was a greedy, grasping, selfish desire for the extension of slavery; in the south,

by the grant of what none but the politicians had hitherto asked or expected, the abolition of the Missouri compromise, it prepared the people for the belief that the subsequent forced settlement of Kansas by means of emigrant aid societies was a treacherous evasion by the north of the terms of the Kansas-Nebraska bill. In other words, the Kansas-Nebraska bill, and still more the Dred Scott decision which followed it, placed each section in 1860, to its own thinking, impregnably upon its own peculiar ground of aggrievement: the north remembered only the violation of the compromise of 1820 by the Kansas-Nebraska bill, taking the Dred Scott decision as only an aggravation of the original offense; the south, ignoring the compromise of 1820 as obsolete by mutual agreement, complained of the north's refusal to carry out fairly the Kansas-Nebraska bill and the Dred Scott decision. (See also FUGITIVE SLAVE LAWS.) And all this unfortunate complication was due entirely to Stephen A. Douglas' over-zealous desire to settle still more firmly and securely a question which was already settled. — On the other hand, it is but fair to give Douglas' grounds for his action, as reported by Cutts (cited below). Having shown the imperative necessity for immediate organization of the two territories, he proceeds as follows (italics as in original): "If the necessity for the organization of the territories did in fact exist, it was right that they should be organized *upon sound constitutional principles;* and if the compromise measures of 1850 were a safe rule of action upon that subject, *as the country* in the presidential election, and *both of the political parties* in their national conventions in 1852, had affirmed, then it was the duty of those to whom the power had been intrusted to frame the bills *in accordance with those principles.* There was another reason which had its due weight in the repeal of the Missouri restriction. The jealousies of the two great sections of the Union, north and south, had been fiercely excited by the slavery agitation. The southern states would never consent to the opening of those territories to settlement, so long as they were excluded by act of congress from moving there and holding their slaves; and they had the power to prevent the opening of the country forever, inasmuch as it had been forever excluded by treaties with the Indians, which could not be changed or repealed except by a two-thirds vote in the senate. But the south were willing to consent to remove the Indian restrictions, provided the north would at the same time remove the Missouri restriction, and thus throw the country open to settlement on equal terms by the people of the north and south, and leave the settlers at liberty to introduce or exclude slavery as they should think proper." All this is certainly of very great force, but only as a statement of the problem which was to be solved mainly by Douglas and the northern democracy, and not, as Douglas evidently takes it, as a justification of the particular solution which was adopted. (See, further, DRED SCOTT CASE, SLAVERY, SECESSION, UNITED STATES.) — See *Congressional Globe*, 33*d Congress*, 1*st Session*, 221; Greeley's *Political Text Book*, 79; Claskey's *Political Text Book*, 346; 3 Spencer's *United States*, 504; Cutts' *Treatise on Party Questions*, 91; 2 Stephens' *War Between the States*, 241; *Buchanan's Administration*, 26; Botts' *Great Rebellion*, 147; Benton's *Examination of the Dred Scott Decision*, 156; Harris' *Political Conflict*, 155; 1 Draper's *Civil War*, 417; 1 Greeley's *American Conflict*, 224; *New Englander*, May, 1861; Giddings' *Rebellion*, 364; 2 Wilson's *Rise and Fall of the Slave Power*, 378; Cairnes' *Slave Power*, 115; Schuckers' *Life of Chase*, 134; authorities under KANSAS, and other articles above referred to; Theodore Parker's *Speeches*, 297. The act is in 10 *Stat at Large*, 277. ALEXANDER JOHNSTON.

KENTUCKY, a state of the American Union, formed from territory originally belonging to Virginia. A land company formed the government of "Transylvania" within its limits, May 23, 1775, but Governor Dunmore refused to recognize it, and the Virginia legislature formed the whole territory into the county of Kentucky, Dec. 6, 1776. In 1784-5 three conventions demanded a separation, to which the Virginia legislature agreed on condition that congress should agree, and that Kentucky should assume a share of Virginia's debt, and recognize Virginia's land warrants. Congress postponed consideration of the matter until the organization of the new federal government; and this, and the neglect to insist on the navigation of the Mississippi (see ANNEXATIONS, I), so angered the people that active but unsuccessful efforts were made to constitute Kentucky an independent republic, in alliance with Spain or with the British in Canada. The final act of the Virginia legislature, consenting to separation, was passed Dec. 18, 1789; congress, by act of Feb. 4, 1791, admitted the state, the admission to take effect June 1, 1792; and a state convention, April 2-19, 1791, formed the first constitution of Kentucky. This last was the tenth popular convention which had been held during the long process of admission. — BOUNDARIES. The Virginia act of Dec. 6, 1776, had defined the county of Kentucky as "all the country west of the Big Sandy creek to the Mississippi," and this was the limit of the subsequent state. The boundary between Virginia and Kentucky, from the Big Sandy southwestward, along the ridge of the Cumberland mountains, was fixed by joint commissioners in May, 1799, and was ratified by Kentucky Dec. 2, 1799, and by Virginia Jan. 13, 1800. The southern boundary, between Kentucky and Tennessee, was settled by joint commissioners in February, 1820, and ratified by congress May 12, 1820. — CONSTITUTIONS. The first constitution made suffrage universal on two years residence in the state. The house of representatives was to consist of not more than 100 nor less than 40 members, chosen annually by the people. Every fourth year a number of

electors equal to the number of representatives was to be chosen by popular vote, and these were to choose the governor and a senate one-fourth of the house's members, "men of the most wisdom, experience and virtue, above twenty-seven years of age." The legislature was empowered to prohibit the importation of slaves, but not to pass emancipation laws without consent of owners and compensation. The selection of the capital was intrusted to a committee, who chose Frankfort. — The second constitution was framed by a convention at Frankfort, July 22–Aug. 7, 1799. It was not submitted to the people, and took effect Jan. 1, 1800. Its principal changes were the abolition of the electoral system and the choice of the governor and senate by popular vote, the latter in senatorial districts. An effort, led by Henry Clay, to insert a clause securing the gradual abolition of slavery was defeated. — The third constitution was framed by a convention at Frankfort, Oct, 7, 1849–June 11, 1850, and ratified by popular vote. Its principal changes were a complete reorganization of the judiciary system; the fixing of the number of senators at 38 and of representatives at 100; the limiting of the state debt to $500,000; and the insertion of a clause declaring the right of property in slaves to be "before and higher than any constitutional sanction."— GOVERNORS: Isaac Shelby (1792–6); James Garrard (1796–1804); Christopher Greenup (1804–8); Charles Scott (1808–12), Isaac Shelby (1812–16); George Madison (1816–20); John Adair (1820–24); Joseph Desha (1824–8); Thomas Metcalfe (1828–32); John Breathitt (1832–6); Jas. Clark (1836–40); Robert P. Letcher (1840–44); William Owsley (1844–8); John J. Crittenden (1848–51); Lazarus W. Powell (1851–5); Charles S. Morehead (1855–9), Beriah Magoffin (1859–63); Thos. E. Bramlette (1863–7); John L. Helm (1867–71); P. H. Leslie (1871–5); James B. McCreary (1875–9); Luke P. Blackburn (1879–83). — POLITICAL HISTORY. Notwithstanding Kentucky's determination to separate from Virginia, the political connection between the two states was very intimate for many years. The first inhabitants were very largely of Virginia origin, and the Virginia influence over their leaders is well illustrated by the coincidence in the passage of the Kentucky and Virginia resolutions of 1798 and 1799. (See KENTUCKY RESOLUTIONS.) The only disturbing element was a small but active "Spanish party," whose leaders, some of them prominent in the state judiciary, were pensioners of the Spanish commandant at New Orleans until the cession of Louisiana. (See ANNEXATIONS, I.) The feeling of the mass of the people, however, was so strongly against Spain and the Spanish party that both Genet and Burr made Kentucky the scene of their most active intrigues. (See GENET, CITIZEN; BURR, AARON.) A federalist party was gradually formed, and in 1795 it succeeded in securing the election by the legislature of Humphrey Marshall to the United States senate. With the exception of this federalist success, the state was under republican (democratic) control during its early years, and in 1801 the tenure of the dominant party was made permanent and secure by the national overthrow of the federal party. The state's electoral votes were cast for Washington and Jefferson in 1792 and for Jefferson and Burr in 1796; and from that time until 1830 the governors, legislatures and congressmen were democratic, though in 1824 the electoral votes of Kentucky were naturally given to Henry Clay.—The only purely local political contest during this period was upon the relief of delinquent debtors, 1820–26. An act for that purpose was passed by the legislature, and was decided unconstitutional, first by a circuit court and then by the state supreme court. The "relief party" elected their candidate for governor in 1824, and a majority of the legislature, but not the two thirds majority necessary to remove the judges. They therefore proceeded to reorganize the supreme court by act, and two supreme courts were in existence until 1826, when the "anti-relief party" gained control, repealed the act of reorganization, and left the old court in possession. — Henry Clay exercised a great influence over the politics of Kentucky from the beginning of his public life. In 1828 the state's electoral votes were cast for Jackson against Adams, and most of the state's representatives in congress were "Jackson democrats"; but the new governor was a partisan of Clay. On the appearance of the national whig party, soon after, with Clay as its leader, Kentucky became a whig state, and so remained until the overthrow of the party. The legislatures were whig; the governors were whig until 1851; and a majority of the representatives in congress were of the same party. In 1837-9 there was but one democratic representative out of thirteen; but usually the whig proportion was from one-third to one-half. The United States senators, during the same period, were all whigs; Senator Powell, chosen in 1859, being the first democratic senator chosen by Kentucky since 1828. In 1854 the whig organization, now taking the name of Americans, elected the governor, a majority of the legislature, and six of the ten congressmen. In 1856 the democrats for the first time carried the state in a presidential election, and the state's electoral votes were cast for Buchanan. In 1858 the legislature also became democratic. In 1860 the electoral votes of the state were cast for Bell. (See BORDER STATES, CONSTITUTIONAL UNION PARTY.)—At the outbreak of the rebellion in 1861 the sympathies of the state administration were with the south, and an extra session of the legislature was summoned by the governor, Jan. 18, for the purpose of calling a state convention. This the legislature refused to do, but appointed delegates instead to the "peace convention" at Washington. Another extra session of the legislature was called, April 28. It again refused to call a state convention, refused to grant the governor $3,000,000 to arm the state guard, and ordered that body to take the

oath of allegiance to the United States as well as to the state. June 30, representatives were chosen to the extra session of congress, eight being unionists and one secessionist, the total vote being 92,500 for the former and 37,700 for the latter. — At first the idea of "neutrality" between the federal and confederate governments was somewhat in vogue in Kentucky, and Governor Magoffin, by proclamation of May 20, 1861, even ordered both the federal and confederate authorities to abstain from any entrance upon the soil of the state. The legislature which met in September, 1861, put an end to this idea. By very large majorities it passed over the governor's veto a resolution demanding the unconditional withdrawal of confederate troops from Kentucky; another to transfer the command of the state troops to Gen. Robert Anderson, of the federal army; and another to request the resignation or expulsion of United States senators Breckinridge and Powell. From this time the position of the state was never ambiguous, and those citizens of the state who went into the confederate armies warred against their state as well as against their national government. Dec. 18, 1861, a mass "sovereignty" convention met at Russellville, and appointed a revolutionary state government which controlled some of the southern counties for a few months, but dissolved before the first advance of the federal armies. Dec. 10, 1861, the confederate states congress had passed an act admitting Kentucky, and the state was represented there by members chosen by the Kentucky regiments in the confederate service. In 1862 Bragg, in his great raid, drove the legislature out of Frankfort and inaugurated Richard Hawes as provisional governor, Oct. 4; but Hawes retired the next day with Bragg's retreating army. During the remainder of the war Kentucky was released from most of the distresses which were felt by the other border states which were the seat of war; but had to endure the minor hardships of guerilla warfare, military interferences with elections, the suspension of the writ of *habeas corpus*, and abolition of slavery. — Throughout and since the war the state has been steadily democratic, the opposition proportion of the popular vote being 30 per cent. in 1864, 26 per cent. in 1868, 46 per cent. in 1872, 37 per cent. in 1876, and 39 per cent. in 1880 During the same period the governors, congressmen, and most of the local officials have been democrats. In 1880 the republicans carried one of the ten congressional districts, the ninth, comprising the southeastern portion of the state; in three other districts the republicans secured between 40 and 50 per cent. of the total vote; in the remaining six the republican vote is of hardly any influence. In the legislature of 1880–81 the democrats had 112 of the 137 members of the state legislature. — The name of the state, originally *Kain-tuck-eé*, is said to mean "the dark and bloody ground," and to have been given because the territory was the scene of almost constant Indian warfare. The derivation is at least doubtful. — Among the political leaders of the state have been the following: William T. Barry, democratic representative 1810–11, United States senator 1815–16, and postmaster general under Jackson; James B. Beck, democratic representative 1867–75, and United States senator 1877–83; Joseph C. S. Blackburn, democratic representative 1875–83; Linn Boyd, democratic representative 1835–7 and 1839–55, and speaker of the house 1851–5; John C. Breckinridge (see his name); Benj. H. Bristow (see WHISKY RINGS, ADMINISTRATIONS, XXII.); John Young Brown, democratic representative 1873–7; William O. Butler (see his name); John G. Carlisle, democratic representative 1877–83; Henry Clay, J. J. Crittenden (see those names); Garret Davis, whig representative 1839–47, and United States senator 1861–72, James Guthrie, secretary of the treasury under Pierce, and democratic United States senator 1865–8; Joseph Holt, postmaster general and secretary of war under Buchanan, and judge advocate general under Lincoln; Richard M. Johnson (see his name); Amos Kendall, postmaster general under Jackson and Van Buren (see KITCHEN CABINET); J. Proctor Knott, democratic representative 1867–71 and 1875–83; Robert P. Letcher, representative (Clay republican and whig) 1823–35, governor 1840–44, and minister to Mexico 1849–52; Humphrey Marshall, representative (whig) 1840–52, (American) 1855–9, minister to China 1852–4, and brigadier general in the confederate service; George D. Prentice, editor of the Louisville "Journal" (whig) 1830–70; L. H. Rousseau, major general in the United States army, republican representative 1865–7, James Speed, attorney general under Lincoln and Johnson. — See 1 Poore's *Federal and State Constitutions;* Filson's *Discovery, Settlement and Present State of Kentucké* (1784), Mann Butler's *History of Kentucky* (to 1813); H. Marshall's *History of Kentucky* (1824); Collins' *History of Kentucky* (to 1850: continued to 1877); Cassaday's *History of Louisville* (to 1852); Arthur and Carpenter's *History of Kentucky* (1852); Allen's *History of Kentucky* (1872); 2 Draper's *Civil War*, 222, 356; *Danville Review*, March, June, September, 1862, ("Secession in Kentucky").

ALEXANDER JOHNSTON.

KENTUCKY AND VIRGINIA RESOLUTIONS (IN U. S. HISTORY), two series of resolutions adopted in 1798–9 by the legislatures of Kentucky and Virginia, for the purpose of defining the strict construction view, at that time, of the relative powers of the state and federal governments. (See DEMOCRATIC-REPUBLICAN PARTY, II.) — The underlying reason for the preparation of these resolutions was the feeling which had been growing since 1791, that the federal party, not satisfied with the powers given to the federal government by the constitution, was endeavoring to obtain further and greater powers by strained and illegitimate interpretations of the powers which had been granted (see

BANK CONTROVERSIES, II.; CONSTRUCTION); the immediate moving cause was the passage of the alien and sedition laws in 1798. (See ALIEN AND SEDITION LAWS.) Jefferson and Madison therefore prepared these two series of resolutions as a statement of the objections not only to these particular laws, but to broad construction in general. — Jefferson was unwilling to appear openly in the matter, either, as his enemies charge, because of the secretiveness and underhandedness which were natural to him, or, as his friends put it, because of his punctilious regard to the requirements of his position as vice-president. He therefore intrusted the resolutions which he had prepared to George Nicholas, of the Kentucky legislature, under a solemn assurance that "it should not be known from what quarter they came" Nicholas became the reputed father of the resolutions, and it was not until December, 1821, that his son obtained from Jefferson an acknowledgment of their real authorship. The resolutions were passed by the Kentucky house, Nov. 10, 1798, and by the senate Nov. 13, and were approved by the governor Nov. 19. The Virginia resolutions were prepared by Madison, who was then a member of the legislature, were introduced by John Taylor, of Caroline, were passed by the house Dec. 21, 1798, and were passed by the senate and approved by the governor, Dec. 24. The resolutions were transmitted by the governors of the two states to the governors of the other states, to be laid before their respective legislatures. The only responses, all warmly antagonistic to the resolutions, were made by Delaware, Feb. 1, 1799, by Rhode Island in February, by Massachusetts Feb. 9, by New York March 5, by Connecticut May 9, by New Hampshire June 14, by Vermont Oct. 30; that of Massachusetts is especially long and argumentative, and fully denies the competency of any state legislature "to judge of the acts and measures of the federal government." Nov. 14, 1799, the Kentucky legislature added another resolution to its series of 1798, thus forming the so-called Kentucky resolutions of 1799. In the Virginia legislature the unfavorable answers of the other states were referred to a committee, Madison being chairman, which made, Jan. 7, the celebrated "report of 1800," explaining and defending the resolutions of 1798. With this report the formal history of the resolutions ends. They were renewed, however, in substance, by other states in later years, as by Pennsylvania in 1809, and by Massachusetts in 1814, and, oddly enough, one of the first and most emphatic repudiations of these later offsprings of the Virginia resolutions came from the Virginia legislature. How far the later doctrines of nullification and secession are the legitimate outcome of the Kentucky and Virginia resolutions will be considered after the substance of these resolutions, and the exact language of the more important ones, have been given. — THE KENTUCKY RESOLUTIONS (of 1798) are nine in number, as follows: 1. "That the several states composing the United States of America are not united on the principle of unlimited submission to their general government; but that, by compact, under the style and title of a constitution for the United States, and of amendments thereto, they constituted a general government for special purposes, delegated to that government certain definite powers, reserving, each state to itself, the residuary mass of right to their own self-government; and that whensoever the general government assumes undelegated powers, its acts are unauthoritative, void, and of no force; that to this compact each state acceded as a state, and is an integral party; that this government, created by this compact, was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the constitution, the measure of its powers; but that, as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress." 2. The second resolution denied the power of congress to pass laws for the punishment of any crimes except those mentioned in the constitution, and therefore declared the sedition law to be "void and of no force." 3. The third made the same declaration as to the same law on the ground of its abridgment of freedom of speech and of the press. 4. The fourth made the same declaration as to the alien law on the ground that no power over aliens had been given to the federal government by the constitution. 5. The fifth made the same declaration as to the same law on the ground that it infringed the right of the states to permit the migration of such persons as they should think proper to admit until the year 1808 6. The sixth made the same declaration as to the same law on the ground that it violated the amendments which secured "due process of law" and "public trial by an impartial jury" to accused persons, and also that it transferred the judicial power from the courts to the president. 7. The seventh complained of broad construction in general as "a fit and necessary subject for revisal and correction at a time of greater tranquillity, while those specified in the preceding resolutions call for immediate redress." 8. The eighth directed the transmission of the resolutions to the state's senators and representatives in congress for the purpose of securing a repeal of the obnoxious acts. 9. The ninth directed the transmission of the resolutions to the other states, with a warning that, "if the barriers of the constitution were thus swept from us all" by an acknowledgment of the power of congress to punish crimes not enumerated in the constitution, "no rampart now remains against the passions and the power of a majority of congress," nor any power to prevent congress, which had banished the aliens, from banishing, also, "the minority of the same body, the legislatures, judges, governors, and counselors of the states, nor their other peaceable inhabitants, who may be

obnoxious to the view of the president or be thought dangerous to his election or other interests, public or personal"; and it closed by asking that "the co-states, recurring to their natural rights not made federal, will concur in declaring these void and of no force, and will each unite with this commonwealth in requesting their repeal at the next session of congress." The additional Kentucky resolution of 1799, reiterated its definition of the constitution as "a compact," and declared "that the several states which formed that instrument, being sovereign and independent, have the unquestionable right to judge of the infraction; that a nullification, by those sovereignties, of all unauthorized acts, done under color of that instrument, is the rightful remedy; that, although this commonwealth, as a party to the federal compact, will bow to the laws of the Union, yet it does, at the same time, declare that it will not now or ever hereafter cease to oppose, in a constitutional manner, every attempt, at what quarter soever offered, to violate that compact; and finally, in order that no pretext or arguments may be drawn from a supposed acquiescence, on the part of this commonwealth, in the constitutionality of those laws, and be thereby used as precedents for similar future violations of the federal compact, this commonwealth does now enter against them its solemn protest."—THE VIRGINIA RESOLUTIONS were eight in number. 1. The first resolution expressed the determination of the legislature to defend the constitutions of the United States and of the state. 2. The second expressed its warm attachment to the Union. 3. "That this assembly doth explicitly and peremptorily declare that it views the powers of the federal government as resulting from the compact to which the states are parties, as limited by the plain sense and intention of the instrument constituting that compact, as no further valid than they are authorized by the grants enumerated in that compact; and that in case of a deliberate, palpable and dangerous exercise of other powers, not granted by the said compact, the states, which are parties thereto, have the right, and are in duty bound, to interpose, for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, rights and liberties appertaining to them." 4. The fourth expressed the deep regret of the assembly at the introduction of a broad construction of the constitution as inevitably tending to change the American republican system into "at best a mixed monarchy." 5. The fifth protested against the alien and sedition laws as unconstitutional. 6. The sixth called attention to the amendment protecting liberty of speech and of the press as having been originally proposed by Virginia. 7. The seventh expressed the affection of Virginia for the other states, and concluded as follows: that "the general assembly doth solemnly appeal to the like dispositions in the other states, in confidence that they will concur with this commonwealth in declaring, as it does hereby declare, that the acts aforesaid are unconstitutional; and that the necessary and proper measures will be taken by each for cooperating with this state, in maintaining unimpaired the authorities, rights and liberties reserved to the states respectively, or to the people." 8. The eighth requested the governor to transmit the resolutions to the governors of the other states, to be laid before their legislatures, and to the Virginia senators and representatives in congress.—Hardly any problem in American political history offers so many difficulties as the effort to get at a fair estimate of these two series of resolutions. The evil and the good are so complicated that disentanglement sometimes seems hopeless. On the one hand, the general spirit of the resolutions, their insistence upon the absolute *illegality* of anything but a strict construction of the constitution, has always been a fundamental feature of the party founded by Jefferson and Madison. Its doubtful utility is elsewhere considered; but, whether necessary or unnecessary, the doctrine is legitimate, and is one of the factors which have made up American political history to the present time. (See DEMOCRATIC-REPUBLICAN PARTY, II., VI.; CONSTRUCTION.) On the other hand, the illegitimate doctrine that the American Union is a "compact" between separate and sovereign states is so clearly, even "peremptorily," laid down in both series of resolutions that it can not be mistaken or evaded. The historical truth of this doctrine is elsewhere considered (see NATION, STATE SOVEREIGNTY); it remains here only to consider the difference between the state sovereignty of Jefferson and Madison, and that of the nullificationists and secessionists of later times. It is difficult to follow, at the best, and is still more obscured by the course of Benton and other later Jeffersonians in flatly denying that the sovereignty of states, *proprio vigore*, is asserted in the resolutions. By so doing, they made an issue on which Calhoun and Calhoun's disciples found no difficulty in overthrowing them. It does not seem to have occurred to them that the issue might perhaps have been fairly confessed and avoided.—Before considering the question whether the term "nullification," as used by Jefferson in the Kentucky resolution of 1799, was identical with the same word as used by Calhoun, it is well to notice how carefully both the Kentucky and the Virginia resolutions avoid any suggestion of action by a single state. They certainly maintain the doctrine that "each state acceded to the Union as a state, and is an integral party" to the "compact under the style and title of a constitution for the United States"; and from this doctrine the Calhoun programme derives its justification. But, in the application of the doctrine by Jefferson and Madison, it is always "those sovereignties" which are to undo unconstitutional laws—"the states," not "a state"; and practically the Jeffersonian doctrine seems to have been that there were but two parties to the "compact," the

states of the one part, and the federal government of the other, and that the former in national convention were to be frequently assembled to decide on the constitutionality of the latter's acts. Webster, long afterward, ridiculed unsparingly the idea that the states could form a compact with another party which was only created by the compact, and non-existent before it; and Calhoun's theory that the "compact" was between the states themselves, and that the federal government was the result of it and not a party to it, seems more logical than Jefferson's. Logicial or illogical, however, Jefferson's theory was infinitely less destructive than Calhoun's; was strictly in line of constitutional practice; and is perfectly in accord with the constitution's provisions for its own amendment. The state sovereignty preamble in the first Kentucky resolution, and third Virginia resolution, is not essential, and is, in fact, only a hindrance, to the spirit of the resolutions, which is simply that desire for a national convention of the states which has since been the first thought of all Jefferson's disciples in times of difficulty or danger. This Jeffersonian idea of the ultimate interpreter of doubtful constitutional questions can not be more strongly put than in Jefferson's own words, in his letter of June 12, 1823, to Justice Johnson: "The ultimate arbiter is the people of the Union, assembled by their deputies in convention, at the call of congress, or of two-thirds of the states. Let them decide to which they mean to give an authority claimed by two of their organs."— Though state sovereignty was by no means essential as a basis for the resolutions, it was the shortest and easiest way to justify them. It is therefore important to notice that in the hands of Jefferson and Madison state sovereignty, separate or collective, was to be a shield for the protection of the individual; in the hands of Calhoun it was to be a shield for a section and for slavery. The distinction is not trivial; it is vital, as can be seen most easily from its necessary results. It is difficult to conceive of an act involving individual rights, which an American congress could be induced to pass, so arbitrary and tyrannical as to lead a state, or even a group of states, beyond declamation and resolutions, and into open conflict with the federal government. Even the development of so-called "sections" would hardly have been likely to make even state sovereignty anything more than a check, and a very weak one, upon the federal government, so long as the country was reasonably homogeneous and each state had separate interests. But the development of slavery as a distinctive badge of a particular section made state sovereignty, for that section, really *sectional* sovereignty, since all its states were controlled by a common design. While each state tended to its own particular direction, the total force exerted was fairly balanced and comparatively harmless; when the force of a group of states became bound together by slavery, state sovereignty became an imminent peril to union. The Jackson and Benton school of democrats seem to have had this distinction in mind when they so warmly denied that which seems so difficult to deny, the identity of Jefferson's and Calhoun's state sovereignty. It is apparent, however, that the distinction is one of purpose, not of substance. (See SLAVERY, STATE SOVEREIGNTY.) — It has been stated that the great object of state opposition to federal enactments, in the minds of Jefferson and Madison, was to secure the meeting of a national convention of all the states, in which, as the highest exponent of national authority, the federal enactment would be valid unless declared void, or "nullified," by an amendment which when ratified by three-fourths of the states, should bind not only congress and the executive, but the judiciary as well. Such a convention has been a desideratum with Jefferson's party at intervals since 1787, and, as it is provided for in the constitution, it would be a perfectly legitimate mode of procedure; but the difficulty of uniting the necessary proportion (two-thirds) of the states in the demand for it has as yet proved insuperable. This seems undoubtedly to have been the "nullification" intended by the Virginia resolutions, 1, from the debates upon them in the Virginia assembly which passed them, and 2, from the remarks of the "report of 1800" upon the third Virginia resolution. Jefferson, not being the avowed author of the Kentucky resolutions, has left no defense or explanation of them, but a line of citations is given among the authorities at the end of this article, illustrative of his adherence to the general position that "the states" (in national convention) were the final interpreters of the constitution. The objection to this statement of the main object of the resolutions is that, as such a convention is provided for in the constitution, its defense by a state legislature was a work of supererogation. In this respect it is well to compare the proceedings of the British parliament in 1792–3, which the reader will find well stated by Yonge, as cited below: that body had passed an alien bill, a sedition bill (suspending the *habeas corpus* act), and a bill authorizing magistrates to disperse by force any public meeting to petition the king or parliament, or to discuss grievances, if the object or the language should to the magistrates seem dangerous. The American congress had followed the first two steps of the British precedent (excepting the *habeas corpus* suspension): to follow it out in full nothing was needed but a temporary forgetfulness of the difference between the unlimited power of parliament and the limited power of congress. To Madison and Jefferson the common federalist claim that the federal government was the "final" judge of its own powers seemed to be a paving of the way for some such politic forgetfulness, and for a possibly indirect prohibition of any new national convention: hence the resolutions. Their descendants have found that the small percentage of the voting population, which can, by a change of

vote, overturn the dominant party in congress, is a better guarantee against congressional usurpation than all the resolutions of our history: Madison and Jefferson, with only ten years experience behind them, may fairly be held excusable for seeing no refuge from congress but the state legislatures. — It can not, however, be doubted that Jefferson and his school would have looked upon forcible resistance by a single state to an oppressive federal law with far less disapproval than their opponents would have done (see NATION, I.), though it is just as certain that they would have looked upon such resistance as a revolutionary right. It was so stated in 1829–30 by Edward Livingston, the devoted adherent of Jefferson in 1798 and of Jackson in 1833 (see NULLIFICATION), as cited below. In a constitutional point of view, this fundamental difference between the right of "the states" in national convention, and of a single state, *proprio vigore*, to "nullify" acts of congress, and to interpret the constitution, above and beyond the federal judiciary, is the essential difference between the "nullification" of Jefferson and that of Calhoun. The strongest evidence to the contrary is a sentence in Jefferson's original draft of the Kentucky resolutions. It is as follows: "that every state has a natural right, in cases not within the compact, to nullify of their own authority all assumptions of power by others within their limits." This was struck out in the final copy of the resolutions, but by whom is not known. Various explanations of this sentence have been offered, the most plausible being that the inexcusable sentence was due only to heat of composition, and was struck out by Jefferson on his realizing the full force of what he had written. On the one hand, this sentence has arrayed against it a great mass of contemporary testimony; on the other, if it is to stand as Jefferson's perfected theory, every atom of Calhoun's theory finds in it a perfect antetype. — It is also fair and proper, in this connection, to call the reader's special attention to a letter of Dec. 24, 1825, from Jefferson to Madison, which has never hitherto received the prominence which it deserves. It is on the subject of internal improvements. He regards opposition to the new system as "desperate," but proposes a new series of resolutions, to be passed by the Virginia legislature, as a protest against it. They are much like the resolutions of 1798, but conclude by demanding an amend ment to the constitution, to grant the doubtful power (see INTERNAL IMPROVEMENTS), and by promising for the state and imposing upon the citizens of the state an acquiescence in the acts which we have declared to be usurpations" "*until the legislature shall otherwise and ultimately decide.*" — The above has been given, so far as possible, with a due regard to the standpoint and feelings of the republicans of 1798. There remains now to be considered the opening assertion of both series of resolutions, that the American Union is a "compact" between the several states. No one, not the most unreasoning admirer of Jefferson or Madison, can now defend this assertion, which is the great political error of the resolutions. (For its further consideration see STATE SOVEREIGNTY.) Even if it were true, the doctrine of nullification would not necessarily or properly flow from it; but the doctrine of secession is too plainly based upon it to make it an easy or profitable task to attempt to separate the two. (See NULLIFICATION, SECESSION.) It is not meant that Jefferson and Madison were secessionists: the following considerations may perhaps make the meaning more clear: 1. The idea that the Union is a compact is not at all essential to either series of resolutions; but it is the sum and substance of secession. Its elimination could have had no effect upon the former, but would have made the latter an impossibility, except as a confessed revolution. 2. The date of the resolutions was less than ten years after the inauguration of the new form of government, and at a time when the idea of a "compact" was common in political language, in judicial decisions, and elsewhere. The term was a political weapon ready for use by all political leaders of all sections, and was used without any great consideration of its full results. There is infinitely more excuse for such an error in the infancy of the nation than in 1860. 3. The belief in a real "compact" was rapidly and easily eliminated in the due course of nature during the following sixty years, as its utter uselessness became apparent, except in a single section, where the interests of slavery demanded its retention and extension to its complete logical results. Even where the word was used in other sections of the Union, it was used rather as a venerable formula, signifying a particularist feeling, than with any full sense of a meaning; and its users were as much shocked in 1860 as its earlier users would have been, when its complete consequences were forced upon them. (See NATION.) — As a summary, it may be said that the resolutions of both series are a protest against a supposed intention of the federalists to place some restrictions upon any attempt of state legislatures to demand a national convention to sit in judgment upon the acts of the federal government; that the belief in such an intention was fostered by the federalists' use of the then novel word "sovereign," as applied to the federal government, and by their constant assertions that the federal government was the "final" judge of the extent of its own powers, thus seeming to exclude any such power in a new national convention; that both Jefferson and Madison intended, 1, to appeal to public opinion, and 2, to rouse the states for a prompt call for a national convention upon the first appearance of an attempt by congress and the president to make such legislative action penal under a new sedition law; that the word "compact" in the resolutions, though unessential, is historically false and indefensible, if used in its full sense; that, as regards Madison, it is quite clear that the word was not used in its full sense; and that, as

regards Jefferson, the case is much more doubtful, but may fairly be summed up in the terms of his proposed resolutions of 1825, before referred to—a theoretical acceptance of the idea of a compact in its full sense, coupled with an intense aversion to its practical enforcement.—See 5 Hildreth's *United States*, 272; 1 von Holst's *United States*, 144; 2 Spencer's *United States*, 444; 1 Schouler's *United States*, 423, 424 (note); 4 Elliot's *Debates*, 528 (Va. Res.), 532 (answers of other states), 540 (Ky. Res.), 546 (Report of 1800); 3 Jefferson's *Works* (edit. 1829), 452, 4; 163, 306, 344, 374, 418 (Resolutions of 1825), 422; 9 Jefferson's *Works* (edit. 1853), 469; 2 Randall's *Life of Jefferson*, 449 and App. D; 1 Benton's *Thirty Years' View*, 347; Hunt's *Life of Livingston*, 345; 2 Benton's *Debates of Congress*, 373; Nicolson's *Debates in the Virginia Assembly of* 1798; Yonge's *Constitutional History of England*, end of chapter iv; 1 Stephens' *War Between the States*, 441; Story's *Commentaries*, § 1289 (note); 3 Webster's *Works*, 448; Duer's *Constitutional Jurisprudence* (2d edit.), 412; 1 Adams' *Works of John Adams*, 561; and authorities under STATE SOVEREIGNTY; NULLIFICATION; SECESSION; DEMOCRATIC-REPUBLICAN PARTY, II.; CONSTITUTION, IV. ALEXANDER JOHNSTON

KITCHEN CABINET (IN U. S. HISTORY), a coterie of intimate friends of President Jackson, who were popularly supposed to have more influence over his action than his official advisers. General Duff Green was a St. Louis editor, who in 1828 came to Washington and established the "United States Telegraph," which became the confidential organ of the administration in 1829. Major Wm. B. Lewis, of Nashville, had long been Jackson's warm personal friend, and after his inauguration remained with him in Washington, as second auditor of the treasury. Isaac Hill (see NEW HAMPSHIRE), editor of the "New Hampshire Patriot," was second comptroller of the treasury. Amos Kendall, formerly editor of the Georgetown "Argus," in Kentucky, was fourth auditor of the treasury, and became postmaster general in 1835. Others, besides these, were sometimes included under the name of "the kitchen cabinet," but these four were most generally recognized as its members.—In 1830–31 Green took the side of Calhoun against Jackson, and his newspaper was superseded as the administration organ by the "Globe," Francis P. Blair and John C. Rives being its editors. Blair thereafter took Green's place in the unofficial cabinet.—The name of "kitchen cabinet" was also used in regard to certain less known advisers of Presidents John Tyler and Andrew Johnson, but, as commonly used, refers to the administration of Jackson. The best and most easily available description of Jackson's "kitchen cabinet" is in 3 Parton's *Life of Jackson*, 178. A. J.

KING. The primary signification of this word is, a person in whom is vested the higher executive functions in a sovereign state, together with a share, more or less limited, of the sovereign power. The state may consist of a vast assemblage of persons, like the French or the Spanish nation, or the British people in which several nations are included; or it may be small, like the Danes, or like one of the Saxon states in England before the kingdoms were united into one; yet if the chief executive functions are vested in some one person who has also a share in the sovereign power, the idea represented by the word *king* seems to be complete. It is even used for those chiefs of savage tribes who are a *state* only in a certain loose sense of the term.—It is immaterial whether the power of such a person is limited only by his own will, or whether his power be limited by certain immemorial usages and written laws, or in any other way; still such a person is a king. Nor does it signify whether he succeed to the kingly power by descent and inheritance on the death of his predecessor, just as the eldest son of a British peer succeeds to his father's rank and title on the death of the parent, or is elected to fill the office by some council or limited body of persons, or by the suffrages of the whole nation. Thus there was a king of Poland, who was an elected king; there is a king of England, who now succeeds by hereditary right.—In countries where the kingly office is hereditary, some form has always been observed on the accession of a new king, in which there was a recognition on the part of the people of his title, a claim from them that he should pledge himself to the performance of certain duties, and generally a religious ceremony performed, in which anointing him with oil and placing a crown upon his head were conspicuous acts. By this last act is symbolized his supremacy; and by the anointing a certain sacredness is thrown around his person. These kinds of ceremonies exist in most countries in which the sovereign, or the person sharing in the sovereign power, is known as king; and these ceremonies seem to make a distinction between the succession of an hereditary king to his throne and the succession of an hereditary peer to his rank.—The distinction between a king and an emperor is not one of power, but it has an historical meaning. *Emperor* comes from *imperator*, a title used by the sovereigns of the Roman empire. When that empire became divided, the sovereigns of the west and of the east respectively called themselves emperors. The emperor of Germany was regarded as a kind of successor to the emperors of the west, and the emperor of Russia (who is often called the czar) is, with less pretension to the honor, sometimes spoken of as the successor to the emperor of the east. But we speak of the emperor of China, where emperor is clearly nothing more than king, and we use emperor rather than king only out of regard to the vast extent of his dominions. Napoleon usurped the title of emperor; and we now sometimes speak of the British empire, an expression which is free from objection. The word *imperium* (empire) was used both under

the Roman emperors, and under the later republic to express the whole Roman dominion. — The word *king* is of pure Teutonic origin, and is found slightly varied in its literal elements in most of the languages which have sprung from the Teutonic. The French, the Italian, the Spanish and the Portuguese continue the use of the Latin word *rex*, only slightly varying the orthography according to the analogies of each particular language. *King*, traced to its origin, seems to denote one to whom superior knowledge had given superior power, allied, as it seems to be, to *know, con, can;* but on the etymology, or, what is the same thing, the remote origin of the word, different opinions have been held, and the question may still be considered undetermined. — There are other words employed to designate the sovereign, or the person who is invested with the chief power of particular states, in using which we adopt the word which the people of those states use, instead of the word *king*. Thus, there is the *shah* of Persia, the grand *sultan*. and formerly there was the *dey* of Algiers. In the United States of America certain powers are given by the federal constitution to one person, who is elected to enjoy them for four years, with the title of *president*. A *regent* is a person appointed by competent authority to exercise the kingly office during the minority or the mental incapacity of the real king; this definition, at least, is true of a regent of the British empire. — A personage in whom such extraordinary powers have been vested must of necessity have had very much to do with the progress and welfare of particular nations, and with the progress of human society at large. When held by a person of a tyrannical turn, they might be made use of to repress all that was great and generous in the masses who were governed, and to introduce among them all the miseries of slavery. Possessed by a person of an ambitious spirit, they might introduce unnecessary quarreling among nations to open the way for conquest, so that whole nations might suffer for the gratification of the personal ambition of one. The lover of peace and truth, and human improvement and security, may have found in the possession of kingly power the means of benefiting a people to an extent that might satisfy the most benevolent heart. But the long experience of mankind has proved that for the king himself and for his people it is best that there should be strong checks in the frame of society on the will of kings, in the forms of courts of justice, councils, parliaments, and other bodies or single persons whose concurrence must be obtained before anything is undertaken in which the interests of the community are extensively involved. In constitutional kingdoms, as in England, there are controlling powers, and even in countries in which the executive and legislative power are nominally in some one person absolutely, the acts of that person are virtually controlled by the opinion of the people, a power constantly increasing as the facilities of communication and the knowledge of a people advance. — Nothing can be more various than the constitutional checks in different states on the kingly power, or as it is more usually called in England, the royal *prerogative*. Such a subject must be passed over in an article of confined limits such as this must be, else in speaking of the kingly dignity it might have been proper to exhibit how diversely power is distributed in different states, each having at its head a king. But the subject must not be dismissed without a few observations on the kingly office (now by hereditary descent discharged by a queen) as it exists in the British empire. — The English kingly power is traced to the establishment of Egbert, at the close of the eighth century, as king of the English. His family is illustrated by the talents and virtues of Alfred, and the peacefulness and piety of Edward. On his death there ensued a struggle for the succession between the representative of the Danish kings, who for awhile had usurped upon the posterity of Egbert, and William then duke of Normandy. It ended with the success of William at the battle of Hastings, A. D. 1066. — This is generally regarded as a new beginning of the race of English kings, for William was but remotely allied to the Saxon kings. In his descendants the kingly office has ever since continued; but though the English throne is hereditary, it is not hereditary in a sense perfectly absolute, nor does it seem to have been ever so considered. When Henry I. was dead, leaving only a daughter, named Maud, she did not succeed to the throne; and when Stephen died, his son did not succeed, but the crown passed to the son of Maud. Again, on the death of Richard I. a younger brother succeeded, to the exclusion of the son and daughter of the deceased. Then ensued a long series of regular and undisputed successions; but when Richard II. was deposed, the crown passed to his cousin, Henry of Lancaster, son of John of Gaunt, son of Edward III., though there were descendants living of Lionel, duke of Clarence, who was older than John among the children of Edward III. When the rule of Henry VI. became weak, the issue of Lionel advanced their claim. The struggle was long and bloody. It ended in a kind of compromise, the chief of the Lancastrian party taking to wife the heiress of the Yorkists. From that marriage have sprung all the later kings, and the principle of hereditary succession remained undisturbed till the reign of King William III., who was called to the throne on the abdication of James II., when an act was passed excluding the male issue of James, the issue of his sister the duchess of Orleans, and the issue of his aunt the queen of Bohemia, with the exception of her youngest daughter the Princess Sophia and her issue, who were Protestants. On the death of Queen Anne this law of succession took effect in favor of King George I., son of the Princess Sophia. — Now the heir succeeds to the throne immediately on the decease of his predecessor, so that the king, as the phrase is, never dies. The

course of descent is to the sons and their issue, according to seniority; and if there is a failure of male issue, the crown descends to a female. The person who succeeds by descent to the crown of England, succeeds also to the kingly office in Scotland and Ireland, and in all the possessions of the British empire. — At the coronation of the king he makes oath to three things: that he will govern according to law; that he will cause justice to be administered; and that he will maintain the Protestant church. — His person is sacred. He can not by any process of law be called to account for any of his acts. His concurrence is necessary to every legislative enactment. He sends embassies, makes treaties, and even enters into wars without any previous consultation with parliament. He nominates the judges and other high officers of state, the officers of the army and navy, the governors of colonies and dependencies, and the bishops, deans and some other dignitaries of the church. He calls parliament together, and can at his pleasure prorogue or dissolve it. He is the fountain of honor; all hereditary titles are derived from his grant. He can also grant privileges of an inferior kind, such as markets and fairs. — This is a very slight sketch of the powers that belong to the kings of England; but the exercise of any or all of these powers is practically limited. The king can not act politically without an agent, and this agent is not protected by that irresponsibility which belongs to the king himself, but may be brought to account for his acts if he transgresses the law. The agents by whom the king acts are his ministers, whom the king selects and dismisses at his pleasure; but practically he can not keep a ministry which can not command a majority in the house of commons; and virtually, all the powers of the crown, which make so formidable an array upon paper, are exercised by the chief minister, or prime minister, for the time. The king now does not even attend the cabinet councils; and the power which in theory belongs to his kingly office, and in fact in earlier periods was exercised by him, is now become purely formal. But though the king of England has lost his real power, he has obtained in place of it perfect security for his person, and for the transmission to his descendants of all the honor and respect due to the head of an extensive and powerful empire. BOHN.

KING, Rufus, was born at Scarborough, Mass. (now in Maine), March 24, 1755, and died at Jamaica, N. Y., April 29, 1827. He was graduated at Harvard in 1777, was a Massachusetts delegate to the continental congress 1784–6, and removed to New York in 1788. He was United States senator (federalist) 1789–96, and minister to Great Britain 1796–1803. His support of the war of 1812 made him United States senator 1813–25, and he was again appointed minister to Great Britain 1825–6. From 1800 until 1812 he was the regular federalist candidate for vice-president. (See FEDERAL PARTY, II.)

KING, William Rufus, vice-president of the United States in 1853, was born in Sampson county, N. C., April 7, 1786, and died at Cahawba, Ala., April 18, 1853. He was graduated at the university of North Carolina in 1803, studied law, was a democratic member of congress from Alabama 1811–16, United States senator 1819–44, minister to France 1844–6, and United States senator 1846–53. In 1852 he was elected vice-president (see DEMOCRATIC-REPUBLICAN PARTY, V.), and died soon after taking the oath of office.

KNIGHTS OF THE ORDER OF ST. CRISPIN. The workmen employed in the manufacture of boots and shoes numbered more than a hundred thousand when Newell Daniels, of Milwaukee, Wisconsin, projected the organization of a trades union, designed, among other things, to secure good wages, and to prevent the increase of the number of workmen beyond the needs of the community. The first lodge of this order was organized in Milwaukee, March 1, 1867, and was composed of English-speaking members exclusively. Another lodge, composed of Germans, was immediately organized in the same city. After this, the order spread with great rapidity over the United States and Canada. In 1869 it numbered 83,000 members. It consisted, 1, of the international grand lodge, which perfected its organization in 1868 at Rochester, New York; 2, of state (or province) grand lodges, of which as many as eighteen were formed; and 3, of subordinate lodges, which were formed in almost every city or town in which boots and shoes were made to any considerable extent. Grand lodges were established in Maine, New Hampshire, Massachusetts, New York, New Jersey, Pennsylvania, Ohio, Michigan, Indiana, Illinois, Wisconsin, Missouri, Maryland, Kentucky, California and Louisiana, and in Ontario and New Brunswick. In 1870 the grand lodge of Massachusetts was incorporated by the legislature; and in the case of Snow *vs.* Wheeler (113 Mass Rep., 179), the supreme judicial court of that state decided that a lodge could maintain a suit in equity for its funds against persons having such funds in their possession; although it had decided, in the case of Walker *vs* Cronin (107 Mass Rep., 159), that an action could be maintained for damages sustained by an employer by reason of a combination to prevent men from continuing in his employ. This order was not long in existence. Conflicts of jurisdiction arose between the international lodge and the grand lodges, and, in addition to the difficulties incident to trades unions in general, special difficulties arose from the diversity of the elements that composed this order, and from the greatness of the number of its members. The last meeting of the international lodge was held in Cleveland, Ohio, in 1873, soon after which the order became extinct. It was partially revived in 1876, and participated in the strikes of 1877 and 1878; but by the close of 1878 it had passed out of existence. The Daughters of St. Crispin were

a female branch of the order, which flourished in the eastern, middle and western states in 1870 and 1871, but soon collapsed. Unlike many other trades unions, this order sought for the improvement of that great mass of laborers who are below themselves. Having the ten-hour system among themselves, by custom, without the aid of law, they nevertheless gave a zealous support to the agitation for a ten-hour law for cotton and woolen manufactories; and it was largely through their action that the Massachusetts legislature was induced to enact the ten-hour law of 1874.

C. C.

KNOW-NOTHING PARTY. (See AMERICAN PARTY.)

KU-KLUX KLAN (IN U. S. HISTORY), a secret, oath-bound organization, otherwise known as "The Invisible Empire," "The White League," "The Knights of the White Camellia," or by other names, formed in the southern states during the reconstruction period, for the primary purpose of preventing the negroes, by intimidation, from voting, or holding office. Until the abolition of slavery necessity compelled a rigid policing of the black population by official or volunteer guards. (See SLAVERY.) The origin of the "ku-klux" order was in all probability a revival of the old slave police, at first sporadic, to counteract the organization of "loyal leagues," or "Lincoln brotherhoods," among the negroes, and afterward epidemic, as the process of reconstruction by congress began to take clear form. — The various moving causes which led to the reconstruction of southern state governments by congress are elsewhere given. (See RECONSTRUCTION.) When the preparations for reconstruction had gone far enough to make it reasonably certain that negro suffrage was to be the law in the south, the opposition, hopeless of open revolt, took the shape of this secret society. Attempts have been made to date its origin back to 1866, under the rule of Governor Brownlow in Tennessee; but the most probable date is early in 1867. The constitution mentioned below dates the first election of the order in May, 1867. The place of its origin is entirely unknown, and it was probably at first a congeries of associations in different states, originated without concert and from a common motive, and finally growing together and forming one combined organization in 1867. No authentic account of its origin, founder or date has come to light. — A "prescript," or constitution, of the order, discovered in 1871, shows an attempt to imitate the machinery of masonic and other similar societies. The name of the order is not given; its place is always filled by stars (* * *). A local lodge is called a "den"; its master the "cyclops," and its members "ghouls." The county is a "province," and is controlled by a "grand giant" and four "goblins." The congressional district is a "dominion," controlled by a "grand titan" and six "furies." The state is a "realm," controlled by a "grand dragon" and eight "hydras." The whole "empire" is controlled by a "grand wizard" and ten "genii." The banner of the society was "in the form of an isosceles triangle, five feet long and three feet wide at the staff; the material yellow with a red scalloped border about three inches in width; painted upon it, in black, a *Draco volans*, or flying dragon, with the motto *Quod semper, quod ubique, quod ab omnibus.*" The origin, designs, mysteries and ritual were never to be written, but were to be communicated orally. The dress of the members, when in regalia, is not given, but is known to have been mainly a hood covering the head, with holes for the eyes and mouth, and descending low upon the breast; fantastic or horrible figures according to the owner's ingenuity; in other respects the ordinary dress. — A more effective plan could hardly have been devised with which to attack a race which was superstitious, emotional, and emasculated by centuries of slavery. Before it had been tried very long the cry of "ku-klux" was sufficient to break up almost any negro meeting at night; the suspicion that disguised horsemen were abroad at night was sufficient to keep every negro in his own cabin; and the more virile and courageous of their number, who had become marked as leaders, were left to whipping, maiming or murder at the hands of the "ghouls" without any assistance from their cowering associates. By day the negroes would fight, and often did so; by night the "ku-klux" had the field to themselves. — So long as the attacks of the order were confined to the negroes there was little need of any means more violent than whipping. A more difficult problem was that of the "carpet-baggers" and "scalawags," who with the negroes made up the republican party in the south. The "carpet-baggers" were northern men, whose interests in the south were supposed to be limited to the contents of their carpet-bags; the "scalawags" were southerners who, either from conviction or from interest, had joined the republican party and taken part in reconstruction. Neither of these classes was easily to be terrorized, and in their cases the order very easily drifted into murder, secret or open. Before the end of its third year of existence the control of the order had slipped from the hands of the influential men who had at first been willing, through it, to suppress what seemed to be the dangerous probabilities of negro suffrage, and had been seized by the more violent classes who used its machinery for the gratification of private malice, or for sheer love of murder. Even before the appointment of the final congressional investigating committee in 1871, the order had "departed from its political work, and gone into murder for hire and robbery." It had thus become dangerous to the very men who had at first tacitly or openly sanctioned its existence, and open attempts to suppress it were only checked by a fear of being classed among the "scalawags."— Throughout the winter of 1870–71 the ku-klux

difficulties in the south were debated in congress, and a joint investigating committee was appointed by the two houses, March 21. Two days afterward a message from President Grant informed congress that the condition of affairs in the south made life and property insecure and interfered with the carrying of the mails and the collection of the revenue; and asked that congress would enact measures to suppress the disorders. The result was the passage of the so-called "force bill," April 20, 1871. Its provisions were as follows: 1, it gave federal courts cognizance of suits against any one who should deprive another of any rights, privileges or immunities secured by the constitution, "any law, regulation, custom or usage of a state to the contrary notwithstanding"; 2, it denounced punishment by fine, imprisonment, or both, against any conspiracy of two or more persons to overthrow, put down, destroy, or levy war against the government of the United States, to delay the execution of federal laws, or to deter any one from voting, holding office, or acting as a witness or juror in a federal court; 3, in case the state authorities were unable or unwilling to suppress disorders intended to deprive any class or portion of the people of their constitutional rights, it authorized the president to employ the federal land and naval forces or militia to suppress the disorders, and 4, to suspend the privilege of the writ of *habeas corpus* "during the continuance of such rebellion against the United States," the trial provision of the act of March 3, 1863, to remain in force (see HABEAS CORPUS); 5, it authorized federal judges to exclude from juries persons whom they should judge to be in complicity with such conspiracy; 6, it gave a civil remedy to injured parties against persons who, having knowledge of conspiracy and power to prevent injuries being done, should neglect or refuse to do so; and 7, it confirmed former civil rights legislation. The *habeas corpus* section was to remain in force only until the end of the next regular session. — Oct. 12, 1871, President Grant issued a preliminary proclamation calling on members of illegal associations in nine counties of South Carolina to disperse and surrender their arms and disguises within five days. Five days afterward another proclamation issued, suspending the privileges of the writ of *habeas corpus* in the counties named. Arrests, to the number of 200, were at once made, and the more prominent persons implicated were prosecuted to conviction. In other parts of the south the organization was rapidly run to death, the most effectual provision being that which gave federal judges power to exclude suspected persons from juries. It is probable that the order was completely overthrown before the end of January, 1872. — The generic name of "ku-klux troubles," however, was still applied to the political and race conflicts which still continued in the south. The name was made more odious by the report of the joint congressional investigating committee, Feb. 19, 1872, in thirteen volumes, covering about 7,000 printed pages of testimony, which had been taken during the previous year. It only lacks such a collation and comparison of evidence as that of the English chief justice in the Tichborne case to make it one of the most valuable sources of information as to the social condition of the south during the reconstruction period. The reports of the majority and minority of the committee do not supply the need, for both are rather partisan than judicial. The majority (republican) report considered the issue between anarchy and law in the southern states fairly made up; the minority (democratic) report, while it did not deny that "bodies of armed men have, in several of the states of the south, been guilty of the most flagrant crimes," held that the perpetrators had no political significance, nor any support by the body of the people. The latter report seems to have been the more nearly correct at the time it was made, but only because the order itself had already become dangerous to both friends and foes. A line of citations from the volumes of the report is given below, from which the reader may learn the general features and purposes of the order. — At the following session of congress, May 17, 1872, a bill to extend the *habeas corpus* section of the "ku-klux" act for another session was taken up in the senate and passed. May 28, an attempt to suspend the rules in the house, so as to consider the bill, was lost, two-thirds not voting for it; and the bill was not further considered by the house. — The attempt to check negro suffrage in the south by the irresponsible action of disguised men, was practically abandoned after 1871. From that time such attempts were confined to open action, the presence of organized parties of whites at negro meetings, and the employment of every engine of the law by an active, determined and intelligent race. The results were the overthrow of the reconstructed state government in every southern state before 1878 (see INSURRECTION, II.; and the names of the states, particularly MISSISSIPPI and SOUTH CAROLINA), and the formation of the so-called "solid south" (See DEMOCRATIC-REPUBLICAN PARTY, VI.) The indications, however, are very strong in 1882 that the "color line" in the south, if not already broken, will soon be broken, and that the white vote of the south will soon be divided into opposing parties, each determined on maintaining unimpaired the rights of its share of the colored vote. (See RECONSTRUCTION.) — See *Report of the Joint Select Committee on the Condition of Affairs in the Late Insurrectionary States*, Report No. 22, part 1, 42d Congress, 2d Session, Feb. 19, 1872, as follows: 1:1, report of the majority (republican); 1:101, of the subcommittee on election laws; 1:289, of the minority (democratic); 1:589, journal of the committee; 13:35, constitution of the order; 8:452, probable origin; 2:208, 232, 11:274, 12:778, 1159 (cut), disguises; 4:653, oaths; 11:385, definition of "scalawag"; 7:764, definition of "carpet-bagger"; the most useful testimony to the reader is that of James L. Orr, South Carolina (3:1), D C. Forsyth,

J. B. Gordon, and Carleton B. Cole, Georgia (6:19, 354, and 7:1182), Peter M. Dox, Lionel W. Day, and Wm. S. Mudd, Alabama (8:428, 590, and 10:1745), John A. Orr and G. W. Wells, Mississippi (12: 697, 1147), and N. B. Forrest, Tennessee (13:3); *Ku-Klux Trials* (1871); the act of April 20, 1871, and proclamations of Oct. 12 and 17, are in 17 *Stat. at Large*, 13, App. iii. (Nos. 3, 4).

ALEXANDER JOHNSTON.

L

LABOR is the voluntary exertion of human beings put forth to attain some desired object. We say *human beings*, for the toil of beasts is but the agency of an instrument, reckoned a part of capital. We say *voluntary* exertion, for the involuntary work of slaves is, in the view of political economy, like the toil of oxen, the mere use of a thing owned as a part of one's capital. We say, also, for a *desired object*, for this distinguishes labor from *play*. In play we are satisfied with the mere exercise of our faculties. The exertion is at once means and end. In labor we seek a further end—a result which comes as an abiding reward for the effort. (Wayland.) Labor is either bodily or mental, involving exertion either of the muscular or nervous system. The line of demarcation between these two kinds of labor is not always perfectly distinct. There is probably no purely muscular labor, *i. e.*, labor involving absolutely no nervous exertion; nor, on the other hand, any purely nervous labor, unmixed with muscular effort. — 1. *Labor as a Factor of Production.* Labor is one of the essential elements of production. Nature offers to man a vast variety of objects which by their constitution are adapted to satisfy his wants. But labor is necessary to make them available. Even in the case of those things which in their natural state are suited to the supply of human wants, such as water, fruits, wild honey, etc., etc., some exertion is necessary, even if it be nothing more than appropriation, in order to make them of any use; while in the vast majority of cases very much labor is needed in finding, transforming and transporting natural objects before they can be made serviceable. Now what is the office of labor in production? A moment's thought will convince one that labor does not produce, *i. e.*, does not create, matter. That is beyond human power. It may change matter from one mode of manifestation into another, it may change the shape of matter, it may change the place of matter; but it can neither increase nor diminish (*i. e.*, neither produce nor destroy) the existing quantity of matter. Bacon says that man can do nothing else than move natural objects to or from one another; while nature, working within, accomplishes the rest. "Labor," says Mill, "in the physical world is always and solely occupied with putting objects in motion: the properties of matter, the laws of nature, do the rest." The consideration of what actually occurs in any process of production will make this point clear. We say that a baker produces bread. In what does his work consist? He brings together in one vessel the various ingredients of his wished-for product, forces them into closer contact by stirring and kneading, puts the dough into an oven which he has heated by exciting the process of combustion near it. This last he has accomplished by bringing into juxtaposition certain natural elements which act upon each other so as to produce heat. If we examine any other case of what is called the action of man upon nature, we shall find in like manner that the powers of nature, or, in other words, the properties of matter, do all the work, when once objects are put into the right position. The farmer stirs the soil, so that the natural agents can produce their effects more easily; he puts the seed into the ground, but nature sends down the root, sends up the stem, and brings forth the leaf and flower and fruit. What is true of the farmer is equally true of the spinner and weaver. The natural qualities of the flax or wool form the necessary basis for their work. Although physical labor thus performs but one service in production, yet it manifests itself in several different ways, some of which are important enough to deserve especial mention. Labor in its most immediately productive form is engaged in appropriation, *i. e.*, in simply taking the objects which nature has made fit for man's use without any agency of his. The labor of some savages consists very largely of this kind. They live upon the berries, roots, wild honey, etc., which nature provides in more or less profusion. It is plain that where man's effort is mostly exerted in labor of this sort he must be exceedingly dependent upon nature, and can never rise very high above barbarism. The labor of appropriation, except so far as it is concerned with mining, plays but a small part in the life of civilized man. Labor is further employed in the production of raw materials, *i. e.*, in giving a direction to nature which results in the increase of raw materials. We may mention in this connection agriculture, forest culture, pisciculture, stock raising, etc., etc. The process which is carried on in these branches is sometimes called *transmutation*, *i. e.*, a change in the manifestation of matter. Thus, the seed is transmuted into the corn which it produces, and the corn into the wool which forms the basis of the coat. A third way in which labor is occupied with objects we may call *transformation*, *i. e.*, a change in the shape and appearance of matter Thus, the wool, by carding, spinning, weaving, coloring and sewing, is transformed into the coat.

This process is pre-eminently an industrial one, and is seen in all kinds of manufactures. It takes up the raw material and turns out the finished product. Finally, labor is employed in *transportation, i. e.*, the carrying of the raw material or the finished product from the place where it is not wanted to the place where it is wanted. This is the great business of commerce.— Mental labor manifests itself in a different way from physical labor. It is occupied in investigation and discovery. It seeks to find out the laws of nature which make physical labor effective, and to discover new ways in which they may be utilized. It invents, *i. e.*, devises instruments of production, without which physical labor could accomplish but little. It oversees and superintends, without which physical labor would be blind and inefficient. It educates, legislates and governs. It is, in a word, the precedent and condition of any extensive effective physical labor.— If labor fails to attain the desired object for which it is put forth, it is evidently unfruitful, *i. e., unproductive;* while, if it be successful, it would seem natural to call it *productive.* The history of the politico-economic discussion on the distinction between productive and unproductive labor is interesting and significant. The mercantilists considered as productive only such labor as contributed directly to increase the quantity of the precious metals possessed by the nation, either through the agency of mining at home or by the agency of foreign trade. They ascribed to industry a greater power of attracting gold and silver than to agriculture, and to the finer sorts of industry than to the coarser. The former, therefore, were more productive than the latter. The physiocrats, on the contrary, considered that the labor employed in producing raw materials was the only productive labor. All other classes, it matters not how useful they are, they called sterile, because they draw their income only from the superabundance of landowners and the workers of the soil. Artisans merely change the form of matter, and any extra value they may give it depends on the quantity of other material consumed during their labor. Commerce simply transfers existing wealth from hand to hand, and, hence, the less there is of it the better. These views are practically obsolete. Adam Smith considered personal services in the narrower sense as unproductive. The clergyman, physician, legislator, opera singer, ballet dancer, buffoon, were all classed as unproductive. The violin maker is productive, the violin player unproductive; the hog-raiser is productive, the educator of man unproductive, etc. Those classes are productive whose labor can be incorporated and fixed in some material object of wealth. Mill follows Adam Smith in this distinction. But the tendency of the most recent political economy is strongly toward considering as productive every useful business which ministers to the whole people's requirement of external goods. The idea of productivity changes according as we regard it from the standpoint of the producer, that of the consumer, or that of the national economy as a whole. The first regards all labor as productive which brings him in the desired return for his labor. Thus a thief, who makes a good haul on some expedition, views his labor as exceedingly productive, though the non-thieving classes would hardly agree with him. The consumer deems all labor productive whose achievements he may use, and which he can obtain at a convenient price. From the economico-social point of view, all labor is productive which increases, directly or indirectly, the wealth of society. The services of the statesman and policeman are in this view as productive as those of the shoemaker or tailor. — II. *Conditions Affecting the Efficiency of Labor.* Since labor is exertion put forth, not for its own sake, but in order to attain some ulterior object, it is evident that no more labor will be expended than is necessary to secure the desired result. This fact might be expressed as a law which would hold a very similar place in economics to that held by the law of gravitation in physics. It would be formulated as follows: *Man strives to attain the greatest possible results with the least possible exertion.* In consequence of this fact we find man in all stages of civilization trying to invent or discover labor-saving instruments. In view of his disinclination to useless labor it becomes a matter of the greatest importance to diminish that element as much as possible. He is, consequently, always more or less busily employed in seeking to increase the efficiency of his labor. This can be done in various ways, some of which we enumerate. Man can greatly increase the effectiveness of his labor (*i. e.*, increase the total amount produced) by the *use of natural agents.* Of all the animal world man is most poorly provided with organs which are immediately fitted to procure him a subsistence. In his search for food he finds himself but ill-adapted for climbing the trees to obtain the nuts, or digging in the earth to get out the roots, or diving in the water to gather the shellfish. The bird escapes him in its flight, the fish out-swims him, the deer out-runs him, the buffalo is too strong for him to kill. Even the rats, mice and moles can out dig him and out-gnaw him. In the construction of his shelter he appears but poorly equipped when compared with the beaver or the bird. If man's intelligence did not enable him to take advantage of natural agents, the race would soon become extinct. But the elasticity of wood and the tenacity of cord enable him to make a bow, and the hardness of the flint and the lightness of the stick enable him to make an arrow, which, driven by the bow, transfixes the bird in its flight, stops the deer in its mad course, and pierces the heart of the mightiest buffalo. With a sharpened stick he is enabled to stir up the soil, which else he would have to turn with his hands. A hollow stone and a hard stick make it easy for him to break and crush the grains of corn into meal or flour, instead of having to crush them between

the teeth. A lump of stone of a certain shape affords him an instrument with which to cut down the tree, that he might have gnawed at for months without bringing down. And thus in all directions he increases the efficiency of his labor by subduing to his use the natural agents he finds about him. By the aid of some he increases the amount of his production fivefold, tenfold, a hundred thousand fold. By the aid of others he produces things which he could never have produced at all without them. Natural agents, says an old author, may be classed as those which create momentum and those which change the direction of momentum. The former may be classed as animate and inanimate agents. Thus, horses, oxen, etc., are among the earliest animate agents which man made serviceable to himself. He found that a horse could turn one stone around and around on top of another and thus crush his corn, and so relieve him of a great deal of labor. It was not a great step to devise a means of utilizing the power of an inanimate agent, such as wind or water. And we consequently find wind and water mills among all peoples who have advanced very much beyond barbarism. The lapse of time brought with it a means of using the expansive power of steam, and the explosive power of gunpowder, and similar agencies. The use of wind and water greatly increased the efficiency of labor, as compared with a time when only animate agents were used. But the invention of the steam engine marked a still greater progress. Water power can be had only in comparatively few places. Wind power is irregular and unequal. Steam power is practically to be had everywhere at will. The use of inanimate agencies is relatively on the increase. They are cheaper, more enduring, and safer. They create more momentum, and take up less space; they are continuous, and work with mathematical exactness; they are unwearied, never wear out, and the machinery through which they act is easily repaired. All inanimate agents for changing the direction of momentum fall under the general head of tools and machines. By them we may change the direction of motion, convert power into velocity, manage forces too great for animate power, accumulate power, execute operations too delicate for animate agencies, and convert irregular, spasmodic effort into a regular or continuous movement. (Wayland.) — Labor may be rendered more efficient, not only by taking advantage of natural agents, but also by combining the efforts of individuals—so-called *combination of labor*. It is a universally known fact, that two men by working together can produce in certain branches many times as much as both working separately. Two hunters can kill more than twice as much when hunting together as either could kill alone. Two greyhounds running together will kill more hares than four greyhounds running separately. In the lifting of heavy weights, in the felling of trees, in the sawing of timber, in the gathering of much hay or corn during a short period of fine weather, in the pulling of ropes on board ship, in the rowing of large boats, in the erection of scaffolding for building; in all these simple operations, and in thousands more, it is necessary that many men should work together in the same place, at the same time and in the same way. (Mill.) Savages help each other but little. The combination of labor in low states of society is very limited, but with every advance in civilization comes a development of the associative powers of labor, until, in our modern industrial state, society becomes one vast co-operative association. — But combination of labor in a high degree is possible only when subdivision of labor has already taken place, and this brings us to a third means of increasing the productivity of human exertion, viz., *division of labor*. By division of labor we mean simply, that different kinds of labor are assigned to different classes and individuals, so that each shall do that for which he is best fitted. Division of labor involves an analysis of work into its parts and a distribution of those parts to different laborers. It is possible, therefore, only in the production of such commodities as require several distinct operations for their completion. Division of labor occurs in its simplest form among individual laborers. Adam Smith's example of the advantages of such division has become classical, and we can do no better than transcribe it. "The business of making a pin is divided into about eighteen distinct operations. One man draws out the wire, another straights it, a third cuts it, a fourth points it, a fifth grinds it at the top for receiving the head; to make the head requires two or three distinct operations; to put it on is a peculiar business, to whiten the pins is another; it is even a trade by itself to put them into a paper. I have seen a small manufactory where ten men only were employed, and where some of them consequently performed two or three distinct operations. But though they were very poor, and therefore but indifferently accommodated with the necessary machinery, they could, when they exerted themselves, make about twelve pounds of pins in a day. There are in a pound upward of four thousand pins of middling size. These ten persons, therefore, could make among them upward of forty-eight thousand pins in a day. Each person might be considered, therefore, as making four thousand eight hundred pins in a day. But if they had all wrought separately and independently, and without any of them having been educated to this peculiar business, they certainly could not each of them have made twenty, perhaps not one, pin in a day." The advantages of a thorough division of labor from a productive point of view, are many of them apparent. We may class them under five heads. — 1. The skill and dexterity of the individual workman are largely increased. The oftener a thing is done, the more easily it is done. The organs acquire a greater power; the muscles become stronger and

more pliant. The repetition of a given process tends to make it mechanical. It becomes, therefore, more rapid and exact. Adam Smith has given an excellent example of the above advantage. "A common smith," says he, "who, though accustomed to handle the hammer, has never been used to make nails, if upon some particular occasion he is obliged to attempt it, will scarce, I am assured, be able to make above two or three hundred nails in a day, and those very bad ones. A smith who has been accustomed to make nails, but whose sole or principal business has not been that of a nailer, can seldom with utmost diligence make more than eight hundred or a thousand nails in a day. But I have seen several boys under twenty years of age, who had never exercised any other trade but that of making nails, who, when they exerted themselves, could make each of them upward of two thousand three hundred nails in a day"; or nearly three times as much as the smith who had been accustomed to make them, but who was not entirely devoted to that particular business. — 2. Time is saved. The advantage which is gained by saving the time usually lost in passing from one sort of work to another, is much greater than we should at first view be apt to imagine it. It is impossible to pass very quickly from one kind of work to another, that is carried on in a different place and with different tools. A man commonly saunters a little in turning his hand from one sort of employment to another. When he first begins the new work he is seldom very keen and hearty; his mind, as they say, does not go to it, and for some time he rather trifles than applies to good purpose. The habit of sauntering and of indolent, careless application, which is naturally or rather necessarily acquired by every country workman who is obliged to change his work and his tools every few hours, and to apply his hand in twenty different ways every day of his life, renders him almost always slothful and lazy, and incapable of vigorous application even on the most pressing occasions. (Smith) The saving of time effected in learning the business should also be classed under this head. It is evidently a much simpler and shorter matter to learn how to perform one process than seventy, and the time thus saved in the early stages of one's work life amounts in the aggregate to an enormous sum. — 3. Division of labor facilitates the invention of machines and processes of saving labor. Inventions to abridge labor in particular operations are more likely to be made in proportion as one devotes one's physical and mental attention exclusively to that one occupation. Besides, a man who is busied continually in performing one simple operation is more likely to hit upon some mechanical device to substitute for his labor, than one who is engaged in a complex process involving several operations; if for no other reason, because the former is much simpler than the latter. Mill, however, calls attention to the undoubted fact that invention depends much more on general intelligence and habitual activity of mind than on exclusiveness of occupation; and if that exclusiveness is carried to a degree unfavorable to the cultivation of intelligence, there will be more lost in this kind of advantage than is gained. — 4. Mr. Babbage has called attention to a further very important advantage connected with division of labor, which consists in the more economical distribution of labor by classing work-people according to their capacity. Different parts of the same series of operations require unequal degrees of skill and bodily strength; and those who have skill enough for the most difficult, or strength enough for the hardest parts of the labor, are made much more useful by being solely employed in them; the operations which everybody is capable of, being left to those who are fit for no other Production is most efficient when the precise quantity of skill and strength which is required for each part of the process is employed in it and no more. The operations of pin-making, it seems, require in its different parts such different degrees of skill that the wages earned by the persons employed vary from four-pence half-penny per day to six shillings, and if the workman who is paid at the highest rate had to perform the whole process he would be working a part of his time with a waste per day equivalent to the difference between six shillings and four-pence half penny. Without reference to the loss sustained in the quantity of work done, and supposing even that he could make a pound of pins in the same time in which ten workmen combining their labor can make ten pounds, Mr Babbage computes that they would cost in making, three and three-fourths times as much as they now do by means of the division of labor. In needle-making, he adds, the difference would be still greater, for in that the scale of remuneration for different parts of the process varies from sixteen to twenty shillings per day. (Mill.) — 5. A saving is effected in capital by a division of labor "If any man," says Rae, "had all the tools which many different occupations require, at least three-fourths of them would constantly be idle and useless." As a consequence they would be so much dead capital, taking no part in production. The ordinary individual could not afford to have as good tools as a specialist, and, therefore, his work on this account also would be less effective. — The extent to which division of labor can be carried with advantage depends upon several conditions. 1 *Upon the nature of the process.* Agriculture, for example, can not be distributed as fully as manufactures, because its different operations are not simultaneous. A man whose work consisted solely of plowing would be idle most of the year; if he limited himself to reaping he would find it difficult to employ himself for more than a month or two. In manufacturing, when a process has once been reduced to its simplest elements, and the various operations distributed, the limit of subdivision has been reached. For it is no division

of labor to employ two men in the same occupation. To attain the greatest economy in a factory, it is necessary to so adjust the operations and the laborers that the latter will fully employ one another. And this having been once accomplished, the establishment can not be economically enlarged unless it employs multiples of this number of workmen. 2. *Upon the accumulation of wealth.* It is evident that in a detailed system of divided labor there must be means on hand to support all the various classes of laborers engaged in the production of a commodity until it can be disposed of in the market, *i. e.*, there must be a large amount of capital on hand. In new countries, therefore, the division of labor is very limited even among civilized nations. The American pioneer was his own carpenter, farrier, physician, etc., etc., being confined to the immediate exertions of his own family for all the commodities or services he enjoyed. In the progress of society the evolution of new callings is but slow, and the division of labor within those callings still slower. 3. *Upon the extent of the market.* The efficient cause of the division of labor in an industrial society is the demand for the products of labor. If there were no demand for the surplus products of a man's exertion in any field, he would only put forth labor enough to provide himself with what he alone could use. A man, for instance, might find himself in need of pins, we will say. He makes enough to supply himself and then takes up some other product, which he needs. But his neighbor needs pins also, and the skill he has acquired in making his own enables him to produce some for his neighbor more cheaply than the latter could do it for himself. He manufactures enough for both and exchanges his surplus for what he needs. Other neighbors hear of it and wish to buy pins in exchange for what they produce. Our pinmaker finds it profitable to spend all his time in making pins and exchanging his surplus for other things he needs. Pretty soon, as his fame goes abroad, and more and more resort to him, he finds it profitable to hire a man to help him, and after awhile he can add another and another. It occurs to him to distribute the labor of making a pin among eighteen different laborers, and he can then make a hundred thousand pins a day, where formerly he only made a hundred. Now he can do this profitably, only so far as the market expands enough to take his ever-increasing product of pins. It would not pay him to hire eighteen men to make five pins, if that were all he could sell, merely to secure a division of labor. We thus see how an accession of demand for a commodity tends to increase the efficiency of labor engaged in its production—it makes possible a greater division of labor. The extent of the market may be limited by several causes: 1st. The number of consumers. Other things being equal, one hundred men will need ten times as many shoes and coats as ten men. 2d. Cost of the article. A diminution of 20 per cent. in the cost of an article will often double the market for it, and *vice versa* a similar increase in the cost will decrease the market. 3d. The wealth of the inhabitants. England is a far better market for certain goods than Russia, in spite of the fact that its population is scarcely one-fourth as large, for its wealth is far greater. 4th. Facilities for transportation. Even if the cost of an article at the place of its manufacture be low enough to satisfy a large market, the conditions of transportation may be such as to make it impossible to get it to consumers at a popular price. 4. *Upon the executive ability of men.* The more detailed the division of labor becomes, the higher the order of executive ability necessary to manage the industry. The instant an industrial undertaking outgrows the ability of its overseers, that instant it becomes wasteful and extravagant, and all advantage of division of labor is lost.—The effects of the division of labor upon the laborer himself ought not to be passed over in a discussion of the subject of labor. Where it is carried to the development which it has attained in modern industrial life it is fraught with serious danger both to the individual laborer and to the society to which he belongs. A variety of exercise is essential to the full and healthy development of the faculties and functions of the body. But the division of labor often involves long and close confinement to a single operation; an over-tasking of some one limb or set of muscles; a posture which may cramp and oppress the vital organs; exposure to deleterious gases and exhalations; the breathing for hours in crowded rooms of air bereft of oxygen, and charged with carbonic acid. The introduction of women and children into factories by which that economic distribution of the workpeople according to their capacity, which we have mentioned above, has been made possible, is certainly to be greatly regretted from a social point of view. The mind is liable to be contracted and enfeebled. What must be the aspect of the soul of a workman who for forty years has done nothing but watch the moment when silver has reached the degree of fusion which precedes vaporization! (Roscher.) There is a compensating circumstance, however, in all such work. It tends to become mechanical and thus to leave the mind free to think about something else; while the concentration of numbers makes it possible to introduce schools, debating societies, etc. Division of labor tends to increase the power of capital and diminish the independence, and, therefore, the self-respect of the laborer. The small producer is driven to factory labor, and his success which was before largely dependent on himself is now in the hands of a few managers and capitalists. It intensifies the feeling of bitterness between laborers and capitalists, when trouble arises, as the extremes of poverty and wealth meet under such conditions. (See MACHINERY.)—Division of labor may occur among classes of laborers and different nations as well as among individuals. There is a distribution of labor, for

instance, among the producers of raw material, the transporters, and the manufacturers. Commercial freedom enables a perfect system of division of labor among the different countries to develop itself. International division of labor is as profitable and oftentimes more profitable than domestic division of labor. The world is slow to learn this lesson, and even yet many parties can be found who maintain that international division of labor is ruinous and should be hindered at any cost. The division of labor has an important bearing on all questions of distribution. — There are other agencies that affect the efficiency of labor, which we can do no more than mention. The greater energy of labor, the skill and knowledge of the community, the general diffusion of intelligence, the moral qualities of the laborers, the security of person and property, all have great influence on the productivity of labor. Production on a large scale often greatly increases the effectiveness of labor. As a general rule, the expenses of a business do not increase by any means proportionally to the quantity of business. It costs no more, for instance, to take ten letters from New York to San Francisco than it does to take one, and but little more to take ten thousand than ten hundred, and far less in proportion to take one hundred thousand than ten thousand. It takes a brakeman, an engineer, a fireman and an engine to draw two cars, but the same force can manage twenty just as well. A set of books which it is necessary to keep for one hundred customers will do about as well for five hundred The storeroom, light, heat and clerks for a small business need but to be slightly increased for a business twice as large, etc., etc. Whether or not the advantages obtained by operating on a large scale preponderate in any particular case over the more watchful attention and greater regard to minor gains and losses usually found in small establishments, can be ascertained in a state of free competition by the relative ability of such establishments to compete with each other. — III. *The Ethical Significance of Labor; Hope of Diminishing its Burden.* If we examine the effect of the increased productivity of labor, caused by progressive division and combination, by growing accumulation of capital and ever-widening freedom, it will be seen that it consists almost entirely in an extension of positive satisfactions, but it has not diminished essentially the amount of labor demanded of man. And even for the future, however wide the prospect for continued advance in this direction, we can hardly hope to lessen the burden of labor, since the demands and wants of man seem to increase in the same proportion as his productivity. Now, as labor is indisputably felt to be a burden, the questions involuntarily force themselves upon our attention as to the inner justification of this burden laid upon humanity, as to the prospects of our being ultimately freed from it or of freeing ourselves from it, and as to the means which we must apply in order to do it. The justification of labor is to be found in the imperfection of human nature. Without some external compulsion to exert himself, man, owing to his disinclination to exertion, his unsteadiness, and his love of passive enjoyment, would not become conscious of his true destiny, viz., self-development toward Godlikeness, and even if he did, he would grow weary in its pursuit. The ethical significance of labor consists in its quality as a means of education. And in fact who can fail to see how powerfully this burden resting upon it has advanced humanity, and how far, without it, it would have fallen short of its present attainments? The incomplete development of those very nations which in consequence of the wealth of surrounding nature feel this burden but lightly, and the countless examples in individual cases of moral relaxation in the relations of life which do not require labor, suffice to prove our position. Is there a tendency in the progress of civilization toward lessening the burden of human labor? The laws of nature are unchangeable, the resistance of the outer world to man's dominion will never become less, though his power to overcome it is constantly increasing. Exertion is labor or is not labor, according to the end for which it is made. If it is its own end, it ceases to be labor. The exertion a man puts forth from public spirit, because he enjoys the very making of it, is not labor. The artist who creates for the love of creating, is not laboring. In every pursuit which is followed for the love of it, labor passes away. It is along this line that labor is to be diminished. We can but present the thought. Labor can be diminished by the moral education and elevation of the laborer, *i. e.*, laborious exertion can be converted into pleasurable exertion. (Cp. von Mangoldt.) — Labor in its relation to the state, as to its law of increase, as to how it is affected by machinery, etc., will be found discussed elsewhere in this work under various heads, such as FACTORY LAWS, STRIKES, MACHINERY, POPULATION, etc. — *Literature.* The literature of the subject is vast and increasing. All standard works on political economy discuss the points we have mentioned above. The many works on Wages, Laboring Classes, Machines, Distribution, etc., contain discussions pertinent to the subject. Socialistic works, in particular, devote special attention to the laboring classes and the means of their improvement. The works most worthy of notice will be mentioned in the articles above referred to E. J. JAMES.

LABOR, The Right to (IN FRENCH POLITICO-ECONOMIC HISTORY). The right to labor, that fundamental principle of the French socialistic gospel, is not the power, which belongs to all men in a free state, of making use of their own industry. The right to labor has nothing in common with the freedom of labor. The apostles of this doctrine mean by it not the unobstructed use of strength and resources, but a claim given to the individual against society. They pretend that all

members of society, who have neither the knowledge nor will to create means of subsistence, have good grounds for saying to the rulers who represent and govern them, "See that I have work, for you are obliged to maintain me." It is what M. de Lamartine, believing that the principle would be accepted if he softened the name, called "the right to existence." Before passing into the crucible of science this formidable question was planted in the soil of revolution. It does not date from 1848, and has nothing new but its form. — It is the extreme result of every strict system of public charity. It is the danger which few of the Protestant states escaped after the destruction of the monasteries. The act of the 43d year of the reign of Elizabeth planted the germ of it in English legislation. It says, "And they [overseers] shall take order from time to time * * for setting to work the children of all such whose parents shall not, by the said church wardens and overseers or the greater part of them, be thought able to keep and maintain their children; and also for setting to work all such persons, married or unmarried, having no means to maintain them, and use no ordinary daily trade of life to get their living by; and also competent sums of money for and toward the necessary relief of the lame, impotent, old, blind, and such other among them, being poor and not able to work; and also for the putting out of such children to be apprentices." The same law gives them the power to raise taxes for this purpose, which must be borne by the people of the parish, or, if this does not yield enough, by the people of the district, or, if necessary, by those of the whole county. A law of Henry VIII. had already imposed a penalty on parishes in which the weak were not aided. From this the poor clearly received the right to demand help, and to bring suit against the authorities who should refuse them assistance. English legislation, therefore, created the right to assistance, modified by the obligation of labor. — Examples abound in French revolutionary legislation. The constitution of 1791 declared in the first clause, which enumerated the guarantees given to all citizens, that there should be created a general bureau of public aid for the purpose of bringing up foundlings, of caring for the infirm poor, and of providing work for such of the able-bodied poor as were unable to obtain it for themselves. This was borrowing from England the system of a poor tax, with the enforced building of workhouses and charity schools, but that doctrine of the constitution was not put in practice; it was, indeed, considered a dead letter. The constitution of 1793 went a step farther. Art. 21 declared that public aid was a sacred debt; and that society owed a living to unfortunate citizens, either by procuring work for them or by assuring means of life to those unable to labor. The constitution of 1793 did not limit itself, like that of 1791, to proclaiming that society owed labor, under the form of help. It demanded that the labor thus given should assure subsistence. The right to live was implied in this formula, in this duty imposed upon society. Need we add, that the radical charter of 1793, having been suspended from the date of its promulgation, to give place to the revolutionary government, it is impossible to judge by its works the new theory of public aid? — None of the constitutions following that of 1793 reproduced this formula, but all socialistic schools, born during the transition from the old régime to the new, drew inspiration from it. Babœuf deduced from it the community of goods. In this abortive theme, in these tables of the law, broken as they came from the furnace, like an impure or defective casting, the conspirators did not cease to search for the ideal of the future republic. Even perverted science wished to fasten itself to it. It was by following the road made by Robespierre and St. Just that Fourier constructed his formula of the right to labor. He wrote in 1819 in his *Théorie de l'unité Universelle*, "Scripture tells us that God condemned the first man and his posterity to work in the sweat of their brow, but he did not condemn us to be deprived of that labor on which our existence depends. We can from this derive a right of man to ask philosophy and civilization not to keep from us that resource which God left us, as a last resort or punishment, and to guarantee to us at least the right to that class of labor with which we are familiar. We have passed ages thus quibbling over the rights of man without recognizing the most essential — labor, without which all others are nothing. What a shame to a people who consider themselves skilled in social science! Should we not dwell upon so ignominious an error, in order to study the mind of man and the social mechanism which is to give to man all his natural rights, whose civilization can neither guarantee nor even allow the principal one, that of labor?" While exhuming and proclaiming this new right of man, Fourier still recognized that it was incompatible with social order as moulded and developed by civilization according to the mandates of Providence. We shall see later whether the reformer and his disciples succeeded better with this in the mechanism of society, and on what arguments that pretended right, which is but the negation of all others, rested. Let us prove first that the impossibility recognized by Fourier was so generally admitted that outside his school and with the exception of a single paper by M. Considérant in the "Phalange," no one before 1848 had raised the standard of the right to labor. — The two principal theorists of the social republic had very different projects. They absorbed and engulfed that theory in more vast and ambitious conceptions. M. Cabet, renewing the utopian schemes of the fifteenth and sixteenth centuries, placed beyond the seas the attraction of absolute community of interest. M. Louis Blanc, under the pretext of organizing labor, wished to remodel society. Fourier's thought was considered by them as wanting in greatness and as impossible of

practical application. One man only, de Lamartine, in an article previous to 1844, admitted, with certain reservations, and in extreme cases, the right to labor. He had at first said, with eloquent logic, "There is no other organization of labor but its freedom, there is no other distribution of wages but that made by labor itself, remunerating itself according to its work and judging itself with an impartiality impossible to your arbitrary systems. The free will of labor in the producer, in the consumer and in the workman is as sacred as the free will of the conscience in man: touching one, you kill action; touching the other, you kill morality. The best governments are those which let it alone. Every time that it has been tampered with, an industrial catastrophe has stricken at the same time government, capitalists and working men. The law which governs them is invisible; it vanishes under the hand the moment we try to write it down." This law, on the contrary, is plainly visible; with a little attention any one can read it written in facts in brilliant characters. It is the relation of supply to demand. The rate of wages regulates itself invincibly by the scarcity or abundance of labor. There is no power on earth that can raise the price of labor when unoccupied workmen throng the doors of the shops, or can lower or depress it when work presses, or the workmen are few. But after recognizing this law, although declaring it invisible, de Lamartine adds, "To sum up, we wish society to recognize the right to labor in extreme cases and under definite conditions." And the poet-economist does not see that the right to labor, which he admits, would lead surely to the organization of labor, which he had just opposed. — Revolutions oblige men to be logical: they neither haggle over the application of theories, nor recoil from their consequences. In spite of a government which brought together weak conservatives and tribunes frightened at their own boldness, the revolution of February, 1848, proclaimed the right to labor. Feb. 26, the following decree was posted upon the walls of the capital: "The provisional government of the French republic guarantees the subsistence of the workman by labor. It agrees to guarantee labor to all citizens. It recognizes the fact that working men should associate themselves together, in order to enjoy the legitimate profit of their labor." That decree, M. Louis Blanc himself admits, was forced upon the provisional government. "Entering rudely," says he, "into the council chamber, and making his gunstock ring upon the floor, a workman came with sparkling eye and pale brow to demand in the name of the people recognition of the right to labor." This working man, in whose person M. Louis Blanc sees the incarnation of the people, was, not to wrong him, but the instrument of some member of the government who wished to force his colleagues to do what he desired. This was soon apparent from the docility with which the impulse from without was received and obeyed to the end. "Indeed, thousands of laborers," it is still M. Louis Blanc who speaks, "still black with the grime of the barricades, having filled the *Place de Grève* with standards on which you could have read, *Organization du travail*, the organization of labor was decreed." The right to labor has produced thus historically its natural consequences. "Considering," says the decree of Feb. 28, "that revolution made by the people should be made for them; that it is time to put an end to the long and iniquitous sufferings of working men; that the question of labor is of the highest importance; that there is none higher or more worthy the attention of a republican government; that it belongs particularly to France to study intently and to solve a problem laid to-day before all the industrial nations of Europe; and that we must try, without any delay, to guarantee to the people the legitimate fruits of their labor — the provisional government of the republic resolves: That a permanent committee, which shall be called the committee of the government for the working man, shall be appointed with the express and peculiar mission of caring for their lot, * *." — Here, then, is the system of the right to labor bound by law, to support all the fruit it could produce. The provisional government placed it under the shelter of the state, charged one of its members with its organization, and devoted to this end, or left at its disposition, the forces of the mob as well as that of the government. M. Louis Blanc was absolute master: what use did he make of this dictatorship? In order to give labor a new organization he commenced by making breaches in the organization which had existed from the earliest development of industry. A hateful rivalry, sown between masters and workers, by the inflammatory influence which came from Luxemburg, soon rendered discipline in shops, and, by a natural sequence, labor, impossible. The progress of industry had substituted, in a great many factories, as a measure of wages, a day's task or work. The dictators of February could not pardon this method whose equity was in keeping with all interests concerned. They abolished the task or job. Master and workmen were forbidden free discussion of the conditions of wages. Soon the intervention of the state was pushed still farther. After having dictated to master and workman the manner in which labor must be carried on and paid, they wished to regulate its duration. A decree decided that the day's work should be but ten hours in every branch of industry and throughout the whole of France. Finally, after having misled the workmen, throttled the contractors, and frightened the capitalists, they talked of the state's appropriating manufactures. "To managers," said M. Louis Blanc, "who, finding themselves to-day in a failing condition, come and say to us, 'Let the state take our establishments and put itself in our places,' we reply, the state consents to do so. You shall be abundant-

ly indemnified. But as this indemnity, which is your due, can not be taken from present resources, which would not be sufficient, it will be required of future resources. The state will give you notes, bearing interest, secured by the value of the ceded establishments, and redeemable by annuities or liquidation." The plans of M. Louis Blanc, we know but too well, were not an ephemeral inspiration. The provisional government followed up the execution of them, until they themselves made shipwreck and placed social order itself in peril. It desired to bring under the dominion of the state the large establishments of credit and labor, the banks, the insurance companies, and the railroads. Some were sequestered; others, stricken with a bottomless depreciation, awaited as a favor, derisive indemnity. The state commenced by becoming common carrier and insurer, and later became itself a producer. But as credit and money were both wanting, to pay, even at the lowest price, for all that they desired to take, it became necessary to allow those shops to close which had been disorganized. Manufacturers stopping, the workmen, whose hands were no longer busy, and to whom subsistence by work had been guaranteed, asked, amid loud cries, that this blockade of labor should be relieved. The government, which had disorganized ordinary works, saw itself under the necessity of organizing extraordinary ones. — The Luxemburg conferences brought about, as a direct and immediate consequence, the opening of the government workshops. M. Louis Blanc need not have protested and traced back to another member of the government the thought of this outrageous creation. What difference did it make whether he had or had not signed the decree, if he had made it inevitable? I know that M. Louis Blanc imagined that he could have carried on, by the workmen of each trade, the industries from which he banished capital, and the management which was their soul. But without orders, capital holding back, and tried skill banished from them, how could factories run? To take away the director and the motive power from a factory, is to close it. Society would not know how, in any case, to improvise resources and management for all industries. Work stopping in the shops, and the dictator at Luxemburg unable to start it again where it had stopped, it became necessary in order to fulfill the guarantee given by the government, to open shops, whether useful or not, which were like a general refuge for all unemployed hands, and, to use the language of de Lamartine, a relief dépôt for the people of Paris. Indeed, all the theories of official communism were practiced there, commencing with equality of wages. All professions were placed on the same level. Labor, claimed as a right, was nowhere considered as a duty. The liberal alms given to this army of factious beggars, absorbed and exhausted rapidly the substance of society. The yards employing mechanics of the various kinds, which had gathered together hardly 6,000 men in March, 1848, had collected 87,942 just previous to the events of June. Recognition of the right to labor had brought about the conferences of Luxemburg. The conferences of Luxemburg had brought forth this great strike which found shelter and expression in the national shops. National workshops were destined to produce, and did produce, social war. — This, then, is the result of the right to labor practically tested. Can we believe that a great assembly found it necessary to discuss it after an experience so full and decisive? Ought not the history of this heresy, in subjects connected with social economy, to have been closed after the bloody days of June? And what manifestation could have enlightened those who were unable to read the truth by the lightning flashes of such a storm? The first draft of the constitution read by Marrast from the tribune June 2, 1848, only a few days before the mob howled in the streets of the capital, asserted, in the most explicit manner, the decrees of the provisional government and the doctrines of Luxemburg. Article 7 read: "The right to labor is the right of every man to live by working. Society ought, by all productive and benevolent means at her disposal, and by those which will be subsequently organized, to furnish labor to able-bodied men who can not procure it in any other way"; and farther on, at article 9: "The right to assistance is that which belongs to foundlings, to the weak and to the aged, of receiving from the state the means of subsistence." After these articles which fixed the principles, article 132 indicated the means of application. "The main guarantees of the right to labor are liberty of labor itself, freedom to form labor associations, equality of relations between master and workman, free instruction, professional education, savings and other banks, and the establishment, by the state, of great works of public utility, to provide labor, in case of a stoppage of work, for unoccupied hands." The constitutional commission proclaimed at the same time the right to education, the right to labor and the right to assistance by the state. Society was thus about to substitute its own action and responsibility for those of the individual and the family. It took charge of man from the cradle to the grave, caring on the way for all his necessities from education to wages, opening, in a word, to all human beings, according to age, the cradle, the asylum, the school, the workshop and the hospital. These different formulæ, submitted to the examination of the bureaus, after the events of June, did not meet with that general reprobation which the indignation of the country led one to expect. Eight out of fifteen bureaus admitted the right to labor. The constitutional committee, warned by public opinion, and defeated in the preliminary debates in which the delegates of the bureaus engaged before them, thought best to modify their first draft. But at the same time they explained this forced retreat as a purely formal concession.

"This formula (the right to labor)," said M. Armand Marrast, "seemed equivocal and perilous; it was feared that it would put a premium on idleness and dissipation; it was feared that legions of working men, giving to this right an extent it did not have, would consider it a right to insurrection. To these important objections is added another, more important still. If the state agrees to furnish labor to all those who have none, from one cause or another, it must give to each the kind of work to which he is adapted. So the state will become manufacturer, merchant, wholesale and retail producer. Charged with the satisfaction of all wants, it must have the monopoly of all industries. Such are the great evils which have been seen in our formula of the right to labor, and since it might lend itself to a construction so contrary to our own thought, we have wished to make the thought more clear and precise by replacing the right of the individual by the duty imposed upon society. The form is changed, but the substance remains the same."—M. Marrast was right; the changes made did not touch the substance of things. The second draft, like the first, gave to the individual a claim against society. Here is Art. VIII. of the preamble in the edition of Aug. 29: "Society ought to protect the citizen in his person, his family, his religion, his property, his labor, and bring the education indispensable to all within the reach of all. It owes subsistence to needy citizens, either by procuring work for them to the extent of its resources, or by giving the means of subsistence to those whose families fail to provide such means for them, and who are not in a condition to work." The earnest and brilliant debate which arose before the constituent assembly did not bear upon even the text of the commission. M. Mathieu (department of Drôme) took care to furnish a field more vast by proposing the following: "The republic recognizes the right of all citizens to education, labor and assistance." When we read this discussion we remark, as its characteristic trait, a certain timidity of reasoning which did not allow the orators to come to definite conclusions. For instance, M. Mathieu (of Drôme) defends his having wished to restore the first draft of the bill, and he makes an effort to weaken the force of his amendment, by explaining that he recognized the right, but did not guarantee its operation. As if the recognition of this pretended right did not confer upon the individual the right to hold society legally responsible for its violation. M. Lédru-Rollin, who came next, gave it to be understood that there was question only of a verbal concession, a purely ideal theory. "When you do grant the right to labor, you will not be obliged to enforce it at once." Finally, de Lamartine reduced the right to labor to a question of charity, and wished that the moral zone, to use his own expression, might penetrate the legal zone. The adversaries of the right to labor, on the other hand, confined themselves to opposing the amendment of M. Mathieu (from Drôme). They reject a too explicit form, without going farther with their opposition. M. Duvergier de Hauranne accepted the draft of the commission. M. Thiers wished the state in certain cases to undertake public works, with the object of furnishing labor to the unemployed. M. Dufaure, refusing to recognize in the individual the right to demand work, imposed upon society the duty of furnishing him work or the means of subsistence. So much logic and eloquence displayed to end only in a change of words! Discussion, thus carried on on both sides, necessarily degenerated into a useless passage of arms. — Taking advantage of the situation, at the last moment M. Glais-Bizoin weakened by a new draft the amendment of M. Mathieu (from Drôme). The right to subsistence replaced the right to labor. The subamendment was expressed in this way: "The republic recognizes the right of every citizen to existence by labor, and the right to assistance." It is proper to notice, in the interest of history, that the constituent assembly, appointed under the influence and so to speak under the threat of February, gave only 187 votes out of 783 voters to the draft of M. Glais-Bizoin. But immediately afterward, and as if it feared to have done too much, it adopted the motion of M. Dufaure himself, which had for its object "to bring into greater prominence the idea that society ought to insure subsistence to needy citizens." Here is the text of that draft which became the second paragraph of Art. VIII. of the preamble in the constitution which governed, during three years, the destinies of France: "It [the republic] ought by fraternal assistance to insure the subsistence of its needy citizens, either by procuring work for them within the limits of its resources, or in giving assistance, their families failing to give it, to those who are unable to work." We have just indicated the place occupied by the right to labor in the French parliamentary debates. After this historical statement of the facts, it remains for us to examine the theory. — The theorists who uphold the right to labor, take, voluntarily or unwittingly, for their starting point, the sophism of Rousseau: "Everything is good when it leaves the hands of the Creator; everything degenerates in the hands of man." They suppose a state of nature existing antecedent to that of society, and a contract, by which men established social order, and reserved certain rights inherent in and essential to existence. This contract is a pure fiction. There is nothing prior to, nothing higher than, society, because outside of society the existence of man is impossible. The social scale has an infinite number of degrees, from the savage state to that of the most advanced civilization. But the exploration of the globe has shown that in no country have man and the family struggled in a state of isolation to satisfy their wants or to develop their powers; that the tribes the least polished and the most wretched had a language, traditions, principles and a government. Man and society

have the same date as well as the same origin. Man can not develop himself except in the bosom of society. He brings to it nothing but the germs of his faculties, and receives everything from it. His rights flow from the same principle as his duties. The individual finds in the rights of others the limit of his own, and their guarantee in the duties which are imposed on each one of his fellows. Rights, like duties, are but the expression of the relations which the social state, which destiny here below, produces among men. The individual then could not reserve, at the moment when society took him up, a pretended right to existence. He comes into it weak and naked, supported by the family and protected by the state, until he has learned to take care of himself. Arrived at the age of manhood, he sees the limits of his rights extended, and his own powers grow greater in proportion as the power of society itself increases. Enlightenment, liberty, wealth, are so many steps in the progress of the social state, in which every member of society shares. As to existence, it is all the better guaranteed to individuals in proportion as the community is wealthier, more enlightened and stronger. Take for example a hunting or even a pastoral people, who, to live, need immense tracts of land. Famine, against which they struggle painfully all their days, often carries off whole tribes. In a less imperfect state of civilization, that of the middle ages in Europe, notwithstanding the bounty of the monasteries, the difficulty of communication as well as the absence of commerce and industry, rendered a deficit, however small, in the harvests, fatal to the population of serfs. In the eighteenth century the memory of these frightful calamities still weighed so heavily on the public spirit that Turgot had to perform prodigies in order that freedom might again be given to trade in grain through the interior of France. In our days, on the contrary, human foresight has inexhaustible treasures to repair such disasters. Trade carries the cereals from the country which has reaped a superabundant harvest to those which the inclemency of the weather has stricken with temporary sterility. Industry in turn redoubles its activity to pay for the produce of the soil with the products of the factory. In a word, famine is henceforth, for the civilized people of Europe, but an accident, which serves to test the strength and excellence of European institutions. In 1847, although the deficit of the harvest was at least a fifth, and although a hectolitre of wheat was worth fifty-three francs, that is, three to four times its normal price, not an individual died of hunger in France.—It seems, then, idle enough to try to find what the rights of an individual to existence in society may be, when we see that the advance of society has the effect of overcoming the difficulties and of multiplying and making general the means of living. What is the use of examining whether there be such a thing as the right to labor, when the freedom of labor is fully guaranteed, and when each enjoys the fruit of his own labor without question or reservation? Finally, of what interest is it to discuss the right to assistance, another form of that claim which the socialists wish to give to man against society, in a time when the foresight of public authority, more watchful and more humane than it has ever been, is studious to repair the accidents of fortune, without weakening prudence, and without checking individual activity? Notwithstanding the world as it is is ignored that men may have a pretext to take refuge in an ideal world, society is divided into two classes, those who have and those who have not. A weapon is placed in the hands of both these classes, as if thus equilibrium between them could be produced. The right of labor is arrayed against the right of property. The most subtle and most complete expression of this theory is found in the writings of M. Considérant, whom we have already noticed, and whose conclusions were advocated from the tribune by M. Lédru Rollin. The following are its principal features: "The human species is placed upon the earth to live and develop there; the species is therefore the usufructuary of the surface of the globe. But by the property system of all civilized nations, land, to which the whole species has a usufructuary right, has been confiscated by the few, to the exclusion of the many. Were there, in fact, but one man excluded from his right as usufruct of the land by the nature of the property system, this exclusion alone would constitute a violation of right, and the property system which upheld it would certainly be unjust and illegitimate. The savage, in the midst of the forests and plains, enjoys the four natural rights of the chase, of fishing, of the picking of fruit, etc., and of pasture. This is the first form of right. In all civilized societies the proletarian inherits nothing and possesses nothing, is purely and simply stripped of his rights. We can not say, then, that here the primitive state has changed in form, since it no longer exists. The form has disappeared with the substance. Now, under what shape could the right be reconciled to the conditions of industrial society? The answer is easy. In the savage state, to avail himself of his right, man is obliged to act. The labors incident to hunting, fishing, the picking of fruit, etc., or pasture, are the conditions of the exercise of his right. Primitive right is, therefore, only the right to these labors. Now, let an industrial society, which has taken possession of the land, and which has taken from man the power of exercising anywhere and in freedom, upon the face of the earth, his four natural rights; let this society recognize in the individual, as compensation for the rights of which it has stripped him, the right to labor; this done, the individual has no right to complain. In fact, his primitive right was the right to labor exercised in a poor workshop, surrounded by brute nature. His present right would be the same right exercised

in a shop better provided and richer, where individual activity ought to be more productive. The *sine qua non* of the legitimacy of property is, therefore, that society should recognize in the proletarian the right to labor, and that it should assure him at least such means of subsistence for a given amount of action, as such an amount could have procured for him in the primitive state. But has the workman, to-day, who has no work, the right to go and say to the mayor of his commune, the prefect of his department, or any other representative of society, 'There is no longer work for me at the shop where I was engaged,' or 'Wages have become so low that I can't live on them. I come, therefore, to demand work of you, at such a rate of wages that my lot may be preferable to that of the savage in the forests'? Not only is this right not recognized, not only is it not guaranteed by social institutions, but society says to the proletarian, despoiled by it of the first of his most sacred rights, of his right of usufruct in the land; it says to him: 'Find work if you can, and if you can not find it, die of hunger, but respect the property of others.' Society pushes its derision to the point of declaring guilty the man who can find no work, who can not find the means of living. Every day we throw into prison unfortunates, guilty of begging or of vagrancy, that is, guilty of having neither means nor refuge, nor the way of procuring either. The régime of property in all civilized nations is then unjust in the highest degree; it is founded on conquest, upon the taking possession, which is but permanent usurpation as long as an equivalent for their natural rights is not given to those who in fact are excluded from the use of the soil. This régime is, besides, extremely dangerous, because in nations where industry, wealth and luxury are very much developed, the proletarian can not fail sooner or later to take advantage of this spoliation to disturb society." M. Thiers ridiculed this beautiful theory, when he asked if the insurgents of June, whom they were transporting to Madagascar or to Guiana, that is, to countries in which the four pretended primitive rights—fishing, hunting, the gathering of the fruits of the earth, and pasture—are reputed to exist, rights which they say have perished in civilized society, would esteem themselves happy to return to the savage state, or if, on the contrary, they would not accuse of barbarity the power which thus imposed exile upon them. We can say as much of laborers who rejoice in their liberty and who expect their subsistence to come from labor. The most unfortunate among them would not change his lot with that of the Ojibbeways or Osages. This proves, at least, that if society has stripped man of some right, held from nature, she has given him in return gifts of a greater value. A primitive, natural right is something which belongs not to one man, not to a generation, not even to a people, but to all nations, to each generation and to every individual. More than this, the rights truly natural to man are those which the progress of civilization makes easy and develops the use of, such as the liberty of thought and that of industry. Generations, in their course through history, do not transmit to those which succeed them either fictions or chimeras. We find the abolition of the right of property which the school of Fourier imagines, nowhere recorded by tradition. Has the earth, indeed, ever existed in that state of primitive capital, independent of all value created by the labor of man? Is this not a purely abstract proposition, conceived by the mind outside the data of reason and the realities of history? Who can teach us how far civilization dates back in time? Is there in the inhabited portion of the globe a spot of earth which has no trace of man, or which in some age or other his sweat has not made fertile? In order that every individual, at birth, should be virtually invested with the right of usufruct to the earth, of the right, represented, according to M. Considérant, by the power to fish and hunt, to gather the fruits of the earth and to pasture herds, the earth would have had to support, in its primitive state, which the disciples of Fourier imagine, under the form of tribes of fishers and hunters, not alone a small number of individuals scattered over immense tracts like the Indians of America, but nations as thickly settled as are those of France and of England. But we all know that in a nomadic state a large area of country is necessary for the support of one man, while, in countries which have reached a high degree of culture, the same territory will support from 1,500 to 2,000 inhabitants. What then is a right which can be exercised only in the wilderness, and in virtue of which that which is hardly sufficient to maintain one man should be bequeathed to his descendants to be shared among a thousand, two thousand, or divided into as many parts as the fecundity of the human race, as it grows, can make of it? There exists no natural right to the possession of the land in its natural state. Land belongs rightly to the person who appropriates it to himself by his labor. Labor creates property; it creates it by leaving on things the impress of man. It is human activity applied to natural forces which gives birth to capital. Here then, in the order of immovable property, is the real source of wealth. Hunting, fishing, and the other processes of the savage state, are at best but imperfect and ephemeral means of appropriation. They already suppose some action of man upon nature; this is the beginning of labor in society. Nomadic tribes divide the land among themselves; each tribe has its own territory, which thus belongs to the whole community, before it is distributed to families and individuals. Later, cultivation of the soil comes, and with it inheritance. The more value man gives to the soil, the deeper does property, as it develops, strike its roots. In the hands of the cultivator of the soil land becomes capital. Man draws this capital in a sense from himself, because capital is only an accumulation

of labor. He has therefore a just right to the possession of what he has produced, and of what his fathers produced before him. Immovable capital, like movable capital, is produced by human activity; to give them another origin is to introduce a fable in the place of facts. What we should say, what is true, is, that we ought not to consider property as a purely individual fact. The influence and power of society clearly cooperate, in its formation, with the action and the labor of man. Society is, in the hands of the individual, like a lever, with the assistance of which he lifts and removes burdens whose weight, without that help, would exceed his strength. Public power protects him, gives him that security which is the first implement of labor, and without which labor would be impossible. He can draw from the common fund of tradition and knowledge. Finally, he has an interest in producing, only because society opens up a market for his produce. — The right of property is then at the same time individual and social. Property is legitimately held and transmitted only on condition of paying tribute to the state, in the form of a tax. By the same title, in countries where vast tracts remain to be cleared up, the state fixes a price at which it makes concession of land, because these tracts have already a value given them by their nearness to civilization and the guardianship exercised by power. As private property is consolidated and extended, we see the public domain—that is, undivided property, the patrimony of the entire people, the wealth common to all and which every one can enjoy at any time—grow. Means of communication and transportation increase; the police, public works, schools, libraries, monuments, all unite to render existence surer, easier and more agreeable. Each one has in reality his part in this common treasure which is not exhausted, which rather grows, and of which the state is but the dispenser for general use. No longer either privileged persons, or parials, and, whatever any one may say, no longer any proletarians. Every one has the right of citizenship, which is far better than the right to labor. Thus, civilization gives to the individual far more of common property that it could have taken from him of private property. Let us add, that in modern society the proprietor does not possess for himself alone. Property resembles those trees whose every branch, reaching the limit of its growth, drops to the earth again, is planted, and pushes out new shoots around it. Property produces and multiplies property. It makes capital, the instrument of labor, more and more accessible from day to day. It grafts industry upon agriculture, commerce upon industry, and credit upon commerce. This spreading of wealth makes, for acquiring and possessing, the barbarous process of confiscation, spoliation and war unnecessary. Wages wait upon labor; from wages come savings, and savings find the market of property always open. In the system of M. Considérant and of Fourier landed property would alone be under obligations, and would be exclusively burdened with the right of usufruct in the soil; for this theory leaves out personal property, a new world, which equals, if it does not exceed, the value of landed property. Personal property would thus obtain a privilege impossible to explain, and would owe nothing to society from which it receives the same protection. Principles which admit of such exceptions are not principles. No; society can not hope to buy of individuals the property which is the very condition of order. The right of property can not have for corollary, counterpoise, nor for an offset, the right to labor. — It remains for us to show that the right to labor is the negation of the right of property, and that we can not admit the former without destroying the latter, as M. Prudhon himself admitted. We know that the author of "Economic Contradictions," the man who invented or renewed that hateful paradox, "Property is robbery," said one day to the committee on finance of 1848, in an outburst of frankness, "Give me the right to labor, and I abandon to you the right of property." The right to labor differs essentially, as M. Dufaure has noticed, from the various rights the free exercise of which it is the object of the constitutions of all countries to protect and guarantee. All these rights, in fact, are inherent in man; every individual can exercise and develop them in the sphere of his personal activity; it is a power he does not borrow, but which he draws, on the contrary, from himself, and which he only asks society to cause to be respected in him. Liberty to think, liberty to write, liberty to work and to possess, are in this condition The right to labor, that socialistic claim, must not be confounded with the right of working, that possession of every man, of which Turgot has rightly said that it is the highest, the most sacred, the most indefeasible of all. The right of working is nothing but the freedom which belongs to every individual, of employing his reason, his hands, his time, in the manner he deems most profitable; while the right to labor, as we have already shown, is a claim given to the individual against society as a whole, or against a portion of it. In the right to labor are at the same time a right and an obligation created. It implies, between the individual and society, a contract, by whose terms society owes subsistence to each of its members—a contract not reciprocal, and which would hold but one of the parties. For while the state would have to furnish individuals, on demand, means of labor and of living by labor, it would not be armed with power of compelling them to seek by labor their usual subsistence; thus would the superiority of personal right over social right be proclaimed. The individual would become the master, the tyrant, and society the servant, the slave. — M. Dufaure has not said too much. The right to labor is a species of servitude which is imposed on the whole community, in the interest of few or many, who would be tempted to avail themselves of it. Admitting this claim of the individual against society neces-

sarily brings two interests face to face, and exposes them to a struggle. Suppose that society resists, the result is a battle. There is on both sides a call to arms, recourse to force is had to interpret the right. The rioters of Lyons, in 1832, blazoned on their banner this device of despair, "Live working or die fighting." Article 8 of the draft of the constitution reproduced only the first portion of the popular credo, events have brought the latter part to light; neither logic nor the force of circumstances permits of their separation. When we give a right or cause of action to individuals against society, we encourage and even justify revolt. We raise again the standard of Spartacus; we raise it in the midst of a people who know neither the separation of castes nor the difference of ranks; we proclaim civil war between members of the same political family, between equals, between brothers. Let us suppose, on the contrary, that society submits, and, accepting the right to labor, is ready to accept all the practical consequences of the principle. Let us see whither this would lead. To decree the right to labor is to make the state a purveyor for all, assurer of all fortunes and *entrepreneur* of all industries. The right to labor is the right to capital, the right to wages, the right to competency; it is, in a word, the most extensive right with which individuals can be armed against the public treasury. When we go to the bottom of such a system, division of property seems a thousandfold preferable, because a community of wealth places at least on the same level the man who possesses and the man who does not; it takes, for the poor, only from the rich, and limits itself to making a new division of capital and existing incomes. The right to labor goes far beyond this; it is a seizure not only of that which is now, but of that which may be; it is not only the community of acquired wealth, but of producing power, perpetual servitude imposed upon the heads of society, in the interest of the numerous proletarians which society takes into her employ. — The right to labor, as I have said elsewhere, implies the permanent existence and the unlimited power of production, whatever the circumstances may be, or whatever the organization of society. What value then should a principle have which is outside the limit of possibility? A social state does not exist which assures permanence or regularity of production. Let a commercial crisis come on, or some check to consumption, making the supply greater than the demand, and you will see a certain number of shops close entirely or diminish in activity. Industry, like the solar year, has its seasons; and the harvest of labor, like that of the fruits of the earth, has years of sterility as well as years of abundance. The foresight of man holds in reserve for these difficult times capital accumulated by saving, but it does not give at will impulse to the power which produces; nor does it create labor with the wave of its wand. Man can always employ his intelligence and his hands; but motion is a different thing from labor. Labor is the useful employment of forces; it is recognized by its products. To effect production at will one must be able to enlarge and contract the limits of consumption, because the most necessary products receive their value from the use which is made of them. Of what use would it be, for example, to gather quantities of grain or herds of cattle into a deserted city? And of what use would the wealth of Mexico be under circumstances in which a kilogram of silver would not procure an ounce of bread? If the troubles would stop when one had said that the workmen had a right to labor, the prescription would be simple. The state would only have to furnish funds to workshops which were about to stop, and to give orders to manufacturers to produce. But manufacturing is not all. We must find buyers for the merchandise which we create, so as not to add to the glut of the market. Production should not be increased at just the moment that the market is closed or diminished. To add in such a case to the amount of products is to depreciate them. To allay the sufferings of the present, we thus add new embarrassment to the near future.—Socialists start from another supposition, which is not less extravagant than the first They establish a dualism between the individual and society, instead of considering society as a union of all forces, and as the aggregate of all intellects. They make it a creature of the mind, a power apart, a fanciful person, a kind of fairy which has hidden treasures and faculties without limit. All then demand different things and more than they bring with them into the community. According to the socialistic ideal, the state always gives and never receives. Socialists refuse to understand that the state is only rich by individual wealth; that it produces only by the labor of each and every one; and finally, that its power is the result of a number and concert of wills. In a word, they forget that if the social tree bears leaves and fruit it is because it strikes its roots into the soil, and draws thence nourishing sap. Let us, nevertheless, take the right to labor as the natural right of every man who possesses nothing. Let us admit, for an instant, the fiction which invests the state with a chimerical omnipotence: how will it fulfill the obligations with which it is weighed down? This system desires that every individual who does not find employment for his intelligence or his hands, or to whom the employment which he has found does not suffice to give means of living, shall be allowed to ask from the government the work which he can not find, or a lucrative employment in the place of his labor which produces little. Thus the state would have to employ all unoccupied workmen, and make up for the insufficiency of wages. It would have to make up for a lack of demand in the market, and undertake to furnish the instruments of labor. In the social organization of France, when a prolonged stoppage occurs in manufactures, or when there are too many agricultural laborers, then, and only in extreme cases, the state and the communes

open charity shops. They call upon the poor to macadamize the roads. All property owners bleed themselves to pay these workmen by their accumulated contributions. But under the system of the right to labor, things could not go on in this way. The workman armed with his absolute title, would not be content with the labor society had chosen and allotted for him. He would demand the work for which he thought himself fit, and require the most abundant remuneration. He would wish to follow his profession under the most favorable conditions: and determining the kind of employment, he would also fix the return for it. He would inform himself neither of the condition of the markets nor of the treasury. The wages that would be coming to him, a sum due to him by the state, would preserve an unvarying level. Thus the right to labor would lead to the complete exhaustion of property. This servitude would have no other end but ruin. — In his admirable discourse upon the right to labor, M. Thiers incidentally gave an opinion with which socialists can arm themselves against him, and which is astonishing, emanating, as it did, from a mind so eminently practical. He admitted that the state holds in reserve for moments of stoppage or times of crisis, independent of great public works, a certain number of orders to distribute to industry. This would not be good, and seems hardly possible. A state, like all other consumers, buys and produces only as the wants of consumption become apparent. Its disbursements are annual, like its revenue, and it apportions them according to its political necessities. In the system marked out by M. Thiers it would reserve the progress of works and the bulk of the apportionments for calamitous times, which might not coincide with the greatest needs of the service. It might order, for example, the cloth and the linen to clothe a million soldiers, when it had not a hundred thousand men in arms. It would thus heap up in the state merchandise which would represent a large amount of capital, and it would be exposed to the danger of losing this capital through many years. It would be the same with public works. In order to develop them in times of crisis, states would have to support, during periods of prosperity, a numerous staff, to double and treble the size of the list of their officers. They would have to create, in the first place, sinecures, from which they might draw the elements of active service, when times were bad. I know of no system less rational or in any way more fatal to the finances. But the gravest side to this experience is, that one would call upon the state to make its greatest effort and its greatest sacrifices under circumstances in which its resources would diminish with those of individuals. Men would place it under obligation to add one or two hundred millions to public disbursements at the very moment when the returns from direct taxation would be reduced, and when, even by paying a high rate of interest, it would be impossible to borrow. In a word, to use an expression of M. Thiers, they would ask for the largesses of the rich for a treasury which would be only the treasury of the poor. — The right to labor carries with it the organization of labor. There is not room in a free society, and one which belongs to itself, for a proletarian aristocracy. As long as capital and property count for anything, they will protest against the chains with which socialists try to bind them. The ramparts of civilization must therefore be demolished to introduce this weapon of war. Social order must be transformed. Liberty must give place to monopoly; the action of individuals to that of the state. No more property, no more inheritance. The state must own everything, must produce everything, must distribute everything. The state must supply labor, and divide the wealth produced. The right to labor has neither sense nor value if it does not mean that every individual applying to the state to obtain employment has a right to the kind of employment for which he is best fitted; that the tiller can demand that he be given a plow to drive and land to cultivate; that the tailor shall receive orders for clothing; that the mechanician be asked to build a locomotive; that the painter be ordered to decorate palaces or churches; that the historian shall find hearers for his lessons, or readers for his writings. This supposes that the state has all rights and all power. It means that the government is the master, to regulate as it sees fit, or as the crowd sees fit for it, production and consumption, the loan of capital, the hours of labor, and the rate of wages; that in society there is no landed owner, no capitalist, no industrial and commercial manager, but the state. To have the right to labor is to have the right to wages, to wages which assure the subsistence of the workman; and as the needs of subsistence ("to each one according to his needs," said Louis Blanc) vary with situations and individuals, it is having the right to wages which the laborer determines himself. Under the rule of industrial freedom no person has the right to fix the rate of wages, which follow the fluctuations of the market, and obey a law superior to the will of the employer as well as that of the employed. — To have a right to labor is to have a right to the instruments of labor, to capital and credit. The army of laborers can not do without officers to lead them, any more than the army of soldiers. These officers are produced with the freedom of industry. They are the capitalists, manufacturers, inventors, contractors, head clerks, officers. They obtain these posts through merit, or through services rendered, or because of their experience. But from the moment that the individual has the absolute right to demand employment in his own sphere of aptitude, he can also demand that he shall be placed in those conditions which are most favorable to bring his intelligence and power into play. We thus see that the right to labor in individuals supposes necessarily the monopoly of labor in the hands of the state. We go back to the childhood of society. This system treats emancipated

man, man arrived at the age of liberty, of strength and of enlightenment, in the same way that man in the age of ignorance consented to be treated, by the powers which placed him under guardianship. It is a question of overturning all the processes by the aid of which civilization has progressed in the world up to the present time. This necessary consequence of the system, admitted by the most frank defenders of the right to labor, has been contested by those whom I will call neophytes ashamed of socialism. They have held, that society interfered even now in questions of labor, that this interference was legitimate, and that, having already taken upon itself to guarantee to a certain extent the profits of the capitalist, the government might, with greater reason, guarantee the workman his wages "I do not speak to you," said M. Billault, in the session of Sept. 15, 1848, "of the irregular and transitory interventions, which in trying moments weigh upon the treasury, upon the government, and end in national workshops, in riots, or in aid more or less happily distributed. It is something more normal, more permanent, which I wish you to notice. The authority of society is engaged in such a manner in all combinations of national labor that there is not a single point at which it does not touch it. It is society itself, which by these customs tariffs, by their prohibitions, differential duties, subsidies, combinations of every kind, supports, retards or advances all the combinations of national labor. It not only holds the balance between French labor, which it protects, and foreign labor; but at home the diverse industries see it often and unceasingly interfere among themselves. Listen to the perpetual claims made by one against the other before its tribunal. See, for example, the industries which use iron complaining of the protection accorded to French iron against foreign iron, those which use linen or cotton thread protesting against the protection accorded to home manufacture against the introduction of foreign thread; and so on with others. Society, therefore, thus finds itself obliged to mingle in all the struggles, in all the embarrassments of labor. It interferes in them actively every day, directly or indirectly; and the first time that you have to consider a question of customs, you will see that you will be forced, willingly or unwillingly, to take the part yourselves of all interests." M. Bastiat has pointed out the identity of tendency which exists between the protective system and communism. Indeed, protection, by means of a tariff, is a guarantee that the state, in the name of society, gives to certain industries, against similar foreign industries; and the moment this principle is admitted, all branches of national labor can claim the same assistance. If the state guarantees a minimum of profit to the capitalist, it is not easy to see why it should refuse a minimum of wages to the workman. Protection should extend to all producers under pain of degenerating into injustice. Even under this hypothesis it sacrifices consumers to producers. The state builds up the fortune and insures the well-being of one class of citizens at the expense of other classes. It takes what it gives to certain ones from the pockets of all. This is the right to labor recognized by way of a guarantee. It is the organization of labor under the form of partnership. It is indirect communism, but, after all, it is communism. Advocates of protection have nothing to urge against the theory of the right to labor. All privileges grow one from another. Only those are in a position to combat the arguments of socialists who hold that the protective system is an economic heresy, and industrial privilege an evil. Let us, however, exaggerate nothing. Protection is not a new phenomenon. It has a tendency to diminish. — Outside of the organization of labor, which is absurd and would be impossible in any case, the right to labor becomes a simple right to assistance. In this attenuated and at the same time unreasonable form, it is recognized in France by solemn vote. The constitution of 1848 is no longer of authority in the country, but the errors which it accredited and sanctioned still remain. Right is something certain, and power something uncertain. There is boldness in attempting to establish a direct relation between these two terms in the social order. Society will do nothing which Providence has not willed God has permitted suffering and misery in this life. The best ordered state will not be able to suppress them. Progress of well-being is incontestable. It has grown, it will grow; and our efforts should tend to augment it still more. But let us not dream of an age of gold. Society should, as far as its resources allow, and within the limits authorized by wisdom, come to the assistance of unfortunate individuals; because individual foresight does not exclude the foresight of all. We must be careful, however, not to convert the duty of society into a right of the individual. If you say that all those who have reason to complain of their lot have the right to draw assistance from a common fund, you recognize that they may call society to account. You legitimize and even preach revolt. The right to assistance must invariably lead in the long run to the demoralization of individuals, and the weakening and ruin of the state. The law of Elizabeth proclaimed this right, as we have already shown—the law which gave birth to the poor tax. The poor tax in England was intelligible. It represents *a priori* the equivalent of spoliation exercised by the rich against the poor, by the Norman against the Saxon, and that upon the largest scale. The aristocracy divided the land by right of conquest, and confiscated to its own exclusive advantage the public wealth and the wealth of the churches. Finally, it imposed the burden of taxes upon the laboring classes, and reserved the patronage as well as the lucrative positions of the government for itself. Did it not owe a compensation in return—an indemnification to the people whom it had excluded from all the goods of this world? The poor tax was this indemnity. The evil results

of the system are known. In 1832, the time when the excess of the evil had caused an attempt at reform, the support of the poor cost England and Wales more than seven millions sterling a year. A little more increase to this tax, and the revenue of the landed owner, rent, would have been absorbed by it. Yet the poor did not become rich, while they ruined and consumed the wealthy; because misery and degradation were extending insensibly to the whole country. Assistance was given instead of work, or to serve as a supplement to wages. When parishes themselves employed the poor, their labor was a farce. The result was, that, on the one hand, the working men assisted by the parishes, fell into indolent ways and into debauchery, laying upon society the duty of nourishing them, and considering the alms which they received as an acquittal of a debt due to them: on the other hand, that the free laborers and those who wished to owe to labor alone their subsistence, as well as that of their families, having to meet the competition of laborers hired by public charity, saw the rate of wages lower, and found themselves led, against their will, by the insufficiency of the remuneration which they obtained for their daily labor, to solicit the assistance of the parish. Besides, as aid was proportionate to the number of persons in each family, it was to the interest of the family to contract premature and unwise marriages, because their revenue, or rather the prize offered to their inaction, grew with the number of their children. Immorality had no longer a check, because children born outside of wedlock fell to the care of the state. The reform of 1834 gave, as a corrective to the right of assistance, the duty of labor. The administration of public aid was authorized to detain and put to work all able-bodied persons who asked aid. Houses of charity and labor thus became at the same time prisons. The wife was separated from her husband, and the mother from her child. To give to the poor a taste for labor they attempted to disgust them with alms. The prosperity of the country, and the activity of industry coming to their assistance, there was obtained in a few years a considerable saving in the department of public charity. In 1837 the support of the poor, notwithstanding the growth of the population, cost barely four millions sterling. An annual saving of three millions was the result of the reform. — It is an axiom accepted in England under a government of which property is the essential foundation, that property has duties as well as rights. How far do these duties extend, and what is their nature? Should the owner of property support, nourish, take on himself as a burden the man who has none? Is this an obligation by natural law? a species of servitude attached to wealth? Property would perish under it. We can conceive that in a despotic government the master would be responsible for the slave, and the feudal lord would have to care for the serfs who live upon the manor, because there exists here a sort of reciprocal obligation. The serf has the right to receive support from the proprietor because the proprietor has a right to the labor of the serf; but to emancipate the laborers from the soil in the first place, afterward from the claims of monopoly, and then to hypothecate property for their subsistence, would be a contradiction. It would be confounding the conditions of liberty with those of slavery. The social bond unites men among themselves in mutual dependence, but in making this dependence too strict, in stretching the chain beyond measure, we risk its breaking. We must not immolate the individual to society, nor *a fortiori* society to the individual. Let us hold aloof with equal vigilance and equal energy from communism and egotism. Let not charity cease to be a moral duty, but do not make a legal obligation of it. M. Thiers demonstrated that the right to labor once recognized would destroy emulation among laborers; that is, the principle which urges one man to do better than others, and which is the cause of progress, of wealth in individuals. M. Dufaure demonstrated that the right to assistance would destroy human forethought, that is to say, the principle upon which the future of each individual as well as the future of society rests. "When the workman," the eloquent orator said, "shall once have acquired the habit of working as people work for the state for a stipulated salary which he is always certain of drawing, his taste for labor will gradually disappear. He will fall into indolence, idleness, and into all the vices which follow as a consequence. More yet, he will set this example to his children. You will have in the country an aristocracy of indolent families to whom the state will pay salaries; which will grow larger each day, and continue to grow; an aristocracy which, on the one hand, will ruin society, and, on the other, will see little by little its courage decrease, the enervation of all its strength, and the corruption of all its better instincts. The right to labor and the right to assistance are, in the thought of the socialists who use these expressions, but means to change the distribution of wealth. The state has not the capacity to do this. The laws which regulate the distribution of wealth in the social world are above the action of public powers. The state should see that the burdens of society should be equally divided among its members in proportion to their wealth. The state should endeavor to remove the obstacles which shall stop or hinder the development of enlightenment or production; but it should never forget that if it be a collective force, if it represent the association of individuals, it is not their absorption. And after all, what is the end sought for? What is wished to be done? When the right to labor and the right to assistance are proclaimed, it is hoped doubtless, by means of this seizure of the accumulated results of production and of capital of every kind, to destroy poverty. An effort may indeed be made to diminish its extent and to moderate its effects, but to go beyond this, is, in a

way, to condemn providence. Evil exists upon the earth. It is a consequence of human liberty. A man can be deceived in his calculations, neglect his duties, relax his efforts, disregard his true interests. After all his faults, the punishment must appear, and this punishment in this world is, morally speaking, the loss of wealth, and the loss of the esteem of his fellow-citizens. The fear of losing goods so precious is the sole rein which keeps man from utter ruin. The desire to acquire them is the real force which quickens and develops his energy. Progress is born of difficulties. By taking poverty out of the world we would be taking labor out of it, and the law of labor is the very law of existence.

LÉON FAUCHER.

LAISSEZ FAIRE—LAISSEZ PASSER. These two formulas, which are frequently met with in economic, political, social and socialistic discussions, were invented by the physiocrates. By *laissez faire* they mean simply *let work*, and by *laissez passer, allow exchange;* in other words, the physiocrates demand, by these phrases, the liberty of labor, and the liberty of commerce. —These two phrases have never been used by economists in any other sense; but the partisans of interference of all forms—socialists, protectionists, administrationists and interventionists—have often pretended to believe that they were the expression of the *liberty to do everything*, not only in political economy, but in morals, in politics and in religion. Jabard made this same assertion, about half a century ago, in the numerous pamphlets which he published, and even went so far as to assert that by *laissez faire* and *laissez passer* economists understood "unrestrained depredation." To repeat such an interpretation is sufficient refutation for any serious, thinking man who does not close his eyes in order that he may not see, and stop up his ears that he may not hear. Economists do not apply their axiom to morals, politics or religion, which subjects they do not consider at all as economists, but only inasmuch as they relate to human activity and human industry; they do not pretend that men should be allowed to do everything, and that everything should be allowed to pass, but simply that men should be allowed to work and to exchange the fruits of their labor without hindrance and without being subjected to preventive measures, under the protection of laws repressing attempts against the property and labor of another. —Dupont de Nemours thus relates the origin of these formulas in his preface to Turgot's "Eulogy of de Gournay": "M. de Gournay, who was the son of a merchant and had long been actively engaged in commercial pursuits himself, had recognized that manufactures and commerce could be made to flourish only *by liberty and competition.* They discourage rash enterprises, and induce reasonable speculation; they prevent monopolies, restrict the private gains of merchants for the benefit of commerce, quicken industry, simplify machinery, diminish the burdensome expense of transportation and storage, and lower the rate of interest. They secure the highest possible price for the products of the earth, for the benefit of the producer, and the sale of these products at the lowest possible price, for the benefit of the consumers, for their satisfaction and enjoyment. He concluded from these observations that commerce should never be submitted to any tax or interference, and drew from them this axiom: *laissez faire, laissez passer.*"—But it seems that this axiom was inspired by a reply made a long time before to Colbert when inquiring about measures favorable to the interests of commerce, the justice of which had impressed itself upon the friends and disciples of Quesnay. "It is well known," says Turgot, in his "Eulogy of de Gournay" already quoted, "what the reply of Legendre to Colbert was: *Laissez nous faire*, (Let us alone), to which Quesnay added, somewhat later: "Do not govern too much "

JOSEPH GARNIER.

LAMAISM. The religion of the Thibetans, which is also that of the Mongols, and, under a slightly different form, that of Bhotan, is called Lamaism by Europeans, from the word Lama, the title of the high dignitaries of the priesthood among these nations. It is Buddhism corrupted by a mass of heterogeneous elements. Brought to Thibet, in the middle of the seventh century, both from China and Nepaul, the doctrine of Buddha was propagated there with the alterations which it had undergone in the latter country, where it had been mingled with the impure worship of the personification of the female principle, as it appears in Sivaism. This Buddhism of the Tantras, books in which, according to Eugene Burnouf, purely Buddhistic elements scarcely appear, received new alterations in Thibet, where it could only be propagated by making concessions to the superstitious beliefs already in existence there. The previous religion of the Thibetans consisted merely in magic practices by which the priests conjured away the malignant action of the spirits of the air and the mountains. This rude Shamanism which still exists in certain remote valleys of lower Thibet, left prominent traces in Thibetan Buddhism. The holy personages of the legends of that country are connected with sorcery on some side, and the inhabitants of Thibet, Mongolia and Bhotan have never ceased to dread the malign influence of spirits. Nevertheless at an early period and at various times attempts were made to introduce reforms into the Thibetan religion. The object was to change the Buddhism of the Tantras for that of the Sutras. The principle of this movement originated, without doubt, in the Buddhist monasteries of China, in which the doctrine of Mahâyâna (the great vehicle) was professed. For a long time these attempts were fruitless; but at the end of the fourteenth century the reform was carried out decisively by Tsong-Kha-Pa, a religious personage, born toward 1330 in the country of

Amdo, to the south of Koukou-Noor, and placed almost on the same level as Buddha in Mongolia as well as Thibet. — The object of the reformer was, without the least doubt, the re-establishment of primitive Buddhism, but he lacked the necessary knowledge to discover the work of Buddha under the numerous layers of interpretations with which it had been successively covered. He stopped at the doctrine of the Mahâyâna which he mistook for primitive Buddhism, and he endeavored to abolish the magic practices derived from the Tantras and the ancient superstitions of Thibet, and restore the asceticism which is in reality one of the marked and genuine traits of pure Buddhism. On the first point he only obtained incomplete results. The practice of magic was restricted, but not abolished. In the largest monasteries of Thibet there is an official diviner who, on certain grave occasions, is formally intrusted with predicting the future, conjuring the elements, etc. On the second point the success left nothing to be desired. Ascetic practices form the chief employments in the monasteries, the members of which are subjected to celibacy, confession, frequent fasts, and numerous spiritual retreats. — Lamaism, conformable in this point to ancient Buddhism, has no secular clergy; its priests of all ranks are monks, living in monasteries (in Thibetan, *gonpa*, solitude, *monasterium*). Their generic name is Ge-sslong (practicing virtue), a name conferred on them by Tsong-Kha-Pa, when he gave them the yellow bonnet, the distinguishing color of primitive Buddhism. In places where the reformation has not penetrated and where the ancient red Lamaism is still maintained, the monks still enjoy the right of marrying and living with their families. — According to the precepts of Buddha, the Lamaist clergy is supposed to live on the alms of the laity: in reality they possess immense wealth. The devout Thibetans have found in their indigence the means of enriching the monasteries. The number of the religious class of both sexes in Thibet must form about one-fifth of the whole population, each family devoting at least one of its children to monastic life. But it must be added that this clergy has never abused either its power or its wealth, though the veneration which it inspires is carried to absurdity. — In principle the monasteries were independent of each other. In the eleventh century, the superior of Sa-Khya, one of the richest monasteries, laid claim to the supremacy. He found a powerful antagonist in the Grand Lama of the monastery of Bri-Goung. He first sought the arbitration of the emperor of China, who did not fail to decide the case in his favor, and in spite of the protest of the Lamas of Bri-Goung, those of Sa-Khya, thanks to the protection of the Chinese government, dexterous in taking advantage of this occasion to interfere as a protector in the affairs of Thibet, remained sovereign pontiffs in the Lamaist church till the period of the reformation. — Tsong-Kha-Pa deprived them of this supreme dignity. At his death he left the government of religious affairs to two of his disciples, of whom one, the Pan-Tschen-Lama, had charge of teaching, and the other, the Dalai-Lama (or, more correctly, Talé-Lama), of watching over discipline. In a church in which everything is finally reduced to observances, the chief of discipline must soon overshadow the master of instruction, and this is what has happened. The Dalai-Lama became the sovereign pontiff, as well as sovereign of Thibet. The Pan-Tschen-Lama is merely his adjunct in a certain way. The first lives in one of the monasteries of Mount Potala, a quarter of a league from Lhassa, and the second in the monastery of Lhoun-Po, in lower Thibet. The Dalai-Lama has, as vicar in Mongolia, the Grand Lama of Khouren. — Without being the equal of these eminent personages, the superiors of monasteries are, like them, Choubilghans (those who are reborn), that is to say, incarnations of the Bôdhisattvas, divine beings who, in order to preserve always among weak men the good doctrine of salvation, never cease to appear under a human form. It follows from this belief that, when a Lama dies, or, to speak the language of the Lamaist religion, is deprived of his earthly wrappings, it is necessary, in order to give him a successor, to find under what new earthly wrapping the Bôdhisattva of which he was the incarnation has deigned to appear. — Affairs have been managed as follows since the end of the last century, that is to say, since the emperor of China, under the pretense of protecting and honoring the Dalai-Lama, freed him from the care of governing Thibet. Whenever it is a question of replacing any high dignitary of Lamaism, the names of male infants born since the death of the Lama to whom a successor is sought, are collected and sent to the monastery of La-Brang, at Lhassa. Among the children registered, three are designated who bear the mark of Choubilghan, which the Lamas and the chief diviner are called on to prove, under the inspiration, of course, of the Chinese delegates, who are careful to choose those whose families offer some guarantees to their government. The three names are placed in a golden urn sent for that purpose to Lhassa in 1792 by the emperor of China, and after the high dignitaries of the Lamaist clergy, united in conclave, have prepared for this ceremony by six days of retreat, of fasting and prayer, one of the tickets is drawn from the urn by the most aged; the child designated by lot is proclaimed successor of the deceased Lama, and the two others receive presents to console them. When it is a question of replacing the Dalai-Lama, the drawing of lots takes place at Pekin, in presence of high Chinese functionaries and under the presidency of the Tschan Tscha, the delegate and representative of the Lamaist church near the emperor of China. To prove that there was no mistake in the lot in declaring the newly elected as the same person whom he is called to replace, or, more correctly, to continue, the child at the age of four or five must show

that he has some reminiscences of his previous existence. It never happens that he makes a mistake in this examination. — This method of appointment to high ecclesiastical functions does not appear suited to put eminent men at the head of the church; but in reality nothing is less needed. The whole office of a Lama consists in allowing himself to be venerated with proper dignity, in knowing how to vary his blessings according to the ritual, and in practicing with the greatest accuracy the formalities of worship. It is easy to train a child to these different exercises. If a difficult case appears, there are always at hand some adroit monks trained to their profession; the threads which move the automaton are held by them, whenever it is necessary that it should issue from its repose. Besides, the real directors are, since 1792, the two Chinese delegates resident at Lhassa. — It would be a mistake, however, to suppose that all the Dalai Lamas were empty shadows. There were among them, especially in the sixteenth and seventeenth centuries, men who knew how to conduct the affairs of their church with rare ability, and to extend their influence over neighboring peoples with an astonishing adroitness Their wisdom perhaps was a little too often equal to that of the serpent, and the readiness with which they employed pious frauds to further their ambition casts a certain shadow on their moral character; but they had not always a choice of other means: it is probable, moreover, that in their eyes the end sanctified the means, and it must be added that habit left them no scruples in the employment of duplicity and apocryphal miracles. Not all, however, gave themselves up to the crookedness of a tortuous policy. There were noble characters among the high dignitaries of the Lamaist church; among others must be cited Pan-Tschen-Erteni, who died at Pekin in 1780, a victim, perhaps, of Chinese policy, and who is so often mentioned in the account of Turner's "Embassy in Thibet." — Lamaism, as is sufficiently shown by the preceding, is a religion with very few spiritual elements, not raised above the simple *opus operatum*. It is almost entirely made up of pilgrimages, processions, continual offices in the temples, the endless repetition of formulas of prayer, principally of the prayer of six syllables. This last is composed of the following words: *om mani padme hoûm*, and is almost always on the lips of the Thibetans, lay and clerical. Religious merit is measured by the number of times this prayer is recited, the rosary being used in counting the repetitions of the prayer; and the general prosperity is in proportion to the care used in reproducing it in speaking, writing and engraving. It is written on flags floating in the wind from the tops of lofty poles, on public edifices, on housetops. It is written in gigantic characters on the sides of the mountains, fastened to trees, painted on the walls, and engraved on household utensils. — In order that this prayer should be in movement incessantly, and doubtless also to obey the precept given by Buddha, to turn the wheel of the law continually, a figurative precept literally understood, the celebrated praying machine was invented. This is a cylinder made of wood, copper or leather, filled with little strips of paper, on which the six precious syllables are printed, and is put in movement by a crank Stirring these pieces of paper is a pious work profitable to him who moves the machine Large machines of this kind are placed in the vestibules of temples, on the public squares, and in the principal streets, to enable passers-by to fulfill their religious duties. In pious families there are small machines, and they are put in motion as often as possible. Wealthy persons have a servant especially appointed to this labor Finally, we see in Thibet and in Mongolia praying machines moved by water power and by windmills Among the Thibetans and the Mongols the clergy do not doubt, any more than the laity, that this celebrated prayer which they pompously call the way of deliverance, the gate of salvation, the bark which bears the soul to the haven, the light which dissipates the darkness, and which constitutes all religion for the majority of them, is simply an invocation of the universal generative power, expressed here under an obscene symbol, but very much used in Sivaism which reproduces it in all its temples by sculpture and painting. But the less the theologians of Lamaism understand its real meaning the more they are able to give mystic explanations of it They give assurances that it contains a sublime doctrine, the extent and profundity of which could not be measured during the longest life. In general, they see in it a symbol of the transmigration of souls through the six realms of successive births, realms represented each by one of the six precious syllables, or, further, the elevation of the soul toward perfection, by passing through the six transcendent virtues, each of which is also expressed by one of the six syllables. (The prayer of six syllables is in Sanscrit, a language entirely unknown to the Lamas.) — It can not be said, however, that there is not a certain show of science in Lamaism. There is no monastery in which a monk is not intrusted with the instruction of novices. In the most considerable there is a superior instruction. But the studies pursued in them bring merely the memory into play; numerous prayers of the Lamaist church are committed to memory; the best scholar is the one who can recite the greatest number of these. The novices are instructed in the performance of ceremonies. The rules of contemplative life are explained and supported by the edifying examples of the saints of Buddhism. Metaphysical subtleties do not appear to be wanting in Lamaist science, subtleties which recall those of the theologians of the middle ages, and which have no other object than to give an appearance of reason to the things most unreasonable. In substance, this science has not for its object the search after truth; like scholasticism, it seeks simply

to demonstrate a fixed, immutable doctrine, which is laid down, without discussion, as the truth, but which is the truth only for those who believe in it. Magic also forms a part of Lamaistic science. It is only taught at Lhassa, in the two convents of Ra-mo-tshe and Mo-rou. At these places those come to study who wish to become masters in the art of conjuring spirits, commanding the elements and practicing sympathetic and magic medicine. Lamaist science rests entirely on two collections of sacred books, namely: the Kah-gyour (a translation of Sanscrit texts) which is composed of 1,083 different writings, and the Tah-gyour (an explanation of the doctrine) which is still more voluminous than the preceding. By the side of these two enormous collections, which Alexander Csoma first brought to the knowledge of Europeans, there exist thousands of works, the greater number of which are edifying books, collections of prayers, or legendary accounts of the lives of saints of the Lamaist church.—Thibet has as good a title as China to be called a country of books. And still in this country where for centuries the printing press has been in active operation, where the reproduction of a writing is considered to be a holy work which will have its reward in heaven, where men bow down before a few pages covered with characters with as much respect as before the living Buddha, not a single clear idea on religion has been acquired; men are in the most profound ignorance of history and the laws of nature; reflection has not been aroused to any of the great problems, the solution of which, or at least meditation on which, seems to be one of the wants of the human mind; the social condition is not raised above the level of the infancy of peoples. Would not the history of the country of snow prove the vanity of all that has been spoken and written among us on the eminently civilizing rôle of the printing press? After seeing what has taken place in Thibet, it is difficult not to admit that the press is an instrument as much suited to the enslavement of the mind as to its emancipation and development. Europe would probably be still at the point where the Thibetans stopped more than ten centuries ago, if printing had only served, in the hands of Dominicans and Franciscans, to reproduce the legends of saints and scholastic *Summæ theologiæ*. Printing became an auxiliary of liberty and intellectual and moral progress, only through the great movement which, in the sixteenth century, transferred science from the hands of priests to those of laymen, and to the new spirit which the study of the great writers of Greek and Roman antiquity raised up in the west. (See BUDDHISM, BRAHMANISM, THEOCRACY.) MICHEL NICOLAS.

LAND. Considered from an economic point of view, land appears in the first rank of natural wealth susceptible of appropriation. Land is at the same time the principal deposit of capital accumulated by the labor of the generations which have preceded us in civilized life; it is in some sort but a manufactured tool, which intelligent cultivation incessantly improves instead of using. We shall not dwell upon the great economic properties of land, which have been made the object of special articles, but we must briefly point out the well-known laws that regulate the value and price of land.—Adam Smith long since observed the relation which exists between the value of landed property and the rate of interest. When interest is high, in time and space, the price of land is low; when, on the contrary, the rate of interest is lowered, the value of land increases. The reason of this is, that land, no matter what transformation it may undergo in the possession of its owner, is always and necessarily capital intended for reproduction. The owner may diminish and almost destroy this capital by neglecting to cultivate it or by cultivating it poorly, but he can never destroy it while society retains its influence. Thus, land is always acquired to be employed in reproduction, and it can only be exchanged for capital, which its owners intend for the purposes of reproduction. Now it is the scarcity or abundance of precisely this kind of capital which raises or lowers the rate of interest. The consequence of this is that, while the usefulness of landed property varies but very little, its value and price undergo frequent and considerable changes, according as available capital for reproduction is scarce or abundant in the market, and that the price of land always follows the fluctuations of the credit market. Another result of this fact is, that the avenues open to capital which is intended for reproduction directly tend, as far as investment is concerned, to lessen the value and price of landed property. Thus, for example, when Louis XIV. established *rentes* in order to obtain the funds necessary to build the palace of Versailles, he certainly diminished the market demand for landed property.—In countries whose inhabitants make no savings, because of a defective social condition, land in a manner loses its market value. It is said that there are no buyers because each one prefers to keep his land rather than to exchange it for a sum which represents two or three times the amount of its revenue. We may add that in these countries, in which saving does not lead to the accumulation of movable wealth, the means of exchange are so limited that the revenue of the land is scarcely anything. Thus the market value, and the price of the land as well as the revenue which it produces, are in exact proportion to the saved movable property which can be offered in exchange for it. Both are dependent upon the force of the tendency of the owners of movable property to save and accumulate.—When a country has little or no foreign commerce, the accumulation of movable capital and the price of land advance very slowly, but in parallel lines. It is otherwise when the products of a country are absorbed by foreign commerce, as is the case in the Danu-

bian provinces and southern Russia; then the revenue from the land increases, without any increase in its price, and without it being possible to insure the revenue to a farmer, because there is no security either for a farmer or for a purchaser.—As the price of land in civilized countries is affected by the fluctuations of the credit market, it is temporarily reduced by commercial crises: it depends upon the movement of an amount of capital always very moderate, if we compare it with the total of the land in a country; a fact which causes results that seem strange at first sight, and not proportioned to their causes. By reason of this intimate relation between the price of land and the credit market, it was once possible in France to say that the country had been made poorer by twenty thousand millions, and subsequently that it had grown richer by an equal amount; overlooking the fact that, while the fortune of a private individual is specially affected by the phenomena of exchange, the wealth of a country depends above all upon the utility of the objects which it possesses.—It has been sometimes asked if the numerous investments represented by titles which are for individuals, thanks to exchange, movable capital, tend to raise or lower the price of landed property. Considered as an investment, it is certain that the sale of titles which carry with them the right to the enjoyment of an income is a competition with land; but the judicious employment of the money obtained by this sale may have the effect of adding to the wealth of the country, that is, to its means of saving, to such an extent as to add more to the value of the land than the investment took from it.—Adam Smith seems to suppose that the price of land is in proportion to the rate of interest, in this sense, that land would produce the same revenue for its owner as an investment in movable property. This is not exactly correct: landed property nearly always produces a revenue less than fiduciary investments, or, in other words, land is always, on an average, dearer than the titles of these investments.—Land is, of all species of property, that whose lot is intimately united to the lot of society, considered as a collective living being, capable of enjoyment and privation, of wealth and poverty. It is in some sort the great savings bank in which is laid up the greater part of the capital which the present generation leaves to that which is to follow after it. COURCELLE-SENEUIL.

LAND OFFICE. (See PUBLIC LANDS.)

LANDS, Public. (See PUBLIC LANDS.)

LANE, Joseph, was born in Buncombe county, N. C., Dec. 14, 1801, settled in Indiana, and was thence appointed governor of Oregon territory, in 1848. He was delegate from the territory to congress 1851–7, and United States senator 1859–61. He was warmly pro-southern in his political sympathies, and in 1860 was nominated for the vice-presidency by the Breckinridge democracy. (See DEMOCRATIC PARTY, V.)—See Savage's *Living Representative Men*, 357.

LA PLATA. (See ARGENTINE CONFEDERATION.)

LAW, Canon. The two expressions *canon law* and *canonical law* are continually taken one for the other, and are applied indifferently, as well to the science of canons and ecclesiastical laws as to the body itself or collection of these laws. Still, Doujat, author of a history of canonical law, after having acknowledged that in common usage no distinction is made between these two terms, thinks that by canon law should rather be understood the body of ecclesiastical laws, and by canonical law the science of these laws. As for the word *canon*, which, in Greek, signifies rule, it is taken in its most general sense for all ecclesiastical law or constitutions, and, in its most restricted sense, for those constitutions which are inserted in the body of the law, old as well as new.—Canonical law rests upon the following bases: 1, and chiefly, the Holy Scriptures; 2, the authority of the general councils and that of the particular councils, "whose discipline has been received by all the church"; 3, the constitutions of the popes; 4, custom, which has also great authority "when it is commendable and established by long practice, by the consent of the pastors of the church, at least by their public knowledge." (Fleury.)—The body of canon law, properly speaking, is composed of six parts, which have each a special name. These are so many compilations of canons, decrees and decretals, which have been drawn up at different times and inserted successively in the *corpus*. The first part is a full collection of all kinds of ecclesiastical constitutions, made by Gratian, a monk of St. Benedict, and published about the middle of the twelfth century. It is known under the name of the *Gratian decree*, or simply the *decree*. This compilation had been preceded by many others: but, more complete and better arranged, it took their place in the schools and consigned them to oblivion. It was carefully revised under the supervision of Pope Gregory XIII., and, after this work of correction, was recommended to the faithful by a bull of June 22, 1582. The second collection is that of the decretals of the popes, which was made by Saint Raymond of Pennafort, under the auspices of Gregory IX. This collection embraces all the letters of the popes presenting any interest, which appeared from the year 1150 to the year 1230, and, besides, some decrees of the councils and decisions of the popes which had escaped the notice of Gratian. It was divided into five books; Boniface VIII. had the subsequent decisions collected in a sixth book, which, by reason of this, was called the *Sextus*. The next collection was called *Clementinus*, because it was devoted to the canons of the council of Vienna, presided over by Clement V., and to the constitutions of that pontiff; the *extravagantes*, a series

of constitutions of John XXII, which, at first, remained outside (*extra*) the *corpus*, and was only inserted in it some time afterward; and the *extravagantes communes*, a last collection, which contained the constitutions emanating from different popes. Here stops the law styled *new*, in contradistinction to the law anterior to Gratian, or ancient law. The law called *newest* is composed of subsequent canons, decrees, etc., which have not been inserted in the *corpus*, but which none the less have an authority of their own. Canon or canonical law must not be confounded with the *civil ecclesiastical law*, which comprises the laws made by the temporal power to regulate certain relations of church and state in certain countries of Europe. GASTON DE BOURGE.

LAW, Common. This term is frequently used in contradistinction to all statute law, sometimes in contradistinction to the civil or canon law, occasionally to the admiralty and maritime jurisprudence, and very often to equity. Its proper signification, however, is an unwritten law which receives its binding force from immemorial usage and universal reception, in distinction from the written or statute law. Its rules or principles are to be found only in the works of institutional writers, in the records of courts, and in the reports of judicial decisions, and it is overruled by the statute law. Its origin is indefinite and can be traced only to the ancient customs of the early people of England, more particularly known as the "ancient Saxon privileges" or the body of laws and privileges framed by Alfred the Great and reaffirmed by Edward the Confessor. The spirit of these ancient laws is assumed to have descended with the race, and to have continued to be developed and the laws to have been framed, and the common law expanded, from the original Saxon vigor, even after the Norman conquest. This ancient code is assumed by historians to have been compiled by Alfred from various sources; from the Mercian laws, existing in counties bordering upon Wales, and retaining old British customs; from the west Saxon of southern and southwestern counties of England; and from the Danish of the western coast, where a Danish settlement had been effected. Some allege that it was in part framed from the Old Testament; and the belief is entertained by others, that these ancient laws and customs were gathered from the principles of the Roman Pandects, which had been compiled in the sixth century from the decisions, writings and opinions of the old Roman jurists, by order of Justinian, and which formed a part of the body of the civil law of Rome, which has been universally accepted as the basis of all mediæval legislation and of all European law. The spirit of these laws, if not the letter, found its way into England, perhaps through the clergy who were the only learned class of that period, as the laws did, some centuries later, in a more positive and extensive form. It is a fact, however, that they had already entered into the system of other European countries, which at one time formed in part the fabric of the Roman empire. A century and a half after the death of Alfred a new code was compiled by Edward the Confessor, the basis of which was the code of Alfred. This was probably a collection of all laws then in force both by custom and statute, and was long held in the highest esteem by the English people, and for many years formed the basis of English jurisprudence. It was, in fact, the system in force at the time of the Norman conquest, and thoroughly identified with Saxon liberty and nationality. The renewal by *magna charta* of the "ancient Saxon privileges," was the re-enactment, doubtless, of a part of the code of Edward, the spirit of which had always existed in the common law. — Although the common law is an unwritten law, its rules and principles have been handed down from generation to generation, and sometimes have almost approached, from exactitude, the complete and precise form of statute law. The law of primogeniture—a rule of law under which the oldest son of the family succeeds to the father's real estate in preference to, and to the absolute exclusion of, all others of the family—is a part of the common law. This rule dates back to the conquest, when, under the feudal system, the ownership of land depended upon the personal ability of the party to perform military service, and thus excluded females. While the principle is repugnant to the spirit of British institutions, it has been preserved and handed down by the common law from that period. Blackstone also classifies the law merchant—a system of laws consisting largely of the usages of trade and applied by courts to contracts and dealings of persons engaged in mercantile business—as a part of the common law. The correctness of this classification has been questioned by other authorities, inasmuch as many of the rules of this system were in direct contradiction to the common law. During the operation of the feudal law, the system was found to be inadequate to the needs of the mercantile class then springing into prominence, and the courts of that day, when commercial contracts were brought before them, adopted from the merchants, for their guidance, the rules that governed their business dealings and made them rules of law. During the reign of James I. these rules were declared to be a part of the law of the realm. In such cases the common law was extended by the courts, and new rules were adopted to meet the association of circumstances which bore an analogy to what the common law had established in causes that came within the scope of its provisions. — The decisions of the courts of law are of the highest authority in declaring its principles, and, when not inconsistent, are accepted as establishing the law. But being merely declaratory and not mandatory, among courts of equal jurisdiction a single judgment of a court will not be accepted as final. Among inferior courts, however, the decisions of

a superior court are accepted as binding. Courts generally are not iron-bound in their decisions, and frequently reverse their own decisions when convinced that the law has been incorrectly stated. It is, however, held that the house of lords should be an exception to this rule, as it is the court of last resort, and therefore, as the highest court of the land, its judgments partake of the essence of statute law, and having been once declared, the rule can not be altered save by a statute. In its judicial capacity, as defined by the English appellate jurisdiction act of 1876, the house of lords forms a court of final appeal from the queen's court of appeal in England, from the court of sessions of Scotland, and the superior courts of law and equity of Ireland. It is, however, regarded as settled that the jurisdiction of the house of lords is absolute and its decrees irrevocable, as being the only manner in which a court of supreme jurisdiction can remain in the unchallenged exercise of its chief functions. — While the common law is recognized as pertaining to the whole realm, it yet determines the principle as a part of its own system, that under a certain condition of facts connected with the *status* of a case, it may accept the binding force of rules of law which are not of universal application. It is not, therefore, absolutely unalterable in declaring the law, as in some courts it adopts the provisions of codes which in others it rejects. Some of the rules of civil and canon law are also accepted as part of the common law, having been transmitted from the customs of remote ages. Custom frequently establishes such precedents as are recognized by the common law as a part of its system, although at variance with its general principles, viz.: under the law of primogeniture which, as we know, forms a part of the common law of England, the eldest son succeeds to the father's real estate, to the exclusion of all others. Although the law of primogeniture is the general law of England, as well as of Scotland and Ireland, there is one county in England—that of Kent—where, by "ancient custom," called *gavelkind*, a different rule prevails, and the land, instead of going wholly to the eldest son, is divided equally among all the sons. *Gavelkind* was the old British custom or law of succession in Wales, Kent and Northumberland. In its mixture with Anglo-Saxon law, all the sons of the father inherited. Although Blackstone ascribed to it a Celtic origin, legal antiquaries claim that it prevailed over the whole kingdom in Anglo-Saxon times. In Wales it was abolished during the reign of Henry VIII., but still remains in force in Kent county, England, having been permitted to remain by the Conqueror, as one of the "ancient liberties." There is likewise an exception called borough English in some cities and boroughs of England, where the land, instead of going to the eldest son, goes wholly to the youngest. These exceptions to the general rule of law in the kingdom are accepted by the common law as a part of its system, although at variance with its general provisions and the established custom.— The tension, however, of the common law is still greater, and it will accommodate itself to customs of still more limited operation. It is not deemed at variance with its system to adopt a rule which is pronouncedly contrary to its own, if its application be established to be clear and precise, although confined to a single locality. Still, to be vested with the sanctity of law, a custom must be firmly established as of ancient origin. Should the custom be determined to have originated at a period of English history embraced within a hundred years succeeding the conquest, it would be accepted by the system as a part of itself. If such proof does not exist, the custom must be established by living witnesses of undoubted character, or by unquestioned documentary evidence that will sustain the assumption — The feudal law system established the principle of non-alienation. This restriction was removed by the statute 18 Edward I., and the principle of conditional fees or estates tail was introduced. By the charter of Henry III., conveyances to religious houses were prohibited. By the statute *De Religiosis* of 7 Edward I., usually called the statute of mortmain, this prohibition was extended to all others holding for the same purpose. The clergy, to evade these provisions, devised a system of conveyance by which the *use* instead of the *fee* was granted to the church beneficiary, while the possession or seisin remained with the feoffee, and the decisions of the courts of equity which were in the hands of the clergy, held that the feoffee was bound in conscience to account to the *cestuy que use*, for the profits of the estates. By the act of 15 Richard II., this was annulled by the provision declaring that *uses* should be subject to the statute of mortmain as well as the lands.— In the reign of Henry VIII., the statute relating to wills was passed, which excluded devises to corporations. By a subsequent act, 43 Elizabeth, a devise to a corporation for a charitable purpose was allowed. This is now the only means whereby religious corporations can acquire real estate either by deed or will. — A complicated part of the English law of real property was introduced by the doctrine of uses, forming a part of the common law. In order to perpetuate estates in families, large landed proprietors, to prevent alienation, resorted to the expedient of the clergy—that of conveying the use instead of the fee, and the court of chancery held such conveyances to be binding. This gave rise to the statute of uses, 27 Henry VIII, of which Lord Bacon said, in his celebrated treatise upon this statute, expounding its connection with common law principles: "A law whereupon the inheritances of this realm are tossed at this day, like a ship upon the sea, in such sort that it is hard to say which bark will sink, and which will get to the haven, * * on account of the tides and currents of received errors and unwarranted and abusive experience, as they were not able to keep a right course according to the

law." This statute provided that the use should be transferred into possession, or, in other words, the estate vested in the *cestuy que use*. Its operation was to a very great extent evaded by the substitution of trusts for uses, and under that name conveyances were introduced and enforced in chancery, with some important modifications as to legal effect.—To more fully understand the development of the principles of the common law through ecclesiastical connection, it may be stated that, in the year 1130, in the town of Amalfi, in Italy, there was accidentally found a copy of the Roman Pandects compiled by order of Justinian the emperor, in the sixth century. This great system of jurisprudence was immediately adopted by the ecclesiastics who zealously spread its knowledge throughout every part of Europe. Besides its intrinsic merit, it became recommended by its early association with the imperial city of Rome, the seat of their religion, which acquired greater lustre by thus diffusing throughout Europe its own matchless laws. Before ten years had elapsed from the period of the discovery, Vacarius, under the direction of the archbishop of Canterbury, began the reading of public lectures on civil and municipal law, in the university of Oxford. The order of ecclesiastics was possessed of all the knowledge of the age, and naturally the science of law fell into their hands; with large possessions to defend from the rapacity and violence of princes and barons, it became to them a matter of personal interest to enforce the observance of general and equitable rules and customs, by which alone they could receive proper protection. Thus they formed a connection between the civil and canon law. But their energetic assumption begot a jealousy in the laity of England which prevented the Roman jurisprudence from becoming the municipal law of England, as was the case in many European states. Still, a great part of it was secretly transferred into the practice of the courts of justice, and further, by the imitation of its more fortunate neighbors, England gradually elevated its own law from its original state of rudeness and imperfection. During the reign of Edward I. in the closing years of the thirteenth century, the people of England reaped a wonderful benefit from the correction, extension, amendment and establishment of the laws of England, which Edward accomplished and transmitted to posterity as an enduring monument of his wisdom and personal worth. This patriotic labor conferred upon Edward the name of the English Justinian. According to Sir Edward Coke, not only were the statutes of his reign deserving of the character of *establishments* on account of their standing and durability, but the common law became refined to a remarkable degree by the regular order maintained in the administration. The judges were brought to a certainty in the determination of the law, and lawyers to a greater precision in their pleadings, and according to Sir Matthew Hale, the remarkable improvement of the common law during the reign of Edward was unexampled, save in the increase of his own time. Edward settled the jurisdiction of the several courts and first established the office of justice of the peace. He refused to interfere with the operations of justice by mandates from the *privy council*, as had been the custom of previous reigns. He repressed robberies and lawlessness, and encouraged trade by enabling merchants to recover their debts, by improving the system of collection under the common law, and simplifying the operation of the common law courts. He divided the court of exchequer into four distinct courts, each of which managed its own branch without dependence on the others, and as the lawyers introduced a system of carrying business from one court to another, the several courts became checks upon each other, and the administration of justice became wonderfully improved in tone. — Three hundred years before the reign of Edward, William the Conqueror had instituted an ordinance which provided that the bishop who sat in the county court with the sheriff, disposing of causes both civil and ecclesiastical, should hold a separate court for the trial of ecclesiastical cases. Under this procedure, the bishop being now independent of the secular court, appropriated to his separate jurisdiction a large number of causes, on the plea of their involving matters of a spiritual nature relating to tithes and benefices. Under this head the bishop's court claimed jurisdiction over questions relating to marriage on the ground of a spiritual contract being involved by the act, and consequently a power to annul marriages, grant divorces, determine questions of bastardy and legitimacy, and issue letters of administration in cases of intestacy on the ground that the bishops were best qualified to determine what would most benefit the soul of the intestate. On the effort of the clergy, however, to proceed still further in the assumption of judicial power under the new constitution of the ecclesiastical courts, in the attempt to introduce the entire canon law as promulgated at Rome, the national jealousy was so aroused that the king, Henry II., although a warm friend of the clergy, was compelled to prohibit the reading of books of canon law at Oxford, and a contest was inaugurated in which the whole pontifical power was invoked in behalf of the efforts of the clergy. The constitution of Clarendon, enacted by Henry II., with the concurrence of the great council, in 1164, and afterward confirmed by a council at Northampton in 1176, finally determined the disputed points. It was ordained that questions relating to benefices should be tried by the king's secular courts; that the ecclesiastical courts should be subject to the jurisdiction of the king's secular courts; that the ecclesiastical courts should be excluded from jurisdiction of pleas of debt which they had also assumed. The authority of the canon law now rests upon a statute of Henry VIII., which declares that all causes, constitutions, etc., then existing and which are not re-

pugnant to the law of the land or the king's prerogative, shall remain in force. The canon law now pertains solely to the laws, regulations and exigencies of the church. — With regard to the union of the canon and common law it may be said that the law of England relating to personal property which in many respects was deficient, received important accessions from the canon law, especially its rules relating to consanguinity and descent. — The most important part of the common law of England is that which pertains to the personal rights and liberty of the citizen. At various periods of English history a large number of statutes have been passed declaratory of common law principles in aid of constitutional rights. The first that boldly strikes national attention is that of magna charta, which was a royal confirmation of inherent rights of the people by King John at Runnymede, in the thirteenth century This charter was afterward confirmed by Henry III. with other important grants. (See MAGNA CHARTA.) Also during the reign of Edward III., there were twenty parliamentary confirmations of the great charter granted, relating to common law principles. It was also during this reign that the use of the French language in common law pleadings and public deeds, first instituted by William the Conqueror in the subjugation of England, was abolished, and the English tongue substituted. The second is the petition of rights, passed by parliament during the reign of Charles I. This act continued those principles of common law contained in the great charter, which by usurpation of the crown in a measure had lapsed. The third is the habeas corpus act, passed during the reign of Charles II., which did not alter or amend the provisions contained in magna charta, but provided for their greater efficiency in the clear and precise manner of their application by the courts of law. (See HABEAS CORPUS.) The fourth is the bill of rights, which extended the provisions of magna charta in favor of those fundamental principles of the constitution which denied to the sovereign the power of suspending or dispensing with laws of the realm, etc., etc., which was adopted by parliament early in the reign of William and Mary. (See BILL OF RIGHTS.) To the common law, which applied these principles of freedom, the English subject owes all his liberty. Statutes could have availed nothing without the principles entering through the courts into the national life. The common law claimed the existence of these free principles long before their essence was established by particular statutes. The right of trial by jury is one of the most prominent of common law rights, as it belongs almost exclusively to the English race. The oldest law writer of the time of Henry VI. declares that no other country at that time and previously contained the elements of society able to constitute a jury. That in other countries there was no "middle class" between the nobility and the impoverished peasantry, and no class of commoners sufficiently intelligent to perform the duties of jurymen. The English law of evidence is a wide branch of the common law In all criminal cases the accused is not compelled to testify against himself; while in a preliminary examination he is always permitted to do so, if it is his desire. — While there is much to admire in the common law system, some of its rules are very inequitable. Until superseded by the statutes of 1870 and 1882, common law vested all the property of a married woman in her husband, without responsibility on his part; and for a long time the only way through which she could enjoy any part of it was by the intervention of the court of chancery. — Under the common law marriage can be annulled for but one offense after the union— the act of adultery. Fraud, impotence, and such *pre-existing* causes, may constitute grounds for divorce, but only the act of adultery after the marriage ceremony. Under the common law a child born out of wedlock is illegitimate, and no subsequent act of the father and mother can affect its legal *status* This intolerant rule has, however, been indelibly stamped upon the common law by the action of parliament. During the reign of Henry III great disputes originated between the civil and ecclesiastical courts concerning bastardy. By the common law those who had been born before wedlock were bastards. By the canon law they were legitimate: and when any dispute arose relating to inheritance, it had been usual for the civil courts to issue writs to the spiritual, directing them to inquire into the legitimacy of the person. The bishop always returned answer according to the canon law, though contrary to the municipal law of the kingdom For this reason the civil courts changed the terms of their writs, and required the spiritual courts merely to make inquiry concerning the legitimacy of the party in question, by proposing the simple interrogatory whether he were born before or after marriage. The prelates complained of this practice to the parliament assembled at Merton in the twentieth year of the king's reign, and requested that the municipal law might be made to conform with the canon law. They, however, received from that parliament the memorable answer, *Nolumus leges Angliæ mutare.* — The courts of common law are divided into superior and inferior. They bore the names of the court of queen's bench, the court of common pleas or common bench, and the court of exchequer. They all sprung originally from the *aula regia* of the Norman kings. This court was formed of the chief officers of state and of the king's household, and of the chief nobility and other learned justices of the kingdom, all presided over by the *chief justiciar.* This court for a long time was omnipresent with the king; followed him from place to place in his journeyings, and formed the supreme court of the kingdom. The inconvenience to the people by this mode of dispensing justice became so great that a demand was made for a fixed court, which was granted in magna charta by King John, and the court of common

pleas established. A still greater change occurred under Edward I., as before alluded to, when the court of *aula regia* was entirely abolished, and its judicial functions apportioned among a court of chancery and the three courts of common law above mentioned. By the acts of 1873 and 1875 all the superior courts of England were consolidated into two new courts, styled the high court of justice and the court of appeal. Three of the five divisions of the high court of justice were called after the names of the old common law courts, to wit, the queen's bench, common pleas and exchequer divisions. Their business relations were unchanged, save with this distinction, that thereafter they should administer justice without regard to its being known as common law or equity. All the judges of the consolidated courts acquired equity jurisdiction; the result of this "fusion of law and equity" being to put an end to that anomalous system under which decisions of courts of law were continually set aside by co-ordinate courts of equity, and to give wider application to the old doctrine that when law and equity are at variance, equity should prevail. — The inferior courts, formerly numerous, are nearly all abolished. Those that remain are of very restricted jurisdiction, chief of which is the modern county court. A few borough courts exist, from which a writ of error lies to a superior court. The lord mayor's court and the city court of London transact considerable business. There is also remaining a court of hustings, a court of the cinque ports, and the stannary courts of Cornwall and Devonshire. In some counties there are baronate courts for adjudication of mining matters. The court of common pleas in Lancaster and the court of pleas in Durham, have jurisdiction in personal matters, and form part of the high court of justice. — The common law in the United States is the same in all particulars as the common law in England. It differs only in the form of administration. It contains the principles, customs and rules pertaining to the government and the safety of persons and property, not to be found in any statute or legislative enactment. The rule of common law with regard to the relations between husband and wife has been modified in some respects, principally that relating to the control of the wife's property. This change has not been effected by altering the principle of common law, but by statute, as in England. Also with regard to the legitimacy of children, the statutes of many, if not all, of the states have ameliorated the harsh rules of the common law, and infants born out of wedlock are legitimized and succeed to all the rights of those born in wedlock, by the subsequent marriage of the parents. This is in imitation somewhat of the Scotch law of *legitimation*, under the operation of which a person who was born illegitimate, was rendered legitimate by the parents' subsequent marriage, provided that at the time of his birth there was existing no legal impediment to their union. The Scotch law of putative marriages also legitimized the children of the union. — Among the earliest institutional writers on the common law was Henry de Bracton, an ecclesiastic and chief justiciary in the reign of Henry III. He wrote a comprehensive work on "The Laws and Customs of England," modeled after the "Institutes" of Justinian, treating largely upon the rules of personal property and contracts. — He was followed by Sir John Fortescue, who was chief justice of the king's bench during the reign of Henry VI. He was exiled on attainder after the battle of St. Albans, and accompanied Queen Margaret and her young son into Scotland. While in Scotland Sir John Fortescue wrote his celebrated treatise *De Laudibus Legum Angliæ*. This treatise on the common law of England was written originally for the benefit of the young prince. He likewise wrote a valuable work on the English constitution. — During the same reign Sir Thomas Lyttleton, a celebrated jurist and judge of the court of common pleas, wrote a valuable treatise on *Tenures*, which went through a multitude of editions. Lord Bacon characterized the writings of this jurist, together with those of Mr. Fitzpatrick, another common law writer, as the "Institutions of the laws of England."— Another eminent authority on common law is Sir Edward Coke, one of the brightest legal luminaries of English history. He was a jurist of great power and learning, and early acquired a high rank in his profession by his argument in Shelly's case, from which case came the celebrated rule of real property law known as "the rule in Shelly's case," reported in Coke, i., 104, to wit: "When the ancestor by any gift or conveyance takes an estate of freehold and in the same gift or conveyance an estate is limited, either mediately or immediately, to his heirs in fee or in tail, *the heirs* are words of limitation and not words of purchase." (This rule, however, in most of the states has been abolished by statute.) He successively became king's sergeant, recorder of London, member of parliament, speaker of the house of commons, solicitor general, attorney general, judge of the court of common pleas, chief justice of the court of king's bench, member of the privy council, and had it not have been for the enmity and opposition of Lord Bacon, would have reached the position of lord chancellor. His principal legal work is "Coke upon Lyttleton," or the *First Institute*, a standard work on all constitutional and municipal law in England. His other treatises on the common law are the *Second, Third, and Fourth Institutes*. His work on *Copyholder and Fines*, and his law reports, which made a commotion on their appearance, are still of great value to the profession. As a member of parliament he performed very important services for the people. His resolutions which formed the basis of the habeas corpus act, and his work in framing the famous bill of rights, entitle him to the gratitude and veneration of his countrymen. — As remarked, Sir Francis Bacon was the contemporary of Coke. He was affirmed to be the greatest

genius that England ever produced, and the glory of his age and race. His works on the common law were numerous, and composed of his treatise on *The Elements of the Common Law of England*, divided into *Maxims of the law* and *The use of the law;* treatise on *Compositions for Alienations; Reading on the Statute of Uses; Proposal for Amending the Laws of England;* essays on *Despatch Judicature* and *Innovation; Advancement of Learning;* and his work entitled the *Doctrine of Universal Justice;* all presenting, in the language of his biographer, "the substance of profound jurisprudential reflection." — Coke and Bacon were succeeded by Sir Matthew Hale, a distinguished lawyer of the seventeenth century, who was appointed by Cromwell a judge of the court of common pleas, and afterward, by Richard Cromwell, chief justice of the court of king's bench. He was incorruptible and able, and his treatises on the common law were received with great favor and are still of high authority in England, where his legal MSS. are preserved at Lincoln's Inn. — Sir William Blackstone, another writer and lecturer on common law of the last century, has transmitted his famous *Commentaries*, which for a lengthy period were greatly esteemed as an authority and are now regarded as of great value as materials for history. — Space does not permit a more extended review of this part of the subject, but the foregoing have been the principal writers on the science of English common law. The causes have accumulated with the years, and other abridgments and digests have followed, reproducing the rules and principles in other forms, and the old books of the old masters are rarely cited now as authorities. The common law continues to grow on both continents, and with each generation will become more rich and powerful in determining the principles of law governing the growth, development and security of society.

J. W. CLAMPITT.

LAW, Criminal, is that branch of jurisprudence which takes cognizance of those wrongs which are injurious to the public, and punished by the government in its own name by what are denominated criminal proceedings. The criminal law, like the civil, is both statutory and common. In all but four states of the Union, the common law extends as well to criminal matters as to civil. In Ohio the court decided that the common law could not be resorted to for the punishment of crimes and misdemeanors, and in Indiana the statute provides that all crimes and misdemeanors must be defined and punished by the statutes of the state. In Florida and Missouri there are legislative enactments restricting to a limited fine and imprisonment the right to punish for common law offenses. On the other hand, Louisiana and Texas, not originally governed by the common law, have expressly introduced it as to crimes. Common law offenses against the general government do not exist in the states in the liberal sense of the proposition, as we have no national common law; but there are in special cases common law offenses against the United States, within the territorial limits of the states. In localities where state power is unknown, common law offenses against the United States must necessarily exist, and yet the result has been definitely reached through the decisions of the court that the United States courts can not punish crimes against the general government, unless specified and defined by an act of congress. (Bishop, Crim. Law.) In the District of Columbia the laws existing previous to its acquirement are by statute still in force, and common law crimes against the United States exist the same and to the same extent as they do in the several states against the state. — In criminal law, when applying the specific rules of statutory interpretation, there are two kinds that appear: the liberal or open, and the strict or close. The liberal interpretation expands or covers a larger space than words import; the strict contracts within a less space. Both are modified in accordance with the requirements of particular cases The law both abhors and favors. In respect to things odious, a strict interpretation is used; in respect to things favored, a liberal. All statutes detracting from common law rights are strictly construed, and reach no further in meaning than their words express; no one is subject by implication, and all doubts are construed in favor of the prisoner. Revenue laws come within this rule, for though their primary object is but the collection of duties, yet they range themselves beside other penal statutes, by imposing fines, working forfeitures, and depriving men of their property. The leading doctrine is, that criminal statutes are to be strictly enforced. As against defendants the statute may be enlarged where the reason and intent of the law require it, and they may be extended by other provisions of statutory law, and by the common law combining with them; and this rule is not violated by permitting the words of the statute to have their full meaning, or the more extended of two meanings; as for instance, the statute forbidding the larceny of any "bank note" extends to the bank notes of other states; or, against betting "upon any election of this state" extends to the betting within the state upon an election for president. A strict construction is not violated by giving the words of a statute a reasonable meaning according to the sense in which they were intended. Thus, the state or corporation may be included in the word "person"; a woman may be indicated by the masculine pronoun "his"; a ewe or lamb by the word "sheep"; a girl by the word "woman"; and horses, geldings, asses and pigs by the word "cattle." The words of a penal statute, however, can not be extended by construction beyond what they will reasonably bear. An act which makes an assault indictable, must be an actual assault and not of a constructive nature. If two men are in altercation, and one holds a weapon in his

hand and the other forces a part of his body against the point of the weapon, the wound inflicted is not by the party holding the weapon. Money is not meant by the words, "security for money." Wheat threshed for straw is not a "stack of wheat." This principle is, however, established: If the court entertains a reasonable doubt as to the meaning of a criminal statute, it must decide in favor of the prisoner. It must also construe statutes so as not to multiply felonies, and no case is to be brought within the statute by construction while it does not fall within its words. Thus, where a statute regulating the sale of cord wood imposed a penalty of so much per cord "for every cord of wood bought and sold," the court held that no penalty could be incurred in the purchase or sale of less than a cord. —On the other hand, it is held that whenever the thing done does not come within the wrong which the statute evidently intended to suppress, though it come within its words, the person so doing is not punishable. It is a principle of the common law that no one shall suffer criminally for an act in which his mind does not concur. If the act committed is not within the intention of the law makers, it is not within the law although within the letter; therefore the case must come not only within the words of a statute, but also within its reason and spirit. Thus statute 12 Anne, stat. 1, c. 7, against stealing goods "being in any dwelling house, although such dwelling house be not actually broken in by such offender, and although the owner of the goods or any other person or persons be or be not in such house," is not violated where one steals, in his own house, the goods of another; or where a wife does the same thing in her husband's house; or where the larceny is of property found upon the person, though in a dwelling house, but therefore not under its protection; or where the things stolen are such as are not usually deemed to be under the protection of a dwelling house. — Time and place operate distinctly in the character and division of crime. The attempt to commit felony by breaking into a house at night is a common law felony, called burglary. When the same act is committed in the daytime, it is a felony called a misdemeanor. A dwelling house includes the cluster of buildings surrounding the main building in which a family lives, and a burglary committed in any one of these out-buildings is of the same character of offense as if committed in the mansion itself. — The uttering of forged paper or counterfeited bank notes or coin, or anything of like character, is to offer the same, intending it to be received as good, and whether it is accepted or not, the act of uttering it is complete. It is, however, held to be the rule, that to constitute the uttering, there must be a complete attempt to do the particular act the law forbids. There may be also a complete conditional uttering which will be criminal, as where a master gives an innocent servant a counterfeit bill to be delivered to another party in another county; while it was no part of his intention that the servant should receive it himself, and therefore not a complete uttering, it still appears that there would be ground for construing the act of delivery of the forged bill to the servant as an indictable attempt to cheat the third party. — The act of breaking into a man's castle either with burglarious intent, or by an officer to serve process on him, is not to be construed legally to mean an act of violence. The mere lifting of a latch and thus opening a door not otherwise fastened; raising or lowering a window sash held by a wedge, or by a weight with ropes and pulleys; raising a trap-door kept down by its own weight; or obtaining by stealth and procuring by threats of violence an entrance; or by intimidating a person within to open the door; or by the removal of a pane of glass or window shutter, or by forcing the blinds partially closed, is held legally to be a breaking. But if a door or window is open a little way, it is not breaking into the house for an officer in serving process to push it open still farther to admit the passage of his body. This part of the treatise of criminal law, to wit, statutory interpretations, could be commented upon still further with profit, but space forbids. It is possible only to glance at it. — To constitute a criminal offense two things must be established: the intent to do the wrong, and the performance of the act in pursuance of the intent. It is a universal rule that to constitute an offense, the act and intent must concur in point of time. To constitute a larceny the act of trespass and the intent to steal must occur at one and the same time. To constitute a burglary the intent to commit the felony in the house must occur at one and the same time. — It was a principle of Roman jurisprudence that ignorance of the law did not excuse its violation. This rule has been engrafted upon our own jurisprudence, combining with it another general principle, that every man is presumed to know the laws of the country in which he dwells. This rule may appear arbitrary, but is nevertheless essential to the proper administration of government. Sometimes the court takes into consideration a prisoner's ignorance of the law, when passing sentence after conviction. Also the degree of responsibility from mental condition. Should the guilt or innocence of the prisoner depend on the fact, to be ascertained by the jury, of his mental condition at the time of the perpetration of the act, the jury, in determining this question of mental condition, may take into consideration his ignorance or misinformation in a matter of law. — Ignorance of fact, however, stands on different grounds from ignorance of law. "Ignorance or mistake in point of fact is, in all cases of supposed offense, a sufficient excuse." (Gould, J., Myers *vs.* State, 1 Conn., 502.) This doctrine is held in those cases of justifiable homicide where the act was committed either in self-defense or to prevent the person killed from committing a felony. If he has reasonable cause to believe that

the facts exist which excuse a homicide, and he does believe them to exist, without any fault or carelessness on his part, he is legally innocent, although it becomes apparent after the deed that he was mistaken, and the life of an innocent person was sacrificed through his ignorance. The law of libel furnishes an illustration of this doctrine. The words charged in a criminal case to be libellous are construed as the defendant understood them, rather than as understood by others or by the court. This principle also applies to an "innocent agent" who is moved to do a forbidden thing by another person, and yet incurs no legal guilt, because either not possessing sufficient mental capacity, or not having been made acquainted with the true facts of the case. These distinctions between law and fact, where the excuse of ignorance is offered for the commission of crime, are held to be of the highest importance in criminal law jurisprudence. — Another principle laid down in criminal law jurisprudence, where an act committed produces an unintentional result, is, that the thing done having proceeded from a wicked intent, is to be viewed in the same light, whether the crime was of one particular form or another. Thus, if one attempting to kill a particular individual, discharges a weapon at him and by accident the charge is lodged in the body of another person and kills him; or if seeking the life of a person one places poison in his way which another person consumes, and dies; or if one, while in the attempt to steal poultry or the like, discharges his gun and shoots and kills accidentally a human being, the party who commits the act, though unintended, is legally as much guilty of murder as if he had intentionally performed any one of the acts. So where a man criminally assaults a woman, and she in the attempt to protect her honor, offers money to her assailant to release her or desist from the assault, which he accepts by putting it in his pocket, although he made no demand for the money, he is nevertheless in law guilty of robbery. But in the enforcement of this principle it must be clearly shown that the thing intended to be done was *malum in se*, and not alone *malum prohibitum*. Archbold thus states the principle: "When a man in the execution of one act, by chance or misfortune and not designedly, does another act for which, if he had willfully committed it, he would be liable to be punished; in that case if the act he was, doing were lawful, or merely *malum prohibitum*, he shall not be punishable for the act arising from misfortune or chance; but if *malum in se*, it is otherwise." — With respect to the doctrine of *necessity and compulsion*, Rutherford says: "No action can be criminal if it is not possible for a man to do otherwise. An unavoidable crime is a contradiction; whatever is unavoidable is no crime; and whatever is a crime is not unavoidable." (Ruth. Inst., c. 18.) An act from necessity or compulsion is not therefore a crime, but anything short of a firm apprehension of personal injury endangering life can not excuse the killing of another in self-defense. Should a man be attacked by a ruffian who attempts to inflict upon him severe bodily harm, the law presumes the man's life endangered and he may lawfully kill the ruffian. But although a man should assault another with such violence as to endanger his life in the effort to compel him to take the life of a third party, there would be no legal excuse for complying with the demand. Upon this point there has arisen some controversy. Russell on Crimes says: "It has been observed that if the commission of treason may be extenuated by the fear of present death, there seems to be no reason why homicide may not also be mitigated upon the like consideration of human infirmity. But Lord Denman, in charging the jury in the case of The Reg. *vs.* Tyler, 8 C. & P., 616, emphatically stated the doctrine to be, that no man, from fear of consequences to himself, has a right to make himself a party to committing mischief on mankind. The weight of authority is with this opinion. — With regard to coverture, marriage does not absolve a woman's legal capacity for crime which as a *femme sole* she possessed. Her relations toward her husband, however, compel obedience, affection and confidence. For this condition the law permits an indulgence. If through constraint of her husband's will, her duty of obedience is carried to such an extent as to commit unlawful acts, she shall not suffer for them criminally. This consideration is peculiar to the common law. The act, however, must be done or completed in his presence. A command is insufficient, unless the act is committed in his presence, and then the law presumes her to be compelled by him to perform the act. But the rule that coercion is presumed from the mere presence of the husband does not apply to certain crimes on account of their peculiar nature, such as treason, murder, robbery, and all such malignant crimes as render it probable that the mere presence of the husband would not be sufficient to compel her to commit the crimes, without the active co-operation of her own mind. The presumption that the wife, being in the presence of her husband, acts under his coercive power, is only a *prima facie* one, and can be rebutted by evidence. If the two acted together, she will be acquitted. But if her husband was a cripple or otherwise powerless to enforce his command, although present, or if she acted from a co-operating will, she is to be convicted Therefore the wife may be proceeded against jointly with her husband in the same indictment, and when they come to trial she can rely upon coercion when the proofs are sufficient. There are other points of interest, which space forbids, involved in this part of the subject; notably those acts which it is impossible for a wife to legally commit on account of her peculiar relations with her husband.—With respect to legal capacity, the common law fixes the age at twenty-one for both males and females. The law enforces filial obedience and yet does not establish the close relation between parent and child as between husband and

wife. In law, all children under twenty-one are viewed as infants; but infants who have arrived at a maturity of understanding are capable of committing crimes. They can not plead in justification of the crime committed that they were constrained by their parents to commit the same. At common law a child under seven years of age is held to be unaccountable; between seven and fourteen incapable *prima facie;* between fourteen and twenty-one, capable *prima facie,* and incapacity must be established by proof. A boy under fourteen or a girl under twelve can not contract a perfectly valid marriage. The legal principle denies puberty in a boy under fourteen, and also establishes the rule that he can not at that age legally commit a rape, whatever his physical capabilities. — Under the head of want of mental capacity as an excuse for the commission of crime, criminal law ethics treats of the various grades of insanity. The classification adopted by Dr. Ray involves the subdivisions necessarily existing. From defective development of the faculties springs idiocy and imbecility. Idiocy may result from congenital defect and obstacles to the development of the faculties supervening in infancy.. Imbecility may result from the same causes. From the lesion of the faculties subsequent to their development, spring mania and dementia—mania intellectual and affective, general and partial; dementia from injuries to the brain, and the senility of old age. The existence of these grades of insanity establishes the nature or character of the act as in proportion to the mental capacity of the individual. The court usually puts the question of insanity to the jury in this form: whether at the time the prisoner committed the act he was in a state to comprehend his relations to other persons, the nature of the act and its criminal character as against the law of the land, which, if sane, he is presumed to know; in fact, whether he was conscious of doing wrong. — With respect to the defense of drunkenness as an excuse for the commission of crime, the legal doctrine is, that voluntary intoxication furnishes no excuse for crime committed under its influence. But if a party be made drunk by stratagem or the fraud of another, or the unskillfulness of his physician, he is not responsible. (Parks, J., in Pearson's Case, 2 Lewin, 144.) The legal principles which operate in the case of drunkenness are the same as those which govern an act of evil intent producing an unintended result. Under the common law, drunkenness is regarded in the nature of a crime, and its public exhibition in this country is usually punished by fine, as a misdemeanor. There is still, however, a question as to the extent of criminal responsibility he may incur. If one is too drunk to entertain an intent to steal, although he takes another's property into his hands, he is not guilty of larceny. In further illustration of this point, Bishop says in relation to its application in cases of homicide: "The common law divides all indictable homicides into murder and manslaughter; but the specific intent to kill is not necessary in either. A man may be guilty of murder without intending to take life; he may be guilty of manslaughter without so intending; or he may intend to take life, yet not commit any crime in taking it. Now the doctrine of the courts is, that the intention to drink may fully supply the place of malice aforethought; so that if one voluntarily becomes so drunk as not to know what he is about, and then with a deadly weapon kills a man, the killing will be murder, the same as if he were sober." In some of the states, however, murder is divided by statute into two degrees. The first requires the specific intent to kill; the second degree is where there is an absence of specific intent, as in the case of extreme drunkenness, when the party would be incapable of entertaining a specific intent. In like manner under the common law distinction between murder and manslaughter, evidence of intoxication under certain circumstances may reduce the homicide to manslaughter. If it should be shown that the killing arose from provocation at the time of the act, and that the prisoner was too drunk at that particular time to carry in his mind any previous malice he entertained, if such existed, this will be of weight with the jury in mitigation of the offense, as rendering the presumption correct that he yielded to provocation and not to malice. Therefore, while the law holds men criminally responsible for what they do under the influence of liquor, yet if the habit begets frenzy or insanity such as *delirium tremens,* the act becomes excusable, the same as for other causes operating in the same way. — With respect to criminal acts viewed as an injury to the public, this rule is laid down: Whenever the public believes that an act of wrong to individuals is of a character requiring the public protection for the wronged individual, the public assumes the act of punishment as its own suit, and makes the act itself a crime. And the rule of law is still broader in its general significance. No one can have a private action under criminal law. Therefore unless there were a public remedy the transgression would go unpunished. This doctrine is also asserted when the injury arising to the public is by a corporation or body of men, as when the law invests a corporation with the duty of repairing a public way, a neglect of such duty or refusal upon the part of the corporation, is indictable at common law. Thus the law protects the individual, in the protection of the community. Says Bishop, in commenting on this rule of law: "In all ages and countries the path of human improvement is macadamized with bones and wet with blood. The strong tread down and trample out the feeble; and by ending them diminish the average weakness of the race, and the conflict which goes on among the survivors strengthens their bodies and minds, and the acquired vigor passes down to succeeding generations. But in the conflict which prevails among men there is a point beyond which if it

proceeds it injures the community in a way requiring criminal prosecution for what is done. * * If, therefore, two or more persons undertake any of the controversies of life, and one of them assumes toward another or the rest what the law deems to be unfair ground, the community interferes and punishes the wrong by a criminal prosecution. In estimating what is fair ground we are simply to inquire what view the common law takes of the question. The old common law, originating in an age of rough minds, iron sinews and semi-barbarous manners, demanded less fairness than is required by the superior culture and finer moral sentiments of modern times. And the demand increases as we progress in civilization. The common law has, therefore, been expanded by slow and insensible gradations, and by legislation which both adds to the number of crimes and enlarges the boundaries and augments the punishments of the old ones." — With respect to the common law divisions of crime, by the old rule it is divided into treason, felony and misdemeanors. In England, treason is of two kinds, high and petit. In the United States it is confined to the act of levying war against the United States and giving aid and comfort to its enemies. All treason is felony, and with the aggravation that makes it a greater offense it is rendered the most heinous of this classification of crimes. Felony, when a common law offense in England, will usually be the same in the United States. There are some exceptions founded on special reasons. It is provided by statute in some of the states that all offenses punishable either by death or by imprisonment in the state prison, shall be felonies. Any crime less than a felony is termed a misdemeanor. Russell on Crimes thus defines it: The word misdemeanor, in its usual acceptation, is applied to all those crimes and offenses for which the law has not provided a particular name, and they may be punished according to the degree of the offense by fine and imprisonment, or by both. A misdemeanor is, in truth, any crime less than felony; and the word is generally used in contradistinction to felony, comprehending all indictable offenses which do not amount to felony, such as perjury, libel, conspiracies, battery, and public nuisances. — In criminal law jurisprudence, an accessory is a person who participates in a felony without coming sufficiently near to become a principal. A person may be an accessory both before and after the fact. An accessory before the fact is one who aids and assists by his will or command another's felonious act, committed while he himself is too remote from the act to be a principal; as when a husband commands his wife, or a master his servant, to perform for his benefit some crime, which thing is in his absence performed through fear or affection, constraining an inferior or subject mind. If, before the birth of a child, a mother is counseled to murder her offspring when born, and she does so, the person so advising is an accessory in the murder, before the fact. If several parties plan the uttering of a forged order, where the act would be a statutory felony, and in the absence of all the others, one of them utters it, an indictment will lie for the utterer as principal and all of the others as accessories. Murder of the second degree admits of accessories before the fact. A wife may be an accessory before the fact in a crime of her husband. — An accessory after the fact is one who receives, harbors and assists to elude justice, one whom he knows to be guilty of felony. The true test for determining whether a party is an accessory after the fact is, to consider whether what he does is done by way of personal help to his principal with a view of enabling him to escape punishment, the nature of the aid rendered being unimportant. If a person furnishes another, whom he knows to have committed a felony, with a horse to escape arrest, or conceals him from search, or feeds and shelters him, or exercises violence in his behalf toward those who lawfully hold the prisoner, or attempts his rescue from the officers of the law, he is an accessory, and may be held to answer at the election of a prosecuting power for the crime of accessory to another's felony, or for a substantive crime. The receiver of stolen goods is not an accessory, as he renders no aid to the felon, but he can be indicted at common law for the misprision of knowing the thief, and failing to prosecute him. There are no accessories, either before or after the fact, to misdemeanors. In the latter case, they are usually too small for the law to notice; and in the former, should they approach sufficiently near to be an accessory, they will be indicted as principal. — Compounding a crime is agreeing with a criminal not to prosecute him. It is accessorial to the principal offense, as in the case of a misdemeanor. The party compounding may be proceeded against without reference to the prosecution or conviction of the offender. — Misprision of felony is a criminal neglect to either prevent the commission of a felony by another, or to bring the party to justice known to be guilty of felony. Misprision of treason is the same of treason, and misprision of misdemeanor is unknown to the law A statute of the United States provides: "If any persons or person, having knowledge of the actual commission of the crime of willful murder or other felony upon the high seas, or within any fort, arsenal, dockyard, magazine or other place or district of country under the sole and exclusive jurisdiction of the United States, shall conceal and not as soon as may be disclose and make known the same to some one of the judges or other persons in civil or military authority under the United States, on conviction thereof such person or persons shall be adjudged guilty of misprision of felony, and shall be imprisoned not exceeding three years and fined not exceeding five hundred dollars." Another section makes it misprision of treason, punishable by imprisonment not exceeding seven years and fine not exceeding one thousand dollars, if any person, having knowledge of the commission of

any treason against the United States, "shall conceal, and not, as soon as may be, disclose and make known the same to the president of the United States or some one of the judges thereof, or to the president or governor of a particular state, or some one of the judges or justices thereof." — With respect to the supervision of the domestic relations by the criminal law, the principle prevails that the parent possesses the legal authority to compel obedience by the exercise of merciful judgment. Sometimes parents are unmerciful, and then the law intervenes to protect the helpless child, and punish the parent for an abuse of parental trust. The general rule is, that the parent may inflict moderate correction. If he go beyond this, he is indictable for assault and battery, and if the child should die from the same, he is indictable for felonious homicide. The parent is likewise criminally guilty who refuses or neglects to provide his child with food and clothing, or exposes him to the elements, or abandons his offspring. — The relations of guardian and ward are usually established by the statutes of the states in which they reside, and differ under diverse circumstances. The relations with respect to chastisement between the teacher and pupil are similar in many respects to those existing between parent and child. Between husband and wife the rule in this country is, that the husband has no right to chastise his wife, and an indictment for assault will lie against him if he does. He may, however, under certain circumstances, restrain her movements. — In civil jurisprudence, there is a principle that admits of a rehearing of a cause under proper forms and circumstances. In the criminal law, however, this general right is restrained by the maxim laid down by Blackstone, "that no man is to be brought into jeopardy of his life more than once for the same offense." This principle, which is recognized in the United States by the common law, has likewise been engrafted upon our system by a provision in the constitution which declares "that no person shall be subject, for the same offense, to be twice put in jeopardy of life or limb." While this provision binds the United States only, the principle has nevertheless been extended into the states, by its adoption into state constitutions, and the courts of all the states accept it as the true common law rule. — With respect to the protection of the public health, anything that tends toward its impairment is indictable at common law. A person sick with an infectious disease is not permitted to go among his neighbors, nor to carry an infected child where the public may contract the disease. Nor can a man bring a horse infected with glanders into a public place. For all of these offenses he is indictable. So manufactures, in themselves lawful but calculated to impair the public health, can not be permitted in populous places. Under this rule it is an indictable offense to sell or cause to be consumed provisions injurious to the public health. There are many others of a statutory nature which do not come within the scope of the common law. — Public morals are protected by public law. Under the criminal law, swearing in public and blasphemy are indictable offenses. So also are the public utterances of obscene words; the publishing of obscene prints and writings; the keeping of bawdy houses; the indecent and public exposure of the person; the public buying and selling of a wife; polygamy, and the horrible crime of sodomy; all these are indictable under the common law, and the crime of incest by statutory enactment. Indecent public shows; gaming houses; disorderly inns, or any other disorderly house; casting of dead bodies of human beings into a river, without the rites of Christian sepulture; the stealing of a corpse; resurrecting it for purposes of dissection; are all indictable offenses. The common law, having reverence for life and wealth of population, punishes abortion; indicts for murder one who voluntarily deprives another of his life at his own request, or who persuades another to take his life, and stands by at the time of the act; recognizes the act of self-destruction as criminal, and holds the survivor accessory to the murder of an individual, if two men conspire to commit suicide, and, together attempting the act, one expires and the other survives. It also takes cognizance of matters of trade, and punishes the act of forestalling the market as an offense against public trade and an injury to the rights of the fair trader. Russell on Crimes says: "Every practice or device by art, conspiracy, words or news, to enhance the price of victuals or other merchandise, has been held to be unlawful; as being prejudicial to trade and commerce and injurious to the public in general. Spreading false news; buying things in the market as a whole commodity, with intent to sell at an unreasonable price, is an offense indictable at common law." So also the criminal law punishes all wrongful violations of the convenience or safety of the public. Under this principle all obstructions of highways, public squares, harbors, navigable rivers, and injuries done to such public ways; all neglect or refusal to keep them in repair by those in authority; the carrying on of noxious trades near highways or public places; making of great noises to the great discomfort of the neighborhood; storing of large quantities of gunpowder and other inflammable and combustible articles in public places; the refusal of an innkeeper to receive a lawful guest in his house of public entertainment, after a tender of money in payment of the same; also all public disturbances, riots, routs and unlawful assemblies, where three or more have gathered together to perform an unlawful act; a public prize fight; an assault and battery; forcible entry and detainer; the riotous entry of a landlord into a house to terminate a lease; riotous tearing down of inclosures; the breaking of windows with wood or stone at night, to the terror of the inmates; the breaking into a dwelling house in a loud and noisy manner, so that a wo-

man with child, being frightened, miscarries; the sending of a challenge to fight a duel; going about armed, to the terror of the public; hazarding the lives of the people by furious driving in populous places; stirring up neighborhood broils by publishing libels; eavesdropping; being a common scold; the disturbance of public worship and public meetings, barratry, maintenance and champerty, are all indictable offenses at common law. — With respect to the individual the criminal law spreads its protection over all of his individual as well as his public rights. He is maintained in his personal preservation and comfort; in acquiring and retaining property; and in his reputation. The greatest offense under the law against an individual is the act depriving him of his life. This is called felonious homicide. The common law divides this crime into two grades, murder and manslaughter. This repugnant crime, in the first degree, is visited with the highest punishment known to the law, the taking of the murderer's life also. There are two offenses against the person of the individual usually combined in one charge, to wit, assault and battery. There is no more odious form of violence in either law or morals than the crime of rape. It is visited with the severest punishment known to the law, other than capital, and by statute in some of the states by capital punishment. As every form of violence or unlawful physical restraint is indictable, so the law punishes any attempt to forcibly carry off for marriage a woman, against her will. Malicious mischief, although but a trespass at common law, is made by statute penal to a high degree. A cheat or fraud at common law is the criminal deception of an individual through the means of a false symbol or token, as by counterfeiting or forgery with intent to defraud. Extortion is also punished as an infringement on the rights of the individual, as taking from him that which is not due from him. — As the law leaves to an individual the care of his own reputation, no damage to a reputation by a single party, will be entertained as the foundation of a criminal prosecution. Indictments for libel and slander are founded upon the tendency of those acts to create a breach of the peace and not upon the injury to reputation which the individual has sustained, and the offense is therefore not mitigated by the charge being true, which in a civil suit for damages would be vital. — Of course from the circumscribed nature of this article, it has been possible only to glance, as it were, at the salient features of criminal law jurisprudence. As a science of ethics as well as law, it sweeps with broad pinions and unerring wing over a wide field of human rights and wrongs. To be thoroughly understood in all its rules and applications, it must be completely explored in all of its extended fields and operations.

JNO. W. CLAMPITT.

LAW, International.* I. *What is International Law? what is its basis?* International law, no longer confined in its operation to the nations of Europe, has no less a destiny than to unite all individuals and all states, the whole human race, in fact, in one great community of rights, of law.

* "This term was originally applied by Bentham to what was previously called the 'law of nations,' and it has been generally received as a more apt designation than that which it superseded. When the term 'law of nations' was in use, that of 'law of peace and war' was sometimes employed as a synonym, and as indicative of the boundaries of the subject. It was thus in its proper sense restricted to the disputes which governments might have with each other, and did not in general apply to questions between subjects of different states, arising out of the position of the states with regard to each other, or out of the divergences in the internal laws of the separate states. But under the more expressive designation, international law, the whole of these subjects, intimately connected with each other as they will be found to be, can be comprehended and examined, and thus several arbitrary distinctions and exclusions are saved. To show how these subjects are interwoven, the following instances may be taken: A port is put in a state of blockade: a vessel of war of a neutral power breaks the blockade: this is distinctly a question between nations, to be provided for by the law of peace and war, in as far as there are any consuetudinary rules on the subject, and the parties will submit to them. But suppose a merchant vessel belonging to a subject of a neutral power attempts an infringement of the blockade, and is seized — here there is no question between nations in the first place. The matter is adjudicated on in the country which has made the seizure, as absolutely and unconditionally as if it were a question of internal smuggling; and it will depend on the extent to which just rules guide the judicature of that country, and not on any question settled between contending powers, whether any respect will be paid to what the party can plead in his own favor, on the ground of the comity of nations, or otherwise. But there is a third class of cases most intimately linked with these latter, but which are completely independent of any treaties, declarations of war, or other acts by nations toward each other. They arise entirely out of the internal laws of the respective nations of the world, in as far as they differ from each other. The 'conflict of laws' is a term very generally applied to this branch of international law, and the circumstances in which it comes into operation are when the judicial settlement of the question takes place in one country, but some of the circumstances of which cognizance had to be taken have occurred in some other country where the law applicable to the matter is different. — Thus the three leading departments of international law are: 1. The principles that should regulate the conduct of states to each other: 2. The principles that should regulate the rights and obligations of private parties, arising out of the conduct of states to each other, and 3. The principles that should regulate the rights and obligations of private parties, when they are affected by the separate internal codes of distinct nations. — The first of these has been the principal subject of the well-known works of publicists, who have derived from general principles of morality and justice a series of minute abstract rules for the conduct of nations toward each other, and subsidiarily for the conduct of their subjects in relation to international questions. It has been usual to call this department the 'law of nature,' as well as the law of nations, on the supposition that, though it has not the support of the authority of any legislature, it is founded on the universal principles of natural justice. — It is clear that thus in its large features, as a rule for the conduct of independent communities toward each other, the law of nations wants one essential feature of that which is entitled to the term law — a binding authority. Nations even the most powerful are not without checks in the fear of raising hostile combinations and otherwise; but there can be no uniformity in these checks; and in general when the interest is of overwhelming importance, and the nation powerful, it takes its own way. The

International law embraces the principles governing both the legal relations of states with one another (international law proper), and the legal relations of the individuals of a state to individuals who are aliens to that state, and of individuals to foreign states (private international law). Only to the extent that we recognize in foreign nations, and even in individual aliens, a common humanity, a humanity everywhere and ever the same, do we enter into an international relation with foreign states and individuals.— When we closely compare the basis of the public or constitutional order of things with the basis of the international order of things, an essential difference between them can not escape us.— The public or constitutional order of things is based upon a strongly articulated public or constitutional organism. In the public or constitutional order of things there exists a public or constitutional power, which is independent of the individuals belonging to the state, and which all such individuals must obey. The government is, vis-a-vis of the governed, a self-dependent power based on a firm organization. — It is otherwise in the international order of things. In a certain respect, indeed, states bear the same relation to international law that individual citizens bear to the state. Thus, individual citizens are in duty bound to obey the state, and individual states owe obedience to international law; thus, too, the state is above individual citizens, and international law should be above individual states; thus, finally, individual citizens see, in the state, a higher authority which regulates their relations to one another by law, and individual states should look upon international law as the rule to regulate their interna-

importance of the questions which may be involved in the law of nations thus materially affects the question how far it is uniformly obeyed. In a set of minor questions, such as the safety of the persons of ambassadors, and their exemption from responsibility to the laws of the country to which they are accredited, and in other matters of personal etiquette, a set of uniform rules has been established by the practice of all the civilized world, which are rarely infringed. But in the more important questions, regarding what is a justifiable ground for declaring war, what territory a nation is entitled to the sovereignty of, what is a legitimate method of conducting a war once commenced, etc., the rules of the publicists are often precise enough; but the practice of nations has been far from regular, and has been, as every reader of history knows, influenced by the relative strength of the disputing parties more than by the justice of their cause. The later writers on this subject have from this circumstance directed their attention more to the means by which any system of international law can be enforced, than to minute and abstract statements of what may be theoretical justice, but has little chance of being enforced. They have found several circumstances which have an influence in the preservation of international justice, though of course no sanctions which can give it the uniformity and consistency of internal laws. The combinations for the preservation of what is called the balance of power are among the most useful restrictions of ambition. All periods of history furnish illustrations of this principle. Hume found that the Peloponnesian war was carried on for the preservation of the balance of power against Athens. The late war exhibited a noted illustration of combination to prevent universal conquest on the part of the French. The safety of small states from being absorbed by their larger neighbors, is in the jealousy which these neighbors feel of each other's aggrandizement. Thus the jealousy of rulers is one barrier to national injustice. Another is public opinion: sometimes that of the nation whose rulers would be prepared to commit injustice; sometimes that of other nations. Of course it can only be to a very limited extent that the public feeling of a despotic government can check the grasping spirit of its rulers; but the public feeling of the constitutional and democratic states is the great check on the injustice that might be perpetrated by a nation when it becomes so powerful as Great Britain. — The seizure of the Danish fleet by the English has been a subject of warm censure in England. Necessity—even the plea that Napoleon would have used the fleet to invade the shores of England—has not been accepted in palliation of the act; and the manner in which it has been canvassed is very likely to prevent any British government from adopting the precedent. The partition of Poland is an instance of national injustice condemned by the public feeling of countries other than those by which it was perpetrated; and it may be questioned whether the states which accomplished the partition may not yet suffer by it. Good fame in the community of nations is like respectability in private circles, a source of power through external support; and the conduct of Russia toward Poland has frequently diverted from the former country the sympathy of free nations. It need scarcely be observed that the press, whether fugitive or permanent, is the most powerful organ of this public opinion, and that the views of able historians, jurists and moralists have much influence in the preservation of international justice. Among the principal subjects of dispute in this department of international law are: the sovereignty of territory and the proper boundaries of states, as in the question regarding the Oregon territory in North America; questions as to discovery and first occupancy of barbarous countries; questions as to any exclusive right to frequent certain seas—and here there is a well-known distinction between the broad ocean and the narrow seas that lie close to particular territories, questions regarding the right of navigation in rivers which may be either between the upper and lower territories, or between states on opposite banks; questions as to the right of harbor or fishing, etc.; and questions as to the right of trading with particular states. In cases of arbitration the national pride is not injured when that which is yielded to is the award of a neutral party, not the demand of an opponent. It has been suggested by Bentham and Mill that the civilized states of the world should establish among themselves a congress, which should adjudicate on all disputes between its members, the members being excluded from voting in their own disputes. — The second department into which we have considered international law divided—the rights and obligations of individuals as affected by the conduct of states toward each other—has, like the first, been examined by the publicists in their theoretical manner; but it has never, perhaps, received so much practical illustration as it has in the British courts. In a despotic country it would of course scarcely ever occur that the bench should fail to give effect to the national policy of the government, whatever that may be. But in England it was the rule that foreigners as well as natives were entitled to the rigid administration of the law, and that, if the proceedings of the government were at variance with the rights of parties according to the law of peace and war, individuals might have redress. Thus, when Great Britain, in opposition to the Berlin decrees, tried to establish a 'paper blockade,' that is to say, by force of orders in council to declare places to be under blockade, whether there were a force present to support it or not, Sir William Scott found that 'in the very notion of a complete blockade, it is included that the besieging force can apply its power to every point in the blockaded state. If it can not, it is no blockade of that quarter where its power can not be brought to bear.' — The third division of international law is that which most properly comes under the head 'conflict of laws,' viz., the principles that should regulate the rights and obligations of private parties when they are affected by the separate internal codes of distinct nations. This has some points in common with the preceding department of the subject." (Bohn.)

tional relations. — In other respects, however, the similarity ceases entirely. There is, for instance, no constituted international authority over, and independent of, states, as the authority of the state is above, and independent of, individual citizens. When it becomes a question of enforcing international law, states can not appeal to any power above them as do individual citizens, in case of necessity, to the coercive power of the state.— Rather is the attitude of states to international law and their relation to international authority to be thus conceived: spite of the fact that states are governed by international law and should obey it, they are themselves the sole and voluntary supporters, upholders and enforcers of that law —the sole international power, following their own unconstrained good will. There exists no great international central body holding the several states in their international orbits, as does the sun the planets which it causes to revolve about it; the ruling centre of gravity of international law does not lie in a separate self-dependent organism: rather is the realization of international law to be conceived as the consequence of the reciprocal influence of the gravitation of the several state-bodies themselves. And if we be allowed to continue this figure borrowed from astronomy, we may remind the reader of the double stars which revolve not about a third body nor about the sun but about each other, thus giving themselves a common, *ideal* centre. International law is an *ideal* centre of this kind for states. It is, indeed, a governing centre; and yet it is a centre created continually only by the reciprocal influence of the several states, one which is, at any given moment, the act of their own efficiency and force.— This has been ignored by two opposite schools. Many, like the German philosopher, Wolff, overlooking the fact that international power rests in the individual independent states themselves, based international law on a *universal state* (*civitas maxima*). Others, on the contrary, like Hegel, pushing the idea of the sovereignty of individual states to an extreme, look upon international law only as *external* public law. They do not sufficiently bear in mind that international law, although lacking a self-dependent organism, stands high above individual states. According to Hegel, international law is only the *outer* side of the state, and has its centre in the state. And, indeed, to the positive rights of individual states belong their *external* rights, their "*external* public law," *i. e.*, the aggregate of the international provisions and treaties, which give expression to the legal relations of those states to other states. Every individual state has its internal public law and its external public law; and this external public law is a fragment of international law. But international law draws all these external rights of states together about its own self-dependent centre, and thus gives us the principle, from which, as the central unit, all individual external public rights of states are to be understood and controlled. Every individual external public right is only a fragment from the periphery of international law. Hegel's error consists in this, that he places the centre of this periphery in the individual states, *i. e.*, that he does not free the principle of international law from the state — But the question may be asked, whether the absence of an international authority lodged in a self-dependent organism, and the consequent absence of a coercive power over states engaged in a conflict or controversy, of a power which might declare and enforce the law; it may be asked, we say, whether such an absence of such an authority does not deprive international law of all life, and whether it does not turn all the rules of international law into a series of pleasant dreams destitute of reality. — But the life of the law is, in no way, merely a continually forced existence; and even within the limits of the individual state, the government is by no means obliged uninterruptedly to employ coercion in order to make the law obeyed. The existence of the law, even in individual states, is based essentially on the power of reason. On the whole, the law exists because it is the right, and because men's minds recognize it as such. Even when the coercive power of the state is removed, the condition of things which the law had created is not destroyed. When that power is taken away, there occur, indeed, many instances of excess, but the general ideas of right and wrong remain unshaken, like immovable pillars which do not by any means rest on the pedestal of governmental compulsion. And it is precisely in times of great social crises, in which, spite of the paralysis of governmental power, property, and the law generally, often remain undisturbed, that we find convincing proof of what little coercive means suffice to a wise government which knows how to win the minds of men and properly to use the power of reason. International law rules generally, because it is the expression of the reason of nations, to which nations voluntarily submit; and the treaty provisions and the non-treaty provisions of international law enter daily unquestioned and uncontested into thousands of human transactions, in all civilized nations. Hence from the absence of an organized coercive power, it can only follow that, in individual exceptional cases, in which the right or the law is violated, the existence of international law is suspended; but spite of this, the existence of the international law in general should not, therefore, be denied. — But we must go farther and claim that, even in these exceptional cases in which unreason or selfishness rises up against the right, international law is not defenseless, and that, for the most part, even then, it does not depend on the greater physical power of the individual state whether it will obey or violate international law. Even in such cases there exist guarantees for the maintenance of international law which are not entirely powerless. The power which rises up against the law, has to do not merely with the perhaps weaker power of

its opponent. Rather is the power of the weaker under the ægis of both moral and material coercive means. These means are the following: 1. By a breach of international law, a state exposes itself to general reprobation; and its honor suffers injury. No low estimate is to be placed on this first guarantee of the law. We know what a powerful moral coercion the law of honor has in all moral communities; the individual will stake his life to save his honor. And really, in the great community of states, honor plays no less a part. There is, indeed, no state which would not feel its arm more or less weakened, by a deed which injured its honor. 2. A state which violated international law, would deprive itself of the advantages of that law. It would exclude itself from the advantages of international communion, and would thus incur great material disadvantages, such as reprisals of all kinds, the paralysis of its commerce with foreign nations, etc. Hence there is a species of material compulsion to obey international law. The violation of that law carries with it loss, property penalties, so to speak. 3. A state, intent only on fulfilling its unlawful design, might, indeed, disregard all this. But, when such is the case, we see, as a rule, that direct coercive measures are employed against that state. Alliances of several states powerful enough to subdue the wrong, are wont to be formed against such bold contemners of the law. 4. If it be objected to these alliances—called into being because the law is left momentarily in the lurch—that they are, after all, only accidental and transitory, and afford international law no reliable and lasting protection, we may finally point to the pentarchy of Europe. For a long time the five great powers have practically constituted a species of *tribunal of nations*, which watches over the observance of great treaties between states and of international customs. — Hence there are a great many guarantees and measures of coercion for the maintenance of international law, and it would be an exaggeration to put the observance of merely moral and charitable duties on the same level with the international duties of a state. The great system of states is not so badly constituted that the will of an individual state, disregardful of the law, can trample on the principles of the great whole at its pleasure. — It can not, however, be denied that all these guarantees of international law are frequently insufficient. — In most cases states come to disagree because on this subject or that they appeal to and apply different legal opinions. It is seldom, indeed, that one state does another an entirely evident wrong. In a case of such bold contempt for the law, a great alliance of states would be sure soon to be formed, in order to repel the wrong in the name of the system of states injured jointly with the individual state. But the cases of mere legal controversies between states are incomparably more frequent. — What, then, becomes of the means of protection which should uphold international law when menaced? — Since the party which is in the wrong here honestly believes itself to be in the right, it need not fear any detraction from its honor or any exclusion from the community of nations. Alliances to protect uncertain rights will not be calculated upon. Finally, the members of the pentarchy, before coming to a decision and taking action, would have to agree among themselves. But there is no means by which such an agreement can be effected. There is no binding mode of voting in force among the five powers, no constitutional rule in accordance with which the decision of the majority is looked upon as the decision of the pentarchy itself. Besides, the great powers themselves may be the opposing parties in an international controversy as to their respective rights; and it would evidently be derogating from the other states, some of which are still very powerful, to submit them to the judicial authority of the five great powers. Representatives of the smaller states, too, would have to take part in the decisions of international controversies, in order that the principle of the equality of states might be preserved. Representatives of all important nations should participate in such decisions, to the end that the judgment rendered might not be given in a narrow, national sense, but that it might proceed from the true source of international law, from universal human reason. — Here evidently there is a rent, so to speak, in the structure of international law, through which many a destructive storm will yet break. Congresses, courts of arbitration, and even a permanent tribunal of nations with limited jurisdiction, might, indeed, prevent much evil, and settle many questions of war in a rational and peaceful way. For judicial decisions can apply only existing law, and can not decide concerning those states of things in the future which the spirit of humanity—the spirit that rules in history and is ever transforming the present—conjures up in the course of time. Thus the great questions of nationalities are questions of the growth of historic powers which can never be held in check by the arm of the administration of justice. In every great historic crisis in the life of the state, a new condition (of justice) is evolved out of the old, one which destroys the old and which from the standpoint of the old seems illegitimate. To condemn this new condition of the right by a judicial decree which is thinkable only on the basis of the existing condition of the law, for the reason that it is opposed to the spirit of the law actually in force, would be to stop the course of history and to petrify the mind of humanity. — We can only hope therefore that the rent here referred to in the walls of the structure of international law may never close, but that it may remain forever open to admit the fresh drafts of the air of the future to peoples and states, vivifying and purifying them. — II. *History.* Since from the remotest times of which history has preserved any account, peoples and states have had some kind of intercourse with one another, and since all human in-

tercourse is accompanied by a mode of procedure more or less legal, there has been at all times a species of international law; and we may speak even of an international law of savage nations. (Fallatti, *Keime des Völkerrechts bei wilden und halbwilden Stämmen*, in the Tübingen *Zeitschrift für Staatswissenschaft*, 1850, pp. 150, etc.) — The international law of to-day, however, is a product of Christian Europe. It has no perceptible connection with the old international law of savage tribes, nor with the international law of the Orientals, nor even with that of the ancient Greeks and Romans. Hence a history of the international law of to-day must be confined to Christian Europe and to the countries which it has fructified in the intellectual order. The east, as well as Greece and Rome, we shall mention only to show the character of ancient international law and the contrast it offers to the international law of our times. — True religion generates a love as broad as the world, a love which embraces all mankind, breaks down the barriers which separate peoples into hostile camps, and leads to a community of nations. In the east, religion is everything. It absorbs both the law and the state. It is rigidly national, with the utmost hostility to all international community. Thus, the Jews looked upon themselves as the chosen people, holding a commission from Jehovah to extirpate all neighboring peoples and consume all nations whom the Lord God would give them. (Deuteronomy, vii., 1, 16.) The institutions of the Jewish people calculated upon their seclusion from other peoples. The law of Moses, indeed, ordains that exaction shall not be practiced on strangers, that they shall not be vexed (Leviticus, xix., 33); it even ordains that there shall be one manner of law for the stranger and for the Jew (Leviticus, xxiv., 23): yet, in spite of this, we find a very marked disregard of, and want of consideration for, strangers in this same law (compare Leviticus, xxv., 45, 46), and that the practice of usury was forbidden the Jews as against their Jewish brethren and at the same time allowed them as against strangers. (The field of oriental international law has been cultivated by Haelschner, *Diss. de jure gentium, quale fuerit apud gentes Orientis*, Halle, 1842; by Pütter, *Beiträge zur Völkerrechtsgeschichte und Wissenschaft*, Leipzig, 1843; Müller-Jochmus, *Geschichte des Völkerrechts im Alterthum*, 1848. These works, however, are vastly surpassed by the great work of Laurent (Geneva): *Histoire du droit des gens et des relations internationales*, tome i., L'Orient, 1850.) — In the minds of the peoples of classical antiquity, the state occupied the first and highest place to such an extent that they sacrified to it the whole domain of private life, religion and foreign peoples. This is true especially of the Greeks at the period of their prime. We may be silent as to Sparta, which sacrificed all human feelings to the Moloch of the state. But even the ideal of Athenian morality, as it finds expression in Plato's "Republic," is a state which absorbs every other moral domain. The Greeks knew nothing of a humanity which exceeded the limits of the state. Their motto with regard to other nations was: Eternal war on the barbarians! (Livy, i., 29 : *Cum aliengenis, cum barbaris, æternum omnibus Græcis bellum est;* Heffter, *Völkerrecht*, § 6; Ward, "Enquiry into the Foundation and History of the Law of Nations in Europe, from the Time of the Greeks and Romans to the Age of Hugo Grotius," London, 1795, 2 vols.; Wachsmuth, *Jus gentium quale obtinuit apud Græcos*, Berol., 1822; Heffter, *Prolegomena de antiquo jure gentium*. Laurent, in his work already cited, devotes a separate volume (the second) to the international law of the Greeks. Compare also, Henry Wheaton, *Histoire des progrès du droit des gens*, tome i., pp. 1–17, and G. de Wal, *Inleiding tot de Wetenschap van het europesche Volkenregt*, Groningen, 1835.) — The ancient world was, indeed, acquainted with certain customs of nations agreed upon by all, especially in regard to the conduct of war, ambassadors, asylum and treaties. Ambassadors were held to be inviolable, and it was considered that treaties between states could not be rightfully broken. But was it the consciousness of right that supported this inviolability, and this respect for treaties? It was not. It was religion in which the principle of legal right was still enveloped. Hence, ambassadors made their appearance with religious symbols, and thus claimed for themselves the protection of religion. Treaties were sealed with the religious sanction of an oath, and solemn sacrifices were offered to the gods when they were closed. But beyond this, the ancients considered that they owed no obligations to strangers or barbarians. — The Greek tribes frequently treated each other with the most revolting inhumanity. After the fall of Mitylene, the reputedly mild Athenian people decreed that all its male adult population should be put to death and that its women should be reduced to slavery; and although a second decree prevented this atrocity, about a thousand men suffered the penalty of death and the land was divided among Athenian citizens. The surrender of Platæa to the Lacedemonians took place contrary to the promise that only the guilty should be punished. With infamous sophistry the Platæans were simply asked whether they had been useful to the Lacedemonians during the war; and, as they very naturally denied that they had been, orders were given that they should be put to the sword, their wives sold, their houses torn down, and their city and lands transferred to the Thebans. In like manner, after the conquest of Melos by the Athenians, all its citizens who had attained to man's estate were, by order of Alcibiades, put to death. — To what extent the rights of mere humanity were ignored is shown by the existence of slavery, especially that of the helots. Slavery was maintained not only by the coarser lower classes of the Grecian people, but it was approved by Greek philosophy. To such a degree were the exclusive rights of Greek nationality the limit of

the highest moral consciousness of the Greeks, that even an Aristotle could say that the barbarians were intended by nature to be the slaves of the Greeks. (Arist. Polit , lib i., cap. 8.)—The Greeks distinguished peoples into non-allies and allies, *ἐκσπονδοι*, *ἔνσπονδοι*. Non-allies were considered as having no rights. All peoples with whom they had no express alliance they treated as enemies, and permitted themselves, as in the case of the Platæans, all kinds of treachery and atrocity against them. (Thucydides, lib. iii., cap. 68)—The amphictyonic league was an attempt by the Greek tribes to form closer ties The amphictyonic council was a general federal court for the whole of Greece. Each Greek city sent two representatives to it, first to Delphi and afterward to Thermopylæ. Religious solemnities accompanied their assembling. After this, international controversies were settled, and crimes against the temple at Delphi and violations of international customs were punished. A money penalty was imposed on the guilty people. If the penalty was not paid at the proper time, it was doubled. When all other means failed, the decree of the amphictyons might be carried out by the full force of arms of the league. (Titmann, *Ueber den Bund der Amphiktiyonen*, 1822; Heinsberg, *De Concilio Amphictyonum*, 1828.) The amphictyonic council was closely connected with the Delphic oracle, in the immediate vicinity of which it was originally held. This connection gave the sentences of the council a higher sanction. The Delphic god took its decrees under his protection, and made them, so to speak, laws of religion. Yet the utility of the council was not great. (Johannes von Müller says of the council, in his notes on Herder's works on philosophy and religion, vol. vi , p. 153, ed. of 1827: "It can not be boasted that it was of much use in times of great crises. In many things it was like the German *reichstag*.") Hence not many rules of international law proceeded from the amphictyonic council. Endeavors were made by some provisions to mitigate the laws of war. Mutual agreements were entered into to bury those who had fallen in battle, and the right of asylum in the temples was recognized. Beyond this, the influence of the league did not go; and it lost its really international importance by the fact that it excluded all other nations. — Among the Romans we find, from the very earliest time, the *jus fetiale*, based upon ancient Italian customs. The college of *fetiales*, or Roman priests, instituted by Numa, consisted of twenty members, with a *pater patratus* at their head. The *fetiales* were invested with a diplomatic character. International transactions and declarations of war were within their province. A religious and priestly character was attributed to them, and their acts were accompanied by religious symbolic ceremonies. (Livy, i., 2; Plutarch, *Numa*, c. 12; Dion., ii., c. 72; Cic. de Leg., ii., 9; Weiske, *Considérations sur les ambassadeurs Romains, comparés avec les modernes*, Zwickau, 1834; Osenbrüggen, *De jure belli et pacis Romanorum liber singularis*, Lips., 1835; Müller-Jochmus, *Geschichte des Völkerrechts im Alterthum*, Leipzig, 1848; Laurent, *Rome*, tome i.)—However the international observances of Rome may have developed and extended from these first germs, certain it is that the really fundamental idea of international law never asserted itself among the Romans. They neither respected foreign nationalities nor recognized the universal dignity of human nature in the individual. They annihilated those states and nations which would not become subject to them, and extinguished the character of nations. In their devastation of Greece, they had no respect even for Greek civilization. They sold hundreds of thousands of Greeks into slavery, and finally filled Italy with such a mass of slaves that destructive wars of the slaves broke out, wars in which the suppressed rights of human beings avenged themselves on their hard-hearted despots.—The Germanic races, when they began their incursions into the Roman world, confronted other nations with their rugged and repulsive nationality. Their weregild system is evidence of the small value they put on persons of foreign nationality. They dispossessed proprietors, in conquered territory, of their lands, and reduced the conquered, for the most part, to the condition of bondmen. Strangers they looked upon as having no rights. Yet hospitality was sacred in the minds of the Germans; and hence they had some susceptibility for the ideas of humanity and of international law. — The Romans who dwelt mixed among the Germans, lived, even after their subjugation, in accordance with the Roman law. Even the national privileges of the Germans assumed a Roman coloring. The Germans allowed the framework of the Roman constitution of the provinces to rest on its old Roman foundation. In many parts of the former Roman empire, as, for instance, in the Burgundian and West Gothic parts of the Frankish empire, the constitution of the Roman city was maintained The downfall of the western empire left after it, accordingly, very important traces of Roman regulations and Roman laws. — Besides, Rome and Byzantium lived on in the imagination of the young, fresh conquering nations which had destroyed the Roman empire. A German-Byzantine dualism runs through the whole old constitution of the Frankish court, a constitution which may be traced back, in part, to the retinue system of the Germans, and in part to regulations of the Byzantine court. The idea of the old Roman empire was at work even in the minds of Alaric, Ataulph and Theodoric. In Charlemagne it became clearly manifest. — Besides the influence of Rome on the new nations, we early perceive the influence of Christianity and of the church also. The idea of humanity is the offspring of Christianity, which would unite the whole human race into a nation of brothers, and which declares human personality sacred in every human being. Both Christianity and international law rise above, and go beyond, what is simply national. Christianity

and international law are called to unite the whole human race. Whereas, previous to Christianity, the people of each nation could follow only their own great leaders, in whom they recognized the personified prototype of their nationality, in Christ a common prototype and sole centre was given to all humanity; and by this fact all barriers between nations were by anticipation removed. (Galatians, iii., 28; 1 Corinthians, iii., 21–23, and xii. and xiii. Schleiermacher speaks pertinently on this point.) Thus was the spiritual soil in which international law might grow, prepared. An important contrast must, indeed, not be overlooked here. International law was called upon to establish only an *external legal* community. Christianity, on the other hand, was to establish an *internal* community, embracing the whole human race. But the eyes of humanity had first to open gradually to the purely interior greatness of the Christian idea; and thus the purely spiritual universal empire of Christianity was transformed with the priesthood of the Roman empire into an external universal empire, not unlike the old empire of the Romans. The unification of the church was completed by the *concilia œcumenica* and the papacy. With the constitution which it had obtained in the Roman empire the church entered among the Germanic nations, and drew them into its great hierarchic unity. Finally, the grand minster of the middle ages became one great spiritual-temporal whole, with its two high-towering spires, the papacy and the empire. Christendom was one sole, firmly articulated body. God had given it the two swords, the spiritual and the temporal. The church had a deeper conception yet of the great unity. It denied the dualism of the two swords, and deduced all power, even the temporal, from the one spiritual centre. — The old view, that all foreign peoples were barbarians and enemies, was now, in spite of the coarseness of the period, overthrown, and a higher standpoint reached. The idea of a union of the human race to be effected by Christianity, of a union whose firm foundations were to be the papacy and the empire, had, from the time of the coronation of the emperor Charlemagne, become a living, propelling force in the nations. The empire of Charlemagne, extending from the Ebro to the Raab, and from the Tiber to the German ocean, united the nations of middle and western Europe, whose future was so rich, and gave them, in the capitularies, certain common laws. The peculiarities of the several nations were maintained in the empire, and each people was allowed its own special national laws. The system of personal rights which obtained in the Frankish empire, and by virtue of which every member of a nation was judged, even when in a foreign nation, by the laws of the nation to which he belonged by birth, was pregnant with the mutual recognition of the rights of foreign nations, a recognition of great importance for the development of international law. — The empire of Charlemagne, indeed, crumbled to pieces soon after its founder's death. The Germans were not yet ripe enough to preserve so vast a political organization in its objective self-dependent course. To do this, they needed a powerful governing personality, and such a personality they did not find after the death of Charlemagne. Moreover, nationalities within the empire had, even now, assumed characters too dissimilar. The Romanic and Germanic elements, especially in the different parts of the extensive empire, had become so inseparably and peculiarly mixed that the modern character of the different nations with their mutual repulsion became perceptible. The accidental external reunion of the great empire under the weak-headed and cowardly Charles the Fat, in the year 884, was not able to overcome these too powerful differences any longer. The history of the several parts of the Frankish empire now begins, and the union of France and Germany comes to a close completely. None the less, the capitularies lost their formal force and application with the dissolution of the empire. But the great community of nations of the Frankish empire was as far from passing away without lasting after-effects on the subsequent life of the nations of Europe, as the overthrow of the Roman empire was from destroying Roman ideas. Nations had come into close contact with one another, and had acquired certain common views of law, of the state and of the church. Those countries into which the peculiarities of the ancient Germans had made their way, retained a certain unity in their modes of thinking and in their mode of life, which subsequently became the foundation of international law and of the European system of states. — With the dissolution of the empire of Charlemagne, the energetic temporal centre for European nations ceased to exist. The empire of the Germans was of less importance than the Frankish empire. True, Henry II (1002–1024) continued to receive from the pope the golden symbol of imperial power, a ball surmounted by a cross, significant of the empire of the world under the protection of the Christian church; but Henry owed this less to his vigorous assertion of the position of the imperial power in the world than to his obsequiousness to the clergy; and the symbol was less calculated to call to the emperor's mind his imperial power than the protection he received from the church. The church was even now in need of reform. The emperor, Henry III., began this reform inasmuch as he checked simony, the immorality of the clergy, and party spirit in Rome, by promoting suitable German bishops to the papal chair, who endeavored with all their might to repress the old disorders. The popes, in consequence, acquired renewed authority, which they caused to be felt partly through their legates and partly in person. This renewed consideration for the popes depended on the power of the emperor to whom the popes owed their place, and without which they would perhaps have fallen back into

their former condition. But this dependence on the emperor did not last long. The greater the papal power, through the emperor's own co-operation, became within the church itself, the more strenuously did the pope strive to make himself independent, even as regards the emperor Hence the reformation of the church begun by Henry III. soon took a turn disadvantageous to the imperial power itself. His successor, Henry IV., met in Gregory VII. a pope who made the bold attempt to transform, at the cost of the imperial dignity, all Europe into one great theocracy that he might enthrone the pope on the summit of the great theocratic pyramid of the world. The papacy interfered in the province of states more and more, curtailed their sovereignty, and caused the greatest collisions to take place among them while the idea of the imperial *dominium mundi* faded away. The independent centre of gravity of states was displaced by the papacy. Uninterrupted papal interference checked their concentration and disturbed the process of their development. — In a certain sense, indeed, the Roman hierarchy united Europe into one great whole; and the pope was at times a Christian international tribunal for states in conflict with one another. The church, too, prevented the shedding of much blood by the institution of the *truce of God*. But there was little peace, under the auspices of the papacy, among states, and the papal see was by no means guiltless of this fact. This double power, this papal state within all states, brought it to pass that states could not comprehend themselves and could not grow strong and firm internally. But self-dependent states are a condition precedent to the existence of international law, and where there are no autonomic states an international system of states can never be formed; where there are no autonomic states, the idea of international law is wanting in the organs by which that idea can be properly realized. Hence the phenomenon that the international law of private individuals, that the recognition in every man of his purely human rights binding everywhere, preceded the international law of states in the middle ages. The bishops of that period, impelled by the spirit of Christianity, took the oppressed under their protection, checked the trade in human beings, ransomed slaves and opened the asylum of the church to the rights of man; while the great Christian nations, not without the church's being in fault for it, engaged in barbarous struggles with one another. — We can not find a paving of the way for international law in the middle ages nor in the crusades. Chivalry, indeed, attained to sword law and feudal law, but not to an international law; while the crusades aroused between Christian nations and infidel nations an opposition inimical to international law. They neither promoted the cause of humanity, nor opened new avenues to commerce, nor established a closer or more rightful relation among the nations of Europe. The so-called holy wars began with a frightful slaughter of the Jews, devastated a great part of Europe, and trampled under foot the best germs of the development of the sentiment of humanity. But one thing we must grant—the universality, the European character of the crusades In them all Europe participated, was animated by one feeling, and united to do one thing. In this first European movement, it became manifest that there was one great common European national life. — Good consequences flowed from the commercial spirit and from the alliances of cities, which was the cause, finally, of a commercial state that extended its sway over the Atlantic ocean and over the Black, Mediterranean, Baltic and North seas. These cities, the prince of which was Lübeck, were situated in Germany and the Netherlands, in the northern kingdoms, Poland, Prussia, Russia and Livonia; and the greatest commercial places in England, France, Spain and Italy associated themselves with them. This league was perhaps the most effectual the world has seen. It did more to make Europe one commonweal than all the crusades and all the usages of Rome; for it went beyond differences of religion and nationality and established the alliance of states on mutual utility, on emulous industry, on honesty and order. — Under Innocent III., the greatest man of his age, who, from 1198 until 1216, conducted papal affairs with equal firmness and shrewdness, the papacy rose once more to its full height. He gave utterance to it as a principle, that Germany and Italy should not be united under one crown —a principle which, if strictly carried out, would have led to the independent importance of Italy. With a bold hand he interfered in the political quarrels of Europe. But the consciousness of the states of Europe of their own rights rose up against him. The German empire had, indeed, been on the road of decline since the interregnum (1256–73) and the Hapsburgs were unable any longer to prevent the separation of Switzerland from the empire (1308). But states assumed a manly attitude toward the papacy. France reduced the pope to complete dependence on it (Avignon exile, 1305–78). Germany was no longer willing to allow the interference, in its political affairs, of a pope reduced to bondage by France, but still presumptuous in his bondage. The memorable assembly of electors at Rense (1338) declared the election of the German king to be independent of his confirmation and coronation by the pope; and Germany boldly proclaimed to the world that it wanted to see the spiritual power confined to the sphere of the spiritual. The council of Basil also, which lasted from 1431 to 1444, and revived the principle that a general council was above the pope, deserves mention in this connection. — How much the *dominium mundi*, conceded to the emperor, implied, was not clearly defined, and the whole idea had in it, at all times, much that was fantastical. Yet that the emperor had precedence of all other rulers was recognized even during the decline of the empire, and the emperor had the right to grant the title of king, as the

royal Bohemian and Polish dignity had their origin in imperial privileges. Yet in other kingdoms, and not in France and England only, men felt themselves much more independent of the emperor than of the pope. — The mariner's compass, gunpowder and the art of printing were three great elements of progress. The mariner's compass opened the broad ocean to commerce, and extended that commerce over the whole earth. Gunpowder put an end to the carnage of personal combat and made war more humane. The art of printing brought about a rapid exchange of thought in Europe, and generalized the beneficent effects of the sciences, then rapidly growing. — Three powerful currents had, from the beginning of the middle ages, poured themselves over the whole of Europe, and spread everywhere like intellectual elements: the Roman current, with the idea of the empire, of provincial and municipal organization, and of intercourse regulated by law; the Christian current, with the idea of humanity, the idea of universal fraternity, and ideas of pure morality; lastly, the Germanic current, with the ideas of personal faithfulness and honor, but especially of individual liberty and self-government. As the great deposits of these currents in the domain of law appeared the *corpus juris civilis*, the *corpus juris canonici*, and the *corpus juris Germanici:* all three of European importance and of consequence to all Europe. — The renewed diffusion of Roman law over a great part of Europe and the principles of Christianity gave a common basis to European law. The Bible and the Institutes of Justinian became the common property of all the more civilized nations of Europe, and brought about the harmony of moral and legal ideas necessary to the international agreement and understanding of states. — The reformation, the first great intellectual European upheaval, which, begun in Germany, spread over the whole north and west, brought the middle ages, from the standpoint of international law, as from all others, to a close. The reformation rendered possible, for the first time, the existence of self-dependent states—the support and organs of the idea of international law—by doing away with the dualism of the spiritual and temporal power, and by emancipating the state from the joint lordship of the Roman see. — The ascendency of the church could not, from this time, be feared by states. But, on the other hand, one state might obtain a dangerous preponderance over other states. And, indeed, from the sixteenth century, we find two ideas, engaged in a decided struggle with each other: the idea of a universal monarchy and the idea of the balance of power. The idea of a universal monarchy was a legacy of antiquity which knew little of international rights. It was inherited by the Frankish empire and then by the Germans; and after the decline of the empire other states sought to realize it. The more modern principle of international law, on the other hand, sought realization in the idea of the political balance of power. — From the standpoint of the development of the European system of states, the thirty years war is to be considered as a reaction of the idea of the balance of power against the ascendency of the house of Hapsburg. How the relations of states, in what concerns international law, have been modified from the peace of Westphalia to the present time, is best studied in the history of modern congresses and treaties of peace. The further development of the *theory* of international law will be treated of briefly in what we shall have to say in this article on the literature of the subject. — In spite of the wars and revolutions which have stirred Europe in recent times, humanity has gained visibly; the consciousness that all men belong together has grown stronger; the foundations of international law have become broader and firmer; and numerous traces of a barbarous international condition, which we find mentioned by writers on international law as still the law of barbarous peoples, are disappearing before the ever brighter and ever warmer beams of the still ascending sun of Christianity. An eloquent sign that the spirit of the present has invaded the sphere of international law is afforded by the Paris congress of 1856. Although that congress gave only an imperfect solution to the Eastern question, which was the occasion of its coming together, it will remain forever memorable in the history of international law, because of its reception of Turkey into the political system of Europe, because of its humanization of the laws of naval warfare, and because of the wish solemnly expressed by the powers before all Europe—though that wish was never fully realized—that in controversies between nations, these latter should, so far as circumstances permitted, have recourse to the good services or to the mediation of a friendly state before resorting to brute force. We have only to open the eye of the intellect to discern from this point the lofty mountain tops of the ideas of the modern era gilded by the sun of the future. — III. *Sources of International Law.* 1. Treaties between states occupy the first rank among the sources of international law. — 2. A second important source of international law are the records of the official proceedings of whatever kind, in which states have given expression to their convictions on international law. Here belong, 1st, the protocols of congresses and international conferences of ministers. These protocols have, for the most part, served in the preparation of important treaties between states. They are, besides, a means, worthy of all consideration, to enable us to determine the true and complete sense of the treaties for which they have paved the way, and hence they must be considered a source of at least so-called *special* or *particular* international law, that is, of that international law which is binding only on the contracting states. In addition to this, they frequently contain the expression of the common conviction of the right of all civilized states, and thus furnish valuable material for the international law which is "binding on all states."

Here belong, 2d, the declarations of the great powers, notes, manifestoes, correspondence, and even the protests of states. Declarations of the great powers as to their views of the right, such as the declaration made by them in 1856 in relation to maritime law, acquire very soon, when they have reason on their side, a force equal to what they would have if made by a legislative body. Manifestoes, notes, correspondence, are often the unbiased expression of legal convictions, which will never afterward be questioned by states in their international intercourse with one another Even the protests of individual states against violations of rights by others may be considered as a source of international law when, because based on the right, they have received the assent of impartial states or of impartial posterity. Neither of these kinds of documents, however, has the binding force of treaties. Science should be as far from passing them by without notice as it should be from accepting what they contain without any more ado. Rather is science here called upon to go into the fullest examination. The material of these documents is to be found in the numerous writings on treaties of peace, those which are wont to appear under the titles *Négotiations, Négotiations secrètes, Actes et Mémoires, Pièces officielles;* also in the matters laid before constitutional chambers for their discussion, in the collections of "state archives," "political archives," etc., in the blue books; but especially in the voluminous English "portfolios."—3. Laws and regulations of individual states come into consideration, in various ways, as sources of international law. Where, for instance, on matters which may become the subject of international as well as of private or civil controversy, the laws of states agree, and when no objection can be rightfully raised against applying the principles of the civil law, by way of analogy, to cases of international dispute, a controlling principle of international law may be deduced from the civil law. So, too, when the principles of purely international law are incorporated into the statute law of a country, as has been done, for example, in the law of booty, the law of blockade, in the laws on the slave trade on the high sea, either because the statute law of the countries in question anticipated the universally admitted principles of international law, as did, for instance, the English laws on the slave trade, and the French decree of March 28, 1852, which absolutely prohibited the reprinting of foreign books on French soil; or else because the legislation of an individual state has merely sanctioned provisions of international law already universally recognized. More especially worthy of notice are the laws and regulations of states governing maritime prizes in times of war; for each state allows its own courts to decide on the validity of the maritime prizes made by its ships. The state of course lays down laws by which its courts must be governed in such cases, and these laws are not the result of the caprice of the state; rather are they intended to be, as they should be, the expression of the general principles of international law.—The old sources which constitute the common historical basis of the law of civilized Europe are gladly resorted to, the Roman law and also the canon law, so far as both continue to express the consciousness of right of the present. The Roman law and the canon law have of course no legally binding force on nations; only as *ratio scripta* can they be taken into consideration.—4. The verdicts of international courts, of so-called mixed commissions and prize courts, fill a place in international law similar to that filled in Roman law by prejudication. The same may be said of the legal opinions asked by states in matters of international dispute. Very important are the decisions of mixed commissions which are composed of arbitrators of different states on the international controversies of such states. By the very composition of such commissions, the national narrowness of the legal consciousness of the commissioners is removed, and the way opened for the universally rational. The judgments of prize courts, indeed, since prize courts are appointed or established by the one party or the other, have not the presumption of complete impartiality in their favor. Such judgments must therefore be constantly criticised and cautiously used. Legal opinions on questions of international law are sometimes asked by a state of its own jurisconsults, and sometimes also from distinguished foreign jurisconsults, that it may regulate its course according to them. Such opinions possess especial weight and the strongest presumption of impartiality when they are opposed to the interests of the jurisconsult's own consulting state; their importance is so much the less in the opposite case.—5. In view of the deficiency of international law in positive provisions, the writings of jurists enjoy great authority in it. Statesmen gladly consider themselves bound by what they find in them. Not for the reason that the writers of such works are absolutely better versed in the matter than statesmen. But the individual case interwoven with a great many interests, which it is incumbent on the statesman to decide, makes him easily prejudiced and one-sided, and hence it is essential to justice and impartiality to listen to the voice of those who, unprejudicedly engaged in the cultivation of science, endeavor only to give expression to the truth. The weight of the decisions of jurists is increased when the writers of different, or, better yet, of all civilized nations, agree, so that it may be said we have in such opinions the harmonious testimony of nations.—International customary or unwritten law can, in general, be drawn only from the writings of jurists, who here appear not as mere theorizers, but as witnesses to historical facts. We here distinguish international customs and international observances. International customs are recognized by certain uniformly recurring facts, in which a permanent consciousness of the legally right, one

common to all nations; finds expression. The simple recurrence of the merely external facts is not decisive here. Proof is necessary that the reason of the recurrence is, in very deed, in an unchanging consciousness of nations of the right. By observances are meant the merely external formal usage, not the shaping of the forms of international intercourse, which has no essential necessity in it. They may for the most part be insisted on as real rights, as law, but they are not law absolutely, but only because of usage. A great part of international ceremonial law is based on such merely external usages; little of it depends on agreement, and hence much of it is controverted. — When jurists speak not as witnesses to the historical international law, but as theorizers, their theories must be carefully examined, and subjective views must be distinguished from objective truths by independent investigation. Every theoretical proposition, however, which is nothing but an inference from a principle already recognized as a principle of international law, has an unqualified claim to being in force; and the art of the theoretic improvement of international law consists mainly in this, to grasp such principles and render them productive of others. — IV. *Literature.* What we have to say here on the literature of international law may be considered, in a measure, as the continuation of what we have said above on its history. — The theory of international law has been developed since the reformation. That theory received its first powerful impulse from the reformation which, for the first time in the world's history, made self-dependent states possible, and with the principle of intellectual freedom smoothed the path of political freedom. (Mart. Huebneri, *Orat. de immortalibus Mart. Lutheri in imperia meritis*, Hafn., 1761; Creuzer, *Luther und Hugo Grotius*, Heidelberg, 1846.) — At first international law was treated as a part of the law of nature, because writers confounded the Roman meaning of the *jus gentium* with its modern meaning. Thus, Oldendorp, *Juris naturalis, gentium et civilis isagoge*, Coloniæ, 1537; also Hemming, *De lege naturæ methodus apodictica*, 1550; finally, Winckler, *Principiorum juris libri quinque*, Lipsiæ, 1615. Besides these predecessors of Grotius, the father of the science of international law, we must also mention Albericus Gentilis, who was born in 1551 in Ancona. He was obliged to take refuge in England because of his Protestant opinions, and died in Oxford in 1611. He wrote his *De legationibus* in 1585; in 1588, his *De jure belli;* and in 1590, *De justitia bellica*. From the relationship existing between his ideas and the resemblance of the subdivisions of his work, and even the titles of his chapters, to those of Grotius, it has been assumed that Grotius drew much from him. (The history of the literature of international law has been written by De Val, *Inleiding tot de Wetenschap van het europesche Volkenregt*, Gron., 1835; Kaltenborn, *Kritik des Völkerrechts nach dem jetzigen Standpunkte der Wissenschaft*, Leipzig, 1847; Robert Mohl, *Geschichte und Literatur der Staatswissenschaften*, 1855. A comprehensive history of the literature of international law may be found in Henry Wheaton's *Histoire du droit des gens*, 4th ed., 1870. Among the precursors of Grotius, the Spaniard Suarez (1538–1617) should not be forgotten. He wrote *De legibus ac de legislatore.* Compare Kaltenborn, *Die Vorläufer des Grotius*, Halle, 1848.) — Grotius, however, is the first who accomplished anything of importance in international law. — When the Spaniards demanded of the Netherlands, which had become independent, that they should no longer continue to carry on their trade with India, Grotius composed, in 1609, his *Mare liberum, seu de jure quod Batavis competit ad indica commercia*, Lugd. Bat. Subsequently, having fled to Paris, he there wrote his masterpiece, *De jure belli ac pacis*, 1625, in which we find a frequent admixture of views pertaining to natural law and to international law, although it is very evident it was Grotius' intention to give the world not natural law but international law, in the modern sense of the term. The influence of the work was very great, for it was permeated with the spirit of Christianity and humanity, while it opposed to the system of machiavelism only the simple fundamental principles of right. Gustavus Adolphus carried it always with him. All diplomates of the period immediately following Grotius referred to it as they would to a book of statutory law. It will live forever as the first work on international law. (Hartenstein, *Darstellung der Rechtsphilosophie des Hugo Grotius*, in the *Abhandlungen der philosophisch-historischen Klasse der k. sächs. Gesellschaft der Wissenschaften*, Leipzig, 1850; Van Hagendorp, *Commentatio de juris gentium studio in patria nostra*, Dorpat, 1858. Commentaries on, selections from, and translations of, Grotius' work have appeared in great numbers and increased its influence.) — The Englishman, John Selden, contested Grotius' views drawn purely from natural right, in his *De jure naturali et gentium, juxta disciplinam Ebræorum*, 1629. He met Grotius' *Mare liberum* with his *Mare clausum.* — A loftier position was taken by the Englishman, Richard Zouchy (*Zouchæus*). He was the first to write a text book on international law, which he did under the title: *Juris et judicii fecialis, sive juris inter gentes, et quæstionum de eodem explicatio*, Lugd., Bat., 1651. — Pufendorf, the first teacher of natural law at Heidelberg, and later at Lund (born 1631, died 1694), starts out with the view that the doctrines of natural law and of international law are identical; that is, that certain same principles applied to individuals constitute natural law, and that applied to states and nations they constitute international law. He here follows Hobbes *De Cive*, cap. xiv., § 4. He denies international law on the whole the character of positive law. His *Jus naturæ et gentium* appeared first in 1672, and an improved edition in 1684. He found an adherent in Christian Thomasius, who, born in 1655, was professor at Halle, and died in 1728, a man who

denied all positiveness to international law, for the reason that there is no legislative power over states. — In opposition to this tendency in the direction of natural law, we find others insisting on the positive character of international law. Thus, Samuel Rachel (1628–1691) professor in Halberstadt and afterward in Kiel, and ambassador at the peace congress at Nimwegen; also Wolfgang Textor, who was born in 1637, was professor at Altdorf and Heidelberg, and died as protosyndic in Frankfurt in 1701. Rachel wrote *De jure naturæ et gentium dissertationes duæ*, 1676, and Textor a *Synopsis juris gentium*, 1680. — Christian Wolff, who was born in Breslau in 1679, and died as chancellor of the university of Halle, in 1754, applied his notoriously stiff mathematical method even to international law. And so he composed his extensive work *Jus gentium methodo scientifica pertractatum*, 1749, and in 1754 issued an abridgment of it under the title *Institutiones juris naturæ et gentium*. He did much to systematize international law. He considered that nations and states stood in the same relation to one another as the members of the same body. He called the legal community of all nations and states a *civitas maxima*. By so doing, he—it matters not how much he dwelt on the independence of states—almost transformed the free community of states into the unfree unity of one universal state. (Wheaton, *Histoire*, 1853, tome i , p.227; Kaltenborn, *Kritik*, pp. 66, etc.; T. Rutherforth, "Institutes of Natural Laws, being the substance of a course of Lectures on Grotius' *De jure belli ac pacis*," Lond , 1754 See also, Burlamaqui, whose *Principes du droit de la nature et des gens* appeared originally in 1766, etc., in eight volumes; and Gérard de Rayneval, whose *Institutions du droit de la nature et des gens* was published in 1832, and a new edition in Paris in 1851.) — Wolff 's celebrated follower, Vattel, who was born in 1714 and died in 1767, selected the best of his master's ideas on international law and accepted Wolff's principles and definitions. Yet he could rightly claim that his work was very different from Wolff's. It has had, and still has, great weight. His *Droit des gens* appeared (1st edition) at Leyden in 1758; the second at the same place in the same year. The last edition, in three volumes, appeared in 1863. — Johann Jacob Moser shows too great a contempt for philosophy in international law, but, on the other hand, furnishes us with a vast amount of philosophical matter, and thus supplies the theory of international law with a sure, positive foundation. It is to be regretted that he takes into consideration almost exclusively the historical events of comparatively recent times, instead of following the positive principles of international law in their gradual growth. Of the writings on international law produced by him during his literary career of nearly fifty years (1732–81), we must mention: *Grundsatze des jetzt üblichen Europ. Völkerrecht in Friedenszeiten*, 1750; *Grundsätze des jetz üblichen Europ. Volkerrecht in Kriegszeiten*, 1752; *Erste Grundlehren des jetzigen Europ. Völkerrecht in Friedens-und Kriegszeiten*, 1778; *Versuch des neuesten Europ. Völkerrecht in Friedens-und Kriegszeiten, vornhmlich aus der Staatshandlungen der Europäischen Mächte, auch anderen Begebenheiten, so sich seit dem Tode Kaisers Karl VI.*, 1740; *zugetragen haben*, in ten parts, 1777–80; and, lastly, *Beiträge zu dem neuesten europ Völkerrecht in Friedenszeiten*, in five parts, 1778–80. — Efforts were now made to systematize international law from the positive material collected, although the "systems" thus formed continued to have a very arbitrary, capricious character. (Compare Kaltenborn, *Kritik des Völkerrechts*, pp. 103, etc.) — R. G. Gunther, a Saxon, who had published, in 1777, an anonymous work on the outlines of international law, composed a work: *Europäisches Völkerrecht in Friedenszeiten, nach Vernunft, Verträgen und Herkommen, mit Anwendung auf die deutschen Reichsstände*, part i., 1787; part ii., 1792. K. H. von Römer denied the existence of a general European international law, and sought to give an exposition of German international law. He, in this work, mixed up the relations of the German princes to the emperor, and thus produced a compound of German public law and international law in his book, *Das Völkerrecht der Deutschen*, 1789. Friedrich von Martins is the most noted representative of this capriciously systematizing school of international law. — Kant treated of international law at the end of his *Rechtslehre*, which appeared for the first time in 1797. Kant does not hold strictly to the distinction between international public law and international private law, a distinction which he evidently conceived from the separation of international law proper from cosmopolite law. He starts out with the fiction of natural law, of a state of nature, both of individuals and nations. This state is a state of war, of club-law, a state which must be done away with, and, in the domain of international law, done away with by a confederation of states created to ward off attacks from without. But a universal confederation of states, embracing all nations, is impossible. A multiplicity of confederations existing, there again arises for these, in their relations with one another, a state of nature and a possibility of war. Hence the unattainableness of perpetual peace. But an approximation to perpetual peace may be made by unions of individual states effected to maintain peace among themselves. This subject is treated more fully in Kant's *Zum ewigen Frieden*. By "cosmopolite law" Kant understands simply the right of every man to have intercourse with all the nations of the earth. (*Sich jedem Volke des Erdballs zum Verkehre anzubieten.*) — Among German Kantists in international law we must mention Pölitz and the elder Zachariä. Pölitz, who was born in 1772 and died in 1834, a professor in Leipzig, devotes much space to international law in his *Staatswissenscheften im Lichte unserer Zeit*. Karl Salomo Zachariä (born 1769, died 1843), professor in Heidelberg, treats of international law in his

Vierzig Bücher vom Staate, vol. iv. He works out Kant's idea of a confederation of states for the prevention of war still farther, and gives the notion of cosmopolite right or law more substance. — An exhaustive disquisition on international law from the Kantian standpoint was furnished by Baroli, professor of philosophy in Pavia, in the fifth and sixth volumes of his *Diritto naturale*, i.–vi., Cremona, 1837. Of inferior importance is what Tolomei says of international law in his *Corso elementare di diritto naturale*, i.–iii, Padua, 1848.—Johann Gotlieb Fichte published an outline of international and cosmopolite law, as a second appendix to his work on natural law which appeared, 1796–7, in two volumes. He follows Kant rather closely, but exposes his doctrines in strictly methodical connection, while on international law we find only detached sentences in Kant. — The most recent period in the science of law, especially on the continent of Europe, is characterized by a tendency in the direction of the removal of the former enmity between philosophy and history, a direction which found expression in Hegel. Modern authors of works on international law, without being fully conscious and clear that they have been moving in this same direction, take into consideration both the positive and the philosophic-theoretical, which is connected with, is based upon, and frequently transcends, the positive. And when we see some writers treat mainly of the philosophical in international law, simply acknowledging the value of the historical; and others again bestowing their industry chiefly on the historical, and relegating the philosophical to a secondary place; we must seek the explanation of the fact, not so much in a difference of standpoint of the two classes of writers, as in a difference in their intellectual peculiarities and endowments. — We here give a list of the chief treatises of international law.—Americans: Henry Wheaton, *Elements of International Law*, 2 vols., 1836; 2d ed., annotated by W. B. Lawrence, 1863; 8th ed., by Dana, Boston, 1866; W. H. Halleck, *International Law, or Rules Regulating the Intercourse of States in Peace or War*, San Francisco, 1861; Theodore D. Woolsey, *Introduction to the Study of International Law*, 4th ed, New York, 1875; Kent, *Commentaries on International Law, revised, with Notes and Cases brought down to the present time*, by Abdy, Cambridge, 1866.—Englishmen: Oke Manning, *Commentaries on the Law of Nations*, 1839; new edition by Sheldon Amos, 1875; Wildham, *Institutes of International Law*, 1849; Polson, *Principles of the Law of Nations*, 1854; Travers Twiss, *The Law of Nations considered as Independent Political Communities*, 2d ed., 1875; Sir Robert Phillimore, *Commentaries on International Law*, 3 vols. (vol. 4 is devoted to private international law), 2d. ed., 1871. —Germans: Heffter, *Das Europäische Völkerrecht der Gegenwart auf den bisheregen Grundlagen*, 5th ed., 1867, Oppenheim, *System des Völkerrechts*, 2d ed., 1866; de Martens, *Précis du droit des gens modernes de l'Europe augmenté des notes de Pinheiro-Ferreira par Ch. Vergé*, Paris, 1864; Huhn, *Völkerrecht, volksthümbliche Darstellung*, 1864; Bulmerincq, *Die Systematik des Volkerrechts*, 1 *Th.*, *Kritik der Ausführungen und Forschungen zu Gunsten der Systematisirung des positiven Völkerrechts*, Dorpat, 1858; Bulmerincq, *De Natura principiorum juris inter gentes positivi*, 1856; Pözl, *Grundriss zu Vorlesungen über Europäisches Völkerrecht;* 1852; Mohl, *Encyclopädie der Staatswissenschaften*, 2d ed., 1872, pp. 402, etc.—Frenchmen: de Rayneval, *Institutions du droit de la nature et des gens*, 2d ed., 1832.—Italians: Romagnosi *Introduzione allo studio e diritto pubblico universale*, 1838; Ludovico Casanova, *Lezioni di diritto pubblico internazionale*, 1860, Padova, 1868; Ferrero Gola, *Corso di diritto internazionale privato e marittimo*, Parma, 1866; Carnazzi Amari, *Elementi di diritto internazionale;* Avio, *Saggio di una teorica giuridica dei rapporti internationali;* Fiore, *Nouveau droit international public*, 1869, Mancini, *Diritto internazionale*, 1873.—Spaniards and South Americans: Pando, *Elementos del derecho internacional*, 1843; Riquelme, *Elementos del derecho internacional español*, 1849; Bello, *Principios del derecho internacional*, 2d ed., Paris, 1864; C. Calvo (South American) *Derecho internacional teorico y practico*, 2 vols., 2d ed., 1870. —Portuguese: Paiva, *Elementos do dereito das gentas*, 4th ed., 1857; Pinheiro-Ferreira, *Cours de droit public interne et externe*, Paris, 1830.

K. Brater.

LAW, Natural. (See Fictions.)

LAW, Penal. The historian finds penal law intermingled with all the primitive customs of nations. It is the first sign of the existence of human society. It is in fact impossible to conceive any association, even that of the family, without a principle of order and a sanction. In the first age of civilization its rules are uncertain: founded upon an imperative need of defense, it follows the progress of the manners, customs, prejudices and institutions which it protects. It seems unquestionable, however, that among all uncivilized nations the right of revenge has ever been the first principle of punishment: as they had no social justice, private justice took its place; each one defended himself; the family or clan undertook to make reprisals; the shedding of blood for revenge was allowed without judgment or restriction. The barbarous custom received its first check from religion: murderers or plunderers appeased the divine wrath by expiatory sacrifices, and the priests were consulted about reprisals. Among the Germans it was not lawful to inflict punishment upon a criminal, *nisi sacerdotibus permissum velut deo imperante*. Other moderating influences, no less efficacious, were brought to bear upon men's manners; first, the law of retaliation, the rude expression of a sort of moral justice. We find this formula in Exodus: "An eye for an eye, a tooth for a tooth." The Greek and the Roman laws have preserved traces of its application, consisting of the infliction of

precisely the same injury that had been committed. Thus, while recognizing the law of retaliation, they regulated its application, confined it within fixed bounds, and forbade it to go beyond them. Such was also the object of the compounding of crime, which, like retaliation, recognized the right of personal vengeance, and which authorized the surrender of this right for an amount of money. A Roman law, which Paulus and Aulus-Gellius trace back to the Twelve Tables, declares: *Si membrum rupit, ni cum eo pascit, talio esto.* Compounding of crime, therefore, did away with reprisals, and consequently with retaliation. This custom, which we find in the Hebrew, the Greek and the early Roman laws, reached its greatest development in the German law, which even regulated the amount of compensation to be paid for each species of crime. Its introduction into the final laws of *the fredum* addressed to the judge or chief magistrate of the state, impressed upon compensation a general character; in this we may recognize a first tendency toward the régime which was to substitute public for private penalties, and the action of society for individual action. — The development of a central power favored this tendency among every tribe and nation. It was the duty of this authority, whatever it was, to protect and avenge the injured parties; it took up their quarrel and supported it in its own name; revenge, instead of being personal and private, became general and public. In the early ages, penalties were mild, and consisted in most cases of simple fines. Cicero affirms that Romulus did not establish any other penalties: *multa ditione ovium et boûm, non vi et suppliciis coercebat.* It must, however, be remarked that default of payment of the pecuniary penalty imposed authorized the infliction of corporal punishment, and that the system of compensation and of fines was never extended to the numerous and disinherited class of slaves; these latter were always subjected to the most atrocious punishments. The character of the penalties inflicted, however, was soon changed; they gradually became a means of power and revenge in the hands of the rulers of nations. The right of *public prosecution* entered into general legislation and was regarded as perfectly legitimate. A threatened state, broken laws, justice itself when outraged, avenged themselves by inflicting punishment. Hence the extravagant nature of these punishments, hence the tortures and torments that have overrun the penal code. The penalty had no limit, because revenge has no limits; man even pretended to avenge the divinity when the guilty acts seemed to have a sacrilegious character, and the punishment of the guilty party became an act of piety. — The manifestations of these excesses of the penal laws were not entirely identical among ancient and among modern nations. At Athens, stoning, crucifixion, burning, whipping with the lash or with rods, were inflicted, even under the laws of Solon, not only for homicide, but for treason, desertion to the enemy, for open theft, for the profanation of the mysteries, and for sacrilege. At Rome the condemned were at times precipitated from the Tarpeian rock, at other times tied up in a bag and cast into the sea, at others burned alive, at others hung upon a cross or delivered to wild beasts; some of these punishments were, however, done away with, to be replaced by the sword and the gibbet, *damnatio ad gladium et ad furcam.* In the middle ages this severity was increased still more: men's manners had become rude, acts of violence were habitual, disorders frequent, wars continual; penalties to be effective must needs be severe. Atrocious punishments were invented; death did not suffice to satisfy the vengeance of the social power. The condemned were quartered, their flesh was torn off with red hot pincers, they were burned alive, cut to pieces, tied to the heels of untamed horses, pierced with pointed sticks, buried alive, plunged into boiling oil, shut up in iron cages, or had melted lead or pitch poured over them. It seemed that men could only be restrained by punishments equal in violence to the violent acts which they committed The laws described all these punishments with a sort of complaisance. In France the death penalty was inflicted in one hundred and fifteen cases, and the crimes which escaped capital punishment entailed the mutilation of a member, burning with a red hot iron, splitting the lip or tongue, branding, and all the refinements of torture which an ingenious cruelty could devise. The object of all these penalties, which the laws decreed, was, as we have already said, public vengeance; the effect they aimed to procure, intimidation. The legislators, therefore, were restrained by no obstacle nor remorse: they proposed to themselves, as their aim, to avenge the divinity, society and individuals, and, as the result of their enactments, to restrain the rudeness of manners by fear. — It was not until the nineteenth century that the first ideas of reform acquired any strength. Montesquieu limited himself to establishing the principle of moderation in punishments and to pointing out the close connection between penal laws and political institutions. Vattel and Rousseau, Locke and Thomas Hobbes went further: they sought for the foundation of penal law, and thus began to destroy the old edifice of legislation. But it was really overturned only by Beccaria. The little book which he published in 1766, a sort of pamphlet, entitled, "Of Crimes and Penalties," met with immense success, and brought before the bar of public opinion, which it had transported with enthusiasm, the highest questions of penal law. It is not a scientific work: it is a few pages written with rare good sense and under the impulse of a profound sentiment of justice and humanity. The author proposed to himself to introduce moderation into the penal laws, and to defend the rights of mankind in the persons of the accused. It exercised an immense influence; its doctrines, developed in a host of writings, acquired incredible power. Penal legislation was partially reformed

in France even before the meeting of the constituent assembly. The codes of Dec. 25, 1791, of the third Brumaire of the fourth year of the republic, and of Jan. 1, 1811, did nothing but confirm the doctrines of the eighteenth century, although restraining and curtailing them. — What is the principle of penal law? We have just seen that until quite recently most penal legislation, after having abolished private vengeance, considered as the fundamental principle of penal justice a right to prosecution by the state, for the general good. The publicists of the eighteenth century tried to substitute for this principle, which justified every excess, the principle of lawful defense restricted within the limits of common utility Beccaria, Feuerbach, Carmignani, and even Bentham, professed, with differences more or less marked, this doctrine which has for its point of departure the separation of divine and human justice. According to Kant, who is the leading doctor of this school, penal law has the right to punish only what is bad; what is contrary to moral law, what is unjust. It punishes because the guilty one has deserved the punishment, and because chastisement is only a means, and a manifestation of expiation. This doctrine, which has been accepted by a great many German publicists, was propagated in France by Guizot, de Brogli and Rossi, who, however, thought it incumbent upon them to place side by side with the moral law and as a further condition of the penal law, the interest of social order, and that which is of use to society. These are the principal systems known to science; we omit a great number of mixed theories which it would take too long to analyze. — Among all these theories, where are we to find the truth? Is it true that moral justice and human justice have a common origin? Is it true they both have the same mission to fulfill, although using different means and acting in different spheres? No; for what moral justice exacts is the expiation of the fault, that is to say, retribution made for the fault committed by the evil inflicted. Is this the mission of social justice? Has it been delegated by eternal justice to enforce its laws? Has it the power to exact the expiation of crime? It has not even the means of proving that expiation has been made, for its vision is short, and its means of ascertaining truth are limited. It can not enter the conscience of the guilty party, it can not see his motives or his remorse, it can measure neither the degree of the fault nor the degree of expiation, it apprehends the external facts alone; how then, since it can not determine absolute criminality, can it act the part of divine justice? It proceeds against material acts, with the aid of material means; the exalted but mystic view of expiation does not belong to it; this view is that of the human soul, it can not be that of society. — The principle of action which should govern society is to be found in the law of self-preservation inherent in it. This law, which is the first of all human laws, obliges the social power to maintain order, that is, to secure respect for the rights of the state, and the rights of its members. Penal justice exists because society exists, because it is one of the attributes, one of the conditions of its life. It needs no other title; its legitimacy rests entirely on social law. Is the right which it exercises the right of self-defense? If we take this word in its ordinary acceptation, no; if it be taken in the sense in which we understand it, that is, as the right of adopting the general measures necessary for the common defense of the rights of all, for the preservation of the state, it is. Penal justice admits the moral law, not as the source from which it emanates, but as a condition and a limit of its accusations and its penalties. Its mission is not to give a sanction to this divine law, and enforce the observance of its precepts. It concerns itself, and can only concern itself, with public order and social interests; it can have no other object than to maintain this order and protect its interests. Chastisement, as has been very truly said, has no right except against crime; but to constitute crime in the eyes of human justice, it does not suffice that moral order is disturbed; it is necessary that there should be a grievous attack upon social order, a serious breach of external peace. — There flow from this fundamental principle two corollaries: the first is, that society has the right to forbid and to punish whatever is injurious or guilty, or of such a nature as the law ought to repress. Social danger, moral criminality and penal efficacy are the three conditions of penal justice. The second is, that the law, when punishing the acts which offend against both the social and the moral order, should confine its action to this class of acts, and can not go beyond this without infringing upon the rights of individuals. It may be laid down in general that the right of social power is to require the fulfillment of the conditions essential to its preservation; its duty is to insure the moral and material development of mankind. The right of the individual is freely to employ his activity, his intelligence and his liberty; his duty is to offer no obstacle to the exercise of the collective action of the rights of society. It is in endeavoring to reconcile these rights and these obligations that penal law must establish the grounds and limits of its accusations and penalties. — Here there arise two questions: What actions should be considered criminal? In what cases can the authors of these punishable actions be considered responsible? We shall not dwell upon the first of these questions: to examine it in all its details would carry us too far from our subject. The legislator has the right to restrain all immoral acts which threaten the security of the state and of individuals, provided the offense be grave, and be manifested by an appreciable external act. The second question constitutes what, in penal law, is called accountability. The guilt of the authors of a crime or of an offense is modified by the circumstances which accompanied the act. Their criminality is lessened

if the previous life of the culprit has been pure, if he acted only under the impulse of want or passion, or if he shows repentance or remorse; it is lessened still more if he was provoked by a violent outrage, if he can plead the weakness of childhood, or the feebleness of old age, finally, it is entirely removed if he merely made use of the right of self-defense. — In French law, extenuating circumstances, which that law has not defined and will not define, are all facts that lessen criminality: weakness of intellect, lack of education, bad example at home, the instantaneousness of the action, poverty, ignorance, suffering; the declaration of these circumstances and the appreciation given them by penal law, form one of the most precious conquests of French modern legislation. The judge has acquired the power to be just, for he can proportion the punishment to the gravity of the offense. Excuses, like extenuating circumstances, do not exclude penal accountability, they merely lessen it and efface it in part; they may reduce the penalty to its smallest limit, but they do not remove culpability entirely. Justifying facts exclude all criminal intention; they establish the innocence of the accused, they do away with all infliction of punishment: such are insanity, actual necessity of self-defense, the proving of an *alibi* by the accused, and constraint. Under certain circumstances the motives of excuse and the motives of justification work the same effect. Thus the child that acts without knowledge is justified, because it has no criminal intention; if, on the contrary, it act knowingly, it is merely excused on account of its tender age. FAUSTIN HÉLIE.

LAW, Roman. This general title is used to express the collection of the principles of law that were in force among the Roman people, and, more especially, the collection of laws published by Justinian, which constitutes the last stage of Roman law. Before reaching this stage, Roman law, considered in itself, without any regard to events, passed through four periods. The first period extends from the foundation of Rome to the law of the Twelve Tables (year of Rome 1 to 300). This is the period of its birth. The second period is from the law of the Twelve Tables to Cicero (350 to 600). The contentious disposition early exhibited by the Romans gave to the law an importance which increased daily. The third period, from Cicero to Alexander Severus, includes the space between the year of Rome 650 and the year of Rome 1000. This is the epoch of its maturity and perfection. While the Roman arms extend the rule of its laws over the greater part of the known world, the science of law is carried to a high degree of perfection by the eminent minds that devote themselves to it. Their rare talent marvelously improves and fertilizes the naturally ungrateful and sterile soil of primitive law. The fourth period extends from Alexander Severus to Justinian. This is the period of its decadence. To the spirit of ingenious but rigorous deduction, and to the learning which produced great jurists, there succeeded, in practice, the rule of citations, in science, the more laborious than fruitful work of compilers and abbreviators. At last the number and contradictory teachings of the works of jurisprudence produced confusion and obscurity. To remedy this evil and render the study and application of law less difficult, Justinian caused to be compiled, abbreviated and codified all that was worthy of preservation in the old law. This task, which was accomplished by John, Tribonius, Theophiles and other jurists, produced: first, the Digest, a collection of the decisions delivered by the most esteemed jurists (533 B.C.); second, the Institutes, an abridged treatise for the use of students, presenting in a short course the principles and definitions of law; third, two lessons on the Code (527 and 534), devoted to the imperial constitutions. These three works, each of which received the force of law, together with a certain number of later imperial constitutions (the new or authentic constitutions), form what was styled the *corpus juris civilis*. Under this form, which certainly is not its best form, the Roman law has outlived Roman domination, preserved its sway even over nations which had escaped this domination, exerted its influence over all European legislation, and still exists and is obeyed or consulted, either as positive law or as written reason, among most of the nations of modern times.

GASTON DE BOURGE.

LAW, Spoliation by. What is law? It is the collective organization of the individual right of legitimate defense. Every man certainly has received from nature, from God, the right to defend his person, his liberty and his property, since these are the three constitutive or conservative elements of life, elements which complement one another, and which can not be understood, one without the other. For what are our faculties but an extension of our personality? And what is property but an extension of our faculties? If every man has the right to defend, even by force, his person, his liberty and his property, a number of men have the right to concert together, to agree and to organize a common force in order to provide regularly for this defense. The collective right has its principle, and its reason of being, and bases its legitimacy upon the individual right, and the common force can not legitimately have any other end or any other mission than the isolated forces for which it is substituted. Thus, as an individual can not legitimately make any forcible attempt against the person, liberty or property of another individual, so, for the same reason, a community can not legitimately make use of force to destroy the person, liberty or property of individuals or of classes. For this perversion of force would be, in the latter case, as well as in the former, in contradiction to our premises. Who will dare to say that we have been gifted with strength, not

to defend our rights, but to destroy the equal rights of our fellow-men? And if this is not true of the force of each individual, when acting alone, how can it be true of the collective force, which is but the organized union of individual force? The following proposition, therefore, is a most plainly evident truth: law is the organization of the natural right of legitimate defense; it is the substitution of collective force for the force of individuals, to act in the circle in which these latter have the right to act, to do what these latter have the right to do, to guarantee life, liberty and property, to maintain every one in his rights, to mete out *justice* to all. — Unfortunately, the law has not confined itself to playing its part. Nor has it erred simply by the adoption of neutral views or of views open to discussion. It has done worse than this; it has acted contrary to its end; it has destroyed the very object of its existence; it has endeavored to abolish that very justice whose reign it ought to inaugurate, to blot out that limitation of different rights which it was its mission to cause to be respected; it has put the force of the community at the service of those who wish to turn to their own advantage, without risk or scruple, the person, the liberty or the property of others; it has turned spoliation into a right, in order to protect it, and has made legitimate defense a crime, in order to punish it. How has this perversion of law been accomplished? What have been the consequences of it? Two very different causes have led to this perversion of law: ignorant egoism and false philanthropy. Let us consider the first of these causes. — So truly are self-preservation and development the common aspiration of all men, that, if all enjoyed the free exercise of their faculties and the free disposal of their products, social progress would be incessant, uninterrupted and unfailing. But there is another disposition which all men possess in common. This is the disposition to live and develop, one at the expense of another. This is not a bold imputation, prompted by a peevish and croaking spirit. History bears testimony to its truth by the incessant wars, the migrations of nations, by priestly oppression, the universality of slavery, and the industrial frauds and monopolies with which its annals are filled. This unfortunate disposition springs from the very constitution of man, from that primitive, universal and invincible sentiment which impels him to seek happiness and fly from pain. Man can live and enjoy only by assimilation, by a perpetual appropriation, that is, by a perpetual application of his faculties to things, or by labor. This is the source of the right of property. But he may, in fact, live and enjoy by assimilating and appropriating to himself the product of his neighbor's faculties. Hence spoliation. Now, as labor is itself a pain, and man is naturally inclined to avoid pain, it follows, and history serves to prove it, that spoliation prevails wherever it is less burdensome than labor; and so prevails that neither religion nor morality is able to prevent it. When, therefore, may we expect an end of spoliation? When it becomes more burdensome and more dangerous than labor. — It is very evident that the aim of the law should be to oppose the power of collective force to this lamentable tendency, and side with property against spoliation. But the law is generally made by a man or a class of men. And, as law can not exist without a sanction, without the support of a preponderating force, this force must of necessity be ultimately placed in the hands of those who make the laws. This inevitable phenomenon, and the unfortunate disposition which we have shown to exist in the heart of man, serve to explain the almost universal perversion of law It may readily be conceived how, instead of acting as a restraint upon injustice, it becomes its most irresistible instrument. It may readily be conceived that, according to the power of the legislator, it destroys for his profit and in different degrees the personality of other men by slavery, their liberty by oppression, and their property by spoliation. It is in the nature of man to rebel when made the victim of iniquity. When, therefore, spoliation is organized by law for the benefit of the lawmakers, all the classes despoiled endeavor, either by peaceful or by revolutionary means, to have some share in the making of the laws. These classes, according to the degree of enlightenment which they have reached, may be actuated by one of two very different motives in thus aiming to acquire their political rights: either they desire to put an end to legal spoliation, or they aspire to a share in it. Unhappy, thrice unhappy, the nations in which this latter thought prevails among the masses when they, in their turn, possess themselves of the legislative power! — Hitherto legal spoliation has been practiced by the few on the many, so that it was to be found only among nations in which the right to legislate was concentrated in the hands of a few men. But it has now become universal, and an equilibrium is sought for in universal spoliation! Instead of weeding out the injustice which society contained, men are making this injustice more general. As soon as the disinherited classes recover their political rights, the first thought which possesses them is, not to free themselves from spoliation, (this would suppose in them an enlightenment which they do not possess), but to organize against the other classes, and to their own detriment, a system of reprisals, as if such conduct must not, even before the beginning of the reign of justice, bring down a cruel retribution upon them all—on the one class because of their iniquity, and on the other because of their ignorance. It would be impossible to introduce a greater change or a greater misfortune than this conversion of the law into an instrument of spoliation. What are the consequences of such a disturbance? It would require volumes to describe them all. We shall merely indicate the most striking ones. — First, it effaces from the conscience the idea of justice and injustice.

No society can exist in which there is not some degree of respect for the laws; but the surest way to have the laws respected is to make them respectable. When the law and morality are opposed to each other, the citizen finds himself placed in the cruel alternative of sacrificing either his ideas of morality or his respect for the law: two evils, the one as great as the other, and between which it is difficult to choose. It is so much the nature of law to cause justice to reign, that law and justice are one and the same thing in the opinion of the masses. We are all strongly disposed to regard what is legal as legitimate, so much so that there are many who falsely derive all justice from law. It suffices, therefore, that the law ordains and sanctions spoliation to make it appear just and sacred to the consciences of many. Slavery, constraint and monopoly find defenders not only in those who profit by them, but also among those who suffer from them. If you undertake to propose any doubts as to the morality of these institutions, you will be called a dangerous innovator, a utopian, a theorist, a contemner of the laws; you will be told that you are disturbing the foundation upon which society rests. So that, if there exist a law which sanctions slavery or monopoly, oppression or spoliation under any form, it will not even be necessary to speak of it; for how shall we speak of it without lessening the respect which it inspires? Moreover, it will be necessary to teach morality and political economy in keeping with this law, that is, upon the supposition that whatever is law is, for that reason alone, just. — Is there any need to prove that this odious perversion of law is a perpetual cause of hatred and discord, leading even to social disorganization? Let us look at the United States. Here, of all the countries of the world, the law most strictly adheres to its proper rôle, which is, to guarantee to every one his liberty and property. Hence it is, of all the countries of the world, that in which social order seems to rest upon the most solid basis. Still, in these United States, there are two questions, and only two, which have several times imperiled political order. And what are these two questions? Slavery and the tariff, that is to say, precisely the only two questions in which the law, contrary to the general spirit of this republic, assumed the character of a despoiler. Slavery is a violation of personal rights sanctioned by law. Protection is a violation of the right of property, perpetrated by law; and it is certainly very remarkable that, in the midst of so many other questions of debate, this double *legal scourge*, the sad heritage of the old world, is the only one that may possibly threaten to lead to the dissolution of the Union. In fact, we can not imagine any greater misfortune than *the law made an instrument of injustice.* And if this fact engendered such dreadful consequences in the United States, where it was only of exceptional occurrence, what must it not produce in Europe, where it is a principle and a system?— "We should make war upon socialism," said Montalembert, borrowing the thought of a famous proclamation of Carlier, "with law, honor and justice." But Montalembert fails to perceive that he places himself in a vicious circle. He would oppose law to socialism. But law is the very power which socialism appeals to. It does not aim at extra-legal but at legal spoliation. It pretends, like monopolists of every class, to use the law as an instrument to accomplish its ends; and once it has the law on its side, how can you turn the law against it? How can you try, convict or imprison its followers? You wish to exclude socialism from all share in the framing of the laws. You wish to keep it out of the legislative halls. I dare predict that you will never succeed in this so long as the laws enacted within these halls acknowledge the principle of legal spoliation. It is too unjust and too absurd.— This question of legal spoliation must be solved, and there are only three solutions of it: Let the few despoil the many; let every man despoil every other man; let no one despoil any one. We must choose between partial spoliation, universal spoliation, and no spoliation; the law can achieve but one of these three results. *Partial spoliation.* This system prevailed as long as the right of election was *partial*, and men are returning to it in order to escape the invasion of socialism. *Universal spoliation* is the system with which France was threatened when the electoral right became universal; the masses conceived the idea of legislating upon the principle of the legislators who preceded them. *No spoliation* is the principle of peace, order, stability, reconciliation and good sense, which I shall proclaim with all the strength of my poor lungs to my very last breath And can we honestly ask anything more of the law? Can the law, which has force for its necessary sanction, be reasonably employed for any other purpose than to preserve every one in his rights? I defy any one to employ the law for any other purpose without perverting it, and consequently without turning force against right. And as this is the most lamentable and most illogical social disturbance that can be imagined, it will be well to recognize that the true solution of this social problem, so much sought after, is to be found in these simple words: *Law is organized justice.* — Now, let us mark well that to organize justice by law, that is by force, excludes the idea of organizing by law or by force any manifestation whatever of human activity: labor, charity, agriculture, commerce, industry, education, the fine arts, or religion; for it is impossible for one of these secondary organizations not to destroy the essential organization. How, in fact, can we imagine force encroaching upon the liberty of citizens without assailing justice, without acting against its own end? I am now attacking the most popular prejudice of our time. This prejudice not only wishes the law to be just; it wishes it also to be philanthropic. It does not consider it sufficient that the law should guarantee each citizen the full and unrestricted exercise of his

faculties applied to his physical, intellectual and moral development; it requires that the law directly diffuse prosperity, education and morality. This is the seductive side of socialism. The socialists say to us: since the law organizes justice, why should it not organize labor, education and religion? Why? Because it could not organize labor, education and religion without disorganizing justice. Notice, therefore, that law is force, and that consequently the domain of law can not legitimately go beyond the lawful domain of force. When law and force keep a man within the bounds of justice, they do not impose upon him anything but a negation They merely require him to abstain from injuring others. They attack neither his person, his liberty, nor his property. They merely protect the person, liberty and property of others. They stand upon the defensive; they defend the equal right of all. They fulfill a mission, whose harmlessness is evident, whose utility is palpable, and whose lawfulness is incontestable. This is as true as if one of my friends were to observe to me that to say that *the object of law is to cause justice to reign*, is to use an expression which is not rigorously exact. We should say *the object of law is to prevent injustice from reigning*. In fact, justice has no existence of its own, it is injustice that exists. The one results from the absence of the other. But when the law—through the medium of its necessary agent, force—imposes a certain kind of labor, a method or manner of education, a form of faith or manner of worship, upon men, it does not act negatively, but positively. It substitutes the will of the legislator for their will, the initiative of the legislator for their initiative. They no longer have to reflect, compare or foresee; the law does all this for them. Their intelligence becomes a useless possession; they cease to be men; they lose their personality, their liberty and their property. Imagine, if you can, a form of labor imposed by force, which is not an attempt against liberty; a transfer of wealth imposed by force which is not an attempt against property. If you can not succeed in this, acknowledge that the law can not organize labor and industry without organizing injustice. — When a publicist, from the seclusion of his study, allows his eyes to wander over society, he is struck by the spectacle of the inequality which presents itself to him. He groans over the sufferings which are the lot of so great a number of his brethren, sufferings, the sight of which is rendered still sadder by contrast with surrounding luxury and opulence. He should perhaps ask himself whether the cause of such a social state is not to be found in old spoliations, caused by conquest, and new spoliations caused by the laws. He should ask himself whether, with the aspiration of all men toward happiness and improvement, the reign of justice would not lead to the realization of the greatest activity of progress and the greatest amount of equality compatible with individual responsibility. But his thoughts do not rest here. They run on to combinations, arrangements and organizations, legal or factitious. He seeks the remedy for the evil in the perpetuation and exaggeration of the very thing which produced it. For, besides justice, which as we have seen is really nothing more than a negation, are there any of these legal arrangements which do not include the principle of spoliation? — You say: "Here are men who have no wealth," and appeal to the law to correct the evil. Nothing enters into the public treasury for the benefit of a citizen or a class but what other citizens or other classes have been *forced* to put there. If each one is entitled only to draw from it merely the equivalent of what he has put in, your law, it is true, escapes the imputation of spoliation, but it does nothing for those men who *have no wealth*, it does nothing for equality. It can not be an instrument of equalization unless it take from some to give to others, and then it becomes an instrument of spoliation. Examine, from this point of view, protective tariffs, subsidies, the right to a profit, the right to labor, the right to assistance, the right to education, progressive taxation, gratuitous credit, co operative workshops, and you will always find, at the bottom, legal spoliation and organized injustice. — You say: "Here are men who lack enlightenment," and you appeal to the law for them. But the law is not a torch that sheds its own light afar. It hovers over a society in which there are men who are educated and men who are not; citizens who need to be taught, and others who are able and willing to teach. The law must do one of two things: either it must leave matters of this kind to be performed with entire liberty, it must leave this kind of wants to be freely satisfied; or else it must exercise force over men's wills, and take from some wherewith to pay the professors who are engaged to teach others free of charge. But it can not prevent its conduct in this second case from being an attempt against liberty and property, or, in other words, legal spoliation — You say: "Here are men who are devoid of morality or religion," and appeal to the law. But the law is force, and can there be any need to remark how violent and foolish a proceeding it would be to invoke the aid of force in these matters? — After all its systems and attempts, socialism seems unable to avoid perceiving the monstrosity of legal spoliation. But what does it do? It skillfully disguises it from all eyes, even from its own, under the seductive names of fraternity, solidarity, organization and association. And because we do not ask as much of the law, because we do not exact of it anything but justice, socialists suppose that we reject fraternity, solidarity, organization and association, and jeeringly style us *individualists*. Let us inform them, therefore, that it is not natural but forced organization that we reject; not free association, but the forms of association which socialism pretends to impose upon us; not spontaneous but legal fraternity; not providential but artificial solidarity, which is but an unjust displacement of responsibility.—

Socialism, like the old political system from which it emanates, confounds government and society. And therefore it is, that whenever we do not want a thing done by the government, socialism concludes that we do not want it done at all. We reject education by the state; therefore we do not want education at all. We reject a state religion; therefore we reject all religion. We reject equalization by the state; therefore we do not desire equality, etc. It is as if our socialistic friends were to accuse us of not wishing men to eat, because we do not advocate the cultivation of wheat by the state. How has this whimsical idea been able to gain ground in the political world; this idea which would draw from the law what the law does not contain: good, in the positive sense, riches, science, and religion? — Modern publicists, particularly those of the socialistic school, base their different theories upon one common hypothesis, truly the strangest and proudest hypothesis which could enter into a human brain. They divide mankind into two parts. All the human species, less one individual, form the first part, the publicist himself alone forms the second, and by far the most important part. In fact, they begin by supposing that men have within them neither a principle of action, nor a means of discernment; that they are devoid of initiative; that they are formed of inert matter, of passive molecules, of atoms lacking spontaneity, at most but a vegetation indifferent to its proper mode of existence, capable of receiving from the hand and will of another an infinite number of forms more or less symmetrical, artistic, and more or less perfect. Next, each of them supposes, without any ceremony whatever, that he himself under the names of organizer, revealer, legislator, teacher, or founder, is this will and this hand, this *universum mobile*, this creative power whose sublime mission it is to reunite in society these scattered human materials. Starting from these data, as each gardener trims his trees according to his fancy, in the shape of pyramids, umbrellas, cubes, vases, fruits, distaffs and fans; so every socialist, according to his whim, trims poor humanity in groups, series, centres, subcentres, alveoles, social workshops, harmonic societies, etc., etc. And, just as the gardener has need of hatchets, saws, pruning knives and scissors to regulate the height of his trees, so the publicist, in order to manage his society, needs forces which he can find only in laws: the customs laws, the laws regulating taxes, public charity and education. The socialists, it is true, consider humanity as material for social combinations, so that, if by chance they are not very sure of the success of these combinations, they claim at least a certain portion of mankind as *material for experimentation*. It is well known how popular the idea of *trying all systems* is among them, and one of their leaders even went so far as to ask of the French constituent assembly, in all earnestness, a commune and all its inhabitants to try his system on. It is thus every inventor makes his invention in miniature before making it of full size. It is thus the chemist sacrifices certain re-agents, or the farmer sacrifices some seed and a corner of his field in order to test an idea. But what an incommensurable distance between the gardener and his trees, between the inventor and his invention, between the chemist and his re-agents, between the farmer and his seed! The socialist believes in good faith that the same distance separates him from humanity. — We need not wonder that the publicists of the nineteenth century consider society as an artificial creation, the work of the legislator's genius. This idea, the result of classical education, has swayed all the deep thinkers and all the great writers of France. All of them find between humanity and the legislator the same relations which exist between the clay and the potter. To show how universal this strange disposition of minds has been in France, I should have to copy all of Mably, all of Raynal, all of Rousseau, all of Fénelon, and extensive extracts from Bossuet and Montesquieu. I should, besides, have to reproduce in full the proceedings of the various sittings of the convention. This task I shall leave for my reader to undertake. — One of the strangest phenomena of our times, and one which will, probably, very greatly astonish our grandchildren, is, that the doctrine which is based upon the triple hypothesis of the radical inertness of mankind, the impotence of the law, and the infallibility of the legislator, is the creed of the party that proclaims itself exclusively democratic. It likewise styles itself *social*. Inasmuch as it is democratic, it has an unlimited faith in humanity. By its *socialism* it drags humanity into the mire. — If it be a question of political rights, or of driving out the legislator: oh! then, according to this socialistic doctrine, the people are possessed of infused science, and endowed with admirable tact; *their will is always right, the popular will can never err*. Suffrage can not be too *universal*. No one owes society any guarantee. The will and the capacity to choose wisely are always supposed. Can the people be deceived? Are we not in the age of enlightenment? Shall the people remain forever in tutelage? Have they not acquired their rights by their own labors and sacrifices? Have they not given sufficient proofs of their intelligence and wisdom? Have they not reached their maturity? Are they not capable of judging for themselves? Do they not know their own interests? Will any man or class of men dare claim the right of putting himself in the people's place, and of deciding and acting for them? No; the people wish to be and shall be *free*. They wish to direct their own affairs, and they shall direct them. But the election once over, their tone changes completely. The nation returns to a passive, inert state; to nothingness, in fact; and the legislator assumes omnipotent sway. To him belong invention, direction, power and organization. Mankind have now nothing to do but to let things take their course; the hour of despotism has arrived. And

bear in mind that all this is fatal; for the people, who were but a short time ago so enlightened, so moral, so perfect, have no longer any tendencies, or, if they have any, they all drag them toward degradation. They might be allowed a little liberty; but do you not know that, according to Considérant, *liberty fatally leads to monopoly?* Do you not know that liberty means competition, and that competition, according to Louis Blanc, is *a system of extermination for the people and a cause of ruin to the middle class?* It is for this reason that the more freedom nations enjoy the more complete is their extermination and ruin: witness Switzerland, Holland, England and the United States! Do you not know that, according to Louis Blanc, *competition invariably leads to monopoly, and that, by the same course of reasoning, cheapness leads to exorbitant prices; that competition tends to exhaust the sources of consumption and forces production to an unnatural activity; that competition compels the increase of production and the decrease of consumption?* Whence it follows that free nations produce more than can be consumed, that *they are at the same time given over to oppression and madness,* and that it is absolutely necessary that Louis Blanc have a hand in their government! What liberty can men be allowed to enjoy? Will you give them liberty of conscience? You will soon see them all availing themselves of the permission to become atheists. Liberty of education? But parents will very soon be paying professors to teach their children immorality and error; moreover, if we may believe M. Thiers, if education were left to national liberty, it would cease to be national, and we would bring up our children more after the manner of the Turks or Hindoos, than according to the noble ideas of the Romans, as is now the case. Freedom of labor? Why, freedom of labor means competition, and the result of competition is to leave all products unconsumed, to work the destruction of the people, and to ruin the middle class. Liberty of exchange? But it is a well-known fact that the protectionists have demonstrated to satiety that free exchange is ruinous, and that in order to grow wealthy by means of exchange, a man must exchange without freedom. Freedom of association? But according to the socialistic doctrine, liberty and association are exclusive, one of the other, since the attempt to deprive men of their liberty is merely to force them to association. — Hence it is evident that socialistic democrats can not, in conscience, leave men any liberty, since of their very nature, if these gentlemen do not regulate them, they tend to every species of degradation and demoralization. This being the case, we are at a loss to divine on what ground they can so persistently demand, for these same men, universal suffrage. The pretensions of our socialistic organizers give rise to another question which I have often addressed to them, and to which, as far as I know, they have never offered any reply. Since the natural tendencies of mankind are so evil as to justify their being denied their liberty, how does it come to pass that the tendencies of the organizers are good? Do not legislators and their agents form part of the human race? Are they made of a different clay from the rest of mankind? They say that society, if left to itself, runs headlong to ruin, because its instincts are perverse. They claim for themselves the credit of arresting it in this downward course and guiding it in a better direction. Have they then received from heaven intelligence and virtues which place them outside of and above humanity? If so, let them show their credentials. They wish to be the *shepherds,* while we constitute their *flock.* This arrangement presupposes in them a superior nature, of which, before admitting it, we have very good right to demand the proof. We do not by any means deny them the right of inventing social combinations, of urging and extending their adoption, and of testing them upon themselves at their own expense and risk; we merely deny their right to impose these combinations upon us by means of the law, that is to say, by means of force, and of public contributions. — We ask the *Cabetists, Fourierists, Proudhonians* and the protectionists to renounce, not their special ideas, but the idea, common to all of them, of forcibly subjecting us to their groups and series, their co-operative workshops, their banks to loan money without interest, their Græco-Roman morality, and their commercial restraints. All that we ask is, that they allow us the right to judge of their plans for ourselves, and to decline to take any part in them, either directly or indirectly, if we find that they are prejudicial to our interests or repugnant to our consciences. For to pretend to call in the aid of power and taxation, besides being an act of oppression and spoliation, implies, moreover, the injurious hypothesis of the infallibility of the organizer and the incompetency of mankind And if humanity is incompetent to judge for itself, why do they talk to us of universal suffrage? This contradiction in their ideas has unfortunately been reproduced in historical facts, and, while the French people have surpassed all others in the achievement of their rights, or rather of their political guarantees, they have nevertheless been more ruled, more managed, more governed, more imposed upon, more trammeled, and been made the subject of more experiments, than any other nation on the face of the earth. They are also more exposed to revolutions than any other nation, as they most naturally would be under such circumstances.— Once we adopt this idea, admitted by all French publicists, and which is so forcibly expressed by Louis Blanc when he says, "society receives its impulse from power"; once men consider themselves as sentient but passive beings, incapable of raising themselves by their own knowledge and their own energy to any moral height or to any condition of prosperity, and compelled to expect everything of the law; in a word, when they admit that their relations to the state are those of a flock to its shepherd, it is evident that the re-

sponsibility of the governing power is immense. Good and evil, virtue and vice, equality and inequality, wealth and misery, all flow from it. It is intrusted with everything, it undertakes everything, it does everything; it is therefore respon sible for everything. If we are happy, it, with justice, demands our acknowledgment, but if we are wretched, we have no other recourse than this same governing power. Does it not, in principle, dispose of our persons and our goods? Is not the law omnipotent? In creating the university monopoly in France it has endeavored to respond to the hopes of the fathers of families, who have been deprived of their liberty; and if these hopes are deceived, whose fault is it? In regulating industry, it has undertaken to make it prosper, otherwise it would have been absurd to deprive it of its liberty; and if industry suffers, whose fault is it? In undertaking to regulate the balance of trade by means of the tariff, it has endeavored to bring about commercial prosperity; and if commerce, far from prospering, is really languishing, whose fault is it? In extending its protection to maritime armaments, in exchange for their liberty, it has endeavored to make them a source of income to the state; and if they are in reality a burden, whose fault is it? Thus there is not a single evil in the nation for which the government has not voluntarily rendered itself responsible. Is there any reason to wonder that suffering of every kind is a cause of revolution?—And what is the remedy which our socialistic teachers propose? To extend the domain of the law, that is to say, the responsibility of the government, indefinitely. But if the government undertake to raise and to regulate salaries, and is unable to do it; if it undertake to assist all the unfortunate, and can not do it; if it undertake to furnish shelter to all working men, and can not do it; if it undertake to furnish tools to all mechanics, and can not do it; if it undertake to offer gratuitous credit to all who are in want, and can not do it; if, according to the words which we regret to acknowledge have flowed from the pen of de Lamartine, "the state takes upon itself the mission of enlightening, developing, fortifying, spiritualizing and sanctifying the souls of the people," and fails to fulfill it, is it not evidently more than probable that each of these deceptions must lead to an inevitable revolution?—I now resume my thesis. Directly after the consideration of economic science, and at the very opening of the subject of political science, there arise the questions. What is law? what should it be? what is its domain? what are its limits? and, consequently, what is the limit of the legislator's power? I reply, without hesitation: *Law is the common force organized to oppose injustice;* to be brief, *Law is justice.* It is not true that the legislator has absolute power over our persons and property, since they antedate his elevation to power, and his duty is to strengthen them by every possible guarantee. It is not true that the mission of the law is to direct our consciences, our ideas, our wills, our education, our sentiments, our labors, our exchanges, our gifts, and our enjoyments. Its mission is to prevent one individual from usurping the rights of another in these matters. Law, since it has force for its necessary sanction, can not have any other legitimate domain than the legitimate domain of force, that is, justice. And, as each individual has not the right to resort to force except in case of legitimate defense, collective force, which is nothing more than the union of individual forces, naturally should not be applied to any other end. Law is, therefore, merely the organization of the right pre-existing in each individual, of legitimate self-defense.—Law is justice. So utterly false is the opinion that it can oppress persons, or despoil them of their property, even for a philanthropic purpose, that its mission is to protect them. To say that the law can be at least philanthropic, provided it abstain from all oppression and all spoliation, involves a contradiction. Law can not avoid acting upon our persons and our goods; if it does not protect them, it violates them by the very fact that it acts, from the very fact that it exists.—Law is justice. This is perfectly clear, simple, definite and defined, intelligible to every intellect, visible to every eye; for justice is a fixed, unalterable quantity, which does not admit of *more* or *less*. But once make religious, fraternal, leveling, philanthropic, industrial, literary or artistic laws, and you forthwith cast yourself into the infinite, the uncertain, the unknown; into an enforced utopia, or, what is worse, into a multitude of utopias, vying with each other to take possession of the law and to impose themselves in its place; for fraternity and philanthropy have not, like justice, fixed limits. Where will you stop? Where will the law stop? Some, like de Saint-Cricq, will extend their philanthropy only to certain industrial classes, and will demand of the law that it *dispose of the consumers in favor of the producers.* Others, with Considérant, will champion the cause of the laboring classes, and demand of the law for them, an *assured minimum of wages, clothing, lodging, food, and all the necessaries of life.* A third will say, with Louis Blanc, and justly, that this is but a rude and incomplete brotherhood, and that the law should supply every one with the implements of labor and education. A fourth will tell you that even such an arrangement leaves room for inequality, and that the law should introduce into the most remote hamlets luxury, literature and the arts. You will thus find yourself led to *communism*, or rather legislation will be—as it is already—the battle-field of every idle dream and of every covetous fancy.—Law is justice. When I say this, I refer to a simple and steady government. And I defy any one to show me what could give rise to the thought of a revolution, an insurrection, or a simple riot against a public force which confines itself to the repression of injustice. Under such a government there would be more prosperity, and prosperity would be more equally distributed;

and as to the ills which are inseparable from human nature, no one would think of laying them to the charge of the government, which would have no more to do with them than with the changes in the temperature. Has any one ever seen the people inaugurate an insurrection against the court of appeal, or break into the sanctuary of a justice of the peace to demand the minimum of wages, gratuitous loans, implements of labor, tariff favors, or community of labor? They know full well that these combinations are beyond the power of the judge, and they understand likewise that they are beyond the power of the law. But establish the law upon the principle of fraternity, proclaim that good and evil flow from it, that it is responsible for all individual suffering, and all social inequality, and you open the door to an endless series of complaints, animosities, troubles and revolutions. — Law is justice. And it would be very strange if it could with equity be anything else. Is not justice right? Are not all rights equal? How then could the law interpose to subject me to the social plans of Mimerel, Melun, Thiers, or Louis Blanc, any more than to subject these gentlemen to my plans? Do you not believe that I have received from nature sufficient imagination to invent a utopia also? Is it the duty of the law to choose between so many chimeras and to place the public force at the service of one of them? — Law is justice. Let no one say, as is said incessantly, that the law thus conceived, atheistical, individualistic and heartless, should model humanity after its own image. This is an absurd deduction well worthy of the governmental infatuation which sees humanity in the law. What! Must we cease to act because we are free? Must we be deprived of all power because we do not receive our power from the law? Must our faculties remain inert because the law confines itself to guaranteeing us the free exercise of these faculties? Must we forthwith abandon ourselves to atheism, isolation, ignorance, misery and egoism, because the law does not impose upon us any form of religion, method of association or system of education, or does not establish any process of labor, rule of exchange, or plan of bestowing charity? Must we, on this account, no longer recognize the power and goodness of God, or refuse to associate together, to aid one another, to aid our brethren in distress, to study the secrets of nature, and to aspire to the perfecting of our being? — Law is justice. And under the law of justice, under the rule of right, under the influence of liberty, security, stability and responsibility each man will obtain his full value, and assert the full dignity of his being, and mankind will reach in a calm and orderly manner, slowly but surely, the degree of progress which it is destined to acquire. — It seems to me as though the theory were my own; for, whatever question I submit to my reason, whether it be religious, philosophic, political or economic; whether it refer to prosperity, morality, equality, right, justice, progress, responsibility, solidarity, property, labor, exchange, capital, wages, taxes, population, credit, or government; whatever point of the scientific horizon I take for the point of departure of my researches, I invariably end with this: the solution of the social problem is to be found in liberty. And am I not borne out in my conclusion by experience? Cast your eyes over the globe. Which are the happiest, the most moral and the most peaceable nations? Those in which the law least interferes with the private activity of the citizens; those in which the government least makes itself felt; those in which individuality has the greatest sway, and public opinion the most influence; those in which the administrative machinery is least complicated; in which the taxes are lightest and most equally levied; in which popular discontents are most rare and have least occasion for their existence; those in which the responsibility of individuals and classes is most active, and where, in consequence, if morals are not perfect, they irresistibly tend to right themselves; those in which business transactions, agreements and associations are least trammeled; those in which labor, capital and the population experience fewest artificial obstacles; those in which men best follow their natural talent, and the thought of God prevails most over the inventions of men; those, in a word, which approach nearest to this solution: Within the bounds of right, everything by the free and perfectible spontaneity of man; nothing by law or force but universal justice.

FREDERIC BASTIAT.

LAW'S SYSTEM. This is the name given to the great financial experiment made in France by the government of the duke of Orleans under the direction of John Law. — Had John Law's financial operations been only a series of expedients devised from day to day to tide over a condition of embarrassment, they would not merit a place in a scientific work. History gives us many examples of means and abuses similar to those adopted or produced in France at the beginning of the past century. But Law's operations were distinguished in more than one way from ordinary expedients: first, they were entered upon as the practical application of a preconceived theory, and in the aggregate they form a system; second, they were the signal for a revolution in the manners and habits of the French, third, they afforded a magnificent example of the combinations and effects of stock-jobbing. On these accounts they are pre-eminently deserving of the consideration of the economist, and it may be useful, while exposing them, to make some little comment upon them also. — At his death Louis XIV. left the finances of France in a most deplorable condition. The debt in a thousand different forms, payable on demand, made a sum of 785,000,000 livres; 64,000,000 of annuities, perpetual or redeemable at a fixed date and drawn from every branch of

the revenue, represented a principal sum of 460,000,000; and finally, the creation of offices, increase of salaries, etc., had involved the state to the extent of about 800,000,000. The public debt amounted thus to a principal sum of about 2,000,000,000 livres, of which about 785,000,000 were payable on demand. "When the king died," says Bailly, "not more than four or five millions could be anticipated from the last three months of the year; and the revenues of the succeeding years were more than half consumed." Complete disorder reigned, besides, in every department of the financial administration, so much so that no one could give, or even know, till much later, the balance-sheet figures of the situation. — By different measures of a sufficiently suspicious nature the regent's government reduced the debt payable on demand, and embodied it in bonds of uniform description, giving them the name of *billets d'état*. These were issued to an amount of 250,000,000, and bore interest at the rate of 4 per cent. They were receivable for arrears of taxes, and were to be destroyed as they came in; but as the promises of the state then inspired no confidence, these *billets* were at a discount of no less than about 80 per cent. of their nominal value. However, some method was introduced into the collection of taxes and the financial administration in general, judicial investigation instituted against the farmers of the revenue, and an alteration of the coinage furnished some little funds, dishonorably obtained and dearly bought. It was at this crisis that Law submitted to the finance council a first scheme which was not adopted; and in order to cause his ideas to prevail he was obliged to adopt indirect means — Letters patent of May 2, 1716, gave to John Law the privilege of establishing a bank. It was constituted under the name of the *Banque Générale*, with a capital of 6,000,000 livres, in 1,200 shares, of 5,000 livres each, payable in four installments, one-fourth in specie and the remainder in *billets d'état*. The functions of this bank, which to all appearance was independent of the government, were to be, according to its by-laws, the same as those now fulfilled by the bank of France. — This establishment was very well received by public opinion. Banks of issue were in all the first vigor of youth. The bank of England had only been in existence since 1694, and that of Scotland since 1695, and they were both giving good results. Commerce highly appreciated an establishment which gave a price current to discount, and which caused its rate to decline, at first to 6 and finally to 4 per cent. It appreciated still more highly the current accounts and the bank credits based on a currency whose weight and standard never varied, however great the alteration undergone by the current coin. It was the first introduction into France on a large scale, or at least with great pretensions of two excellent commercial undertakings, the bank of deposit and the bank of issue. But no one had any definite knowledge of the theory of its working, and the start of the new bank was regarded with that distrust which is so common in France and so closely akin to the blindest credulity. — The *Banque Générale* prospered, but it developed but slowly in an environment in which credit had received some rude shocks and in which there was but little business done. Besides, the establishment's own capital was very small: of the 1,500,000 livres payable by the shareholders in specie, one-fourth only, that is to say, less than 400,000 livres, had been paid up. As for the *billets d'état* they were still at a discount of 70 per cent., and it was impossible, in the then condition of affairs, to derive any advantage from them. — The secret connection which existed between the *Banque Générale* and the government was brought to light April 10, 1717. On that date, a decree of the council ordered the receivers of the public revenue, not merely to accept the bank's notes in payment of taxes of all descriptions, but even to pay the value of these notes in hard cash, when asked to do so and if they had the money at their disposal. It does not appear, however, that these privileges had the effect of extending much the circulation of the notes, which, concentrated in Paris and some other large cities, never exceeded 12,000,000. Evidently it was not with such trifling resources that a credit could be obtained sufficient to liquidate the public debt. This was only the first story of the great edifice called the *Système*. — Toward the end of August, 1717, a celebrated merchant named Crozat, who had obtained a monopoly of the Louisiana trade, ceded this privilege to a company floated by Law under the name of the *Compagnie de l'Occident*. The letters patent authorizing the formation of this company gave it a monopoly of the commerce with Louisiana for twenty-five years, and of the trade in furs, arms, munitions and ships in Canada. The privileges given to the company were somewhat justified by the way in which its capital was obtained; it was in amount 100,000,000 livres, in shares of 500 livres, payable in *billets d'état*, which the government assimilated to life annuities, and the interest of which it guaranteed at the rate of 4 per cent. But it was not necessary to have great experience in business to be able to understand that a capital thus formed could not furnish the necessary resources for commencing an undertaking so vast as the colonization of Louisiana, that is to say, of a tract of country which included the valleys of the Mississippi and the Missouri, and which extended northwest as far as the Pacific ocean. At first, then, the credit of the *Compagnie de l'Occident* languished. Public opinion was opposed to it, and capitalists hesitated to invest in shares. Affairs were in this condition when, on May 11, 1718, an edict was published ordering the recoining of the coinage. The silver marc had already been carried from twenty-seven to forty livres; the edict of May carried it from forty to sixty livres. "From the order to recoin all money," says Eugène Daire, "arose the

obligation to take all the old money to the mints; but it was permitted to join to one's silver two-fifths in *billets d'état*. It happened, therefore, that when, in the words of the law, a man disseized himself in favor of the fisc of eight écus of five livres each, or, altogether, forty livres, that is, a marc of silver, it was optional with him to add to them sixteen livres in *billets d'état*, the effect of which was the delivery of fifty-six livres to the profit of the treasury. When the latter had received this value, it returned in exchange nine and one-third of the new écus, denominated six-livre pieces, which also made fifty-six livres. But the intrinsic value of those fifty-six livres, the weight of silver which they contained, was less by one-fifteenth than the weight of silver previously paid into the treasury, and thus the person paying lost, first, that amount of his silver, and, secondly, gave up his paper, his *billets d'état*, for nothing. In brief, the state gained by this honest operation 6⅔ per cent. in silver and 26⅔ per cent. in paper; in all, 33⅓ per cent. on all sums paid into the mints." Parliament resisted this operation in vain. — Was the edict of recoinage Law's work? It has been believed to be so, since it had the effect of raising bank silver in the public estimation, that being money of fixed weight and standard, and of encouraging the use of paper among the people. Several writers, on the contrary, have attributed this edict to the minister d'Argenson who had succeeded the council on finance, and is supposed to have devised this simple and summary means of extinguishing the *billets d'état*, solely with the view of proving himself a financier of greater powers than Law. — Be that as it may, this minister gave soon a clear proof of the ill-will he bore the Scotchman, by farming out the taxes to the brothers Paris, skillful bankers who had introduced some order into the administration of the finances, on terms usually considered advantageous. With their contract in relation to the taxes as a basis, the brothers Paris established a company of limited liability in June, 1716, with a capital of 100,000,000 livres, in 100,000 shares of 1,000 livres each, payable in *rentes* or bills. This operation had a much more solid basis than the *Compagnie d'Occident*, for it was much more probable that the brothers Paris would gain by their contract of the farming of the taxes than it was that the *Compagnie d'Occident* would gain by the commerce of Louisiana. The shares of the latter company met with a formidable competition in the market when they were brought in collision with the shares of the association gotten up by the Paris brothers, which was called the "Anti-System." — New financial operations had to be resorted to to impart value to the shares of the *Compagnie d'Occident*. On Sept 4, 1718, it farmed out the tobacco monopoly; its shares rose a little, for public opinion rightly viewed with favor speculation in the state revenues. But the rise was slow and slight. — On Dec. 4, 1718, a royal edict changed the *Banque Générale* into the *Banque Royale*. The 1,200 shares of the *Banque Générale*, only the fourth part of which had been paid in, were bought at a price of 5,000 livres, their nominal value, and were redeemable in écus. Never had shareholders made so much in so short a time. What might not be the intrinsic value of an enterprise that the public treasury, completely involved in debt as it was, thought fit to purchase at that price. Men's imaginations were possessed, and little attention was paid to the radical changes that the by-laws of the bank underwent. — The notes of the *Banque Générale* were payable in *bank money*, the weight and standard of which were defined; those of the *Banque Royale* were payable in livres of tours currency (*livres tournois*), that is to say, in nominal money the weight and standard of which was not exactly settled. The notes of the *Banque Générale* could not be made and issued except against securities in hand; an order in council was sufficient to authorize the *Banque Royale* to issue notes to the profit of the government. The *Banque Royale* had branches in which were exchanged notes for écus and écus for notes, and in the cities in which they were established the use of specie was restricted to payments of 600 livres and under. It was clear that liberty was distrusted and that there was an intention of outraging public opinion; in short, on April 22, 1719, a decree of the council forbade all transport of coin by private persons into the cities where the bank had offices; it ordered the public officers in those cities to keep their cash in notes, under penalty of bearing the loss on specie in the event of a depreciation of the currency; it authorized creditors in these cities to refuse as worthless the offers of their debtors, unless made in notes, and only to receive the precious metals in payment of small change. It was attempted to demonetize, as far as possible, the precious metals, and to give the paper of the *Banque Royale* the properties of money. However, those measures decreed by a government which had already made a bad use of its paper, could not inspire much confidence; it was necessary to captivate men's minds by a bold stroke which should disarm suspicion, upset all calculations and raise the value of the shares of the *Compagnie d'Occident*, then at a discount of about 40 per cent. Law bought 200 shares at par, at six months date, paying 40,000 livres on the price of the 100,000 livres which those shares represented, with the stipulation that he should lose the 40,000 livres if the shares did not reach at least par. The premium market was then unknown in France and the confidence felt in Law's personal ability was so great that in a short time the shares of the *Compagnie d'Occident* rose to par. Rumors skillfully set afloat, all tending to enhance the idea of the company's probable future prosperity, also contributed to this result. — The most difficult step had been taken: however little observation may have been bestowed on the course of such speculations, it is well known that it is sufficient to establish an up-

ward movement in the price of shares in order even with moderate ability to push that advance in due course to a considerable extent. Now Law's ability was very great; he was backed by all the power of public authority; and he dealt in titles whose intrinsic value was little known, and was therefore all the more easily exaggerated. What golden dreams was it not easy to have about the resources afforded by the commerce of an immense, new, unknown and uninhabited country. For the rest, Law did not leave men's imaginations idle; like a skillful gambler, he caused frequent changes of luck. In May, 1719, all the great commercial companies which still existed, were acquired by the *Compagnie d'Occident*. It took the name of the *Compagnie des Indes*, and was authorized to issue 25,000 new shares of 500 livres each, payable in specie and by twentieths (*vingtièmes*) monthly: only fifty livres had to be paid immediately, and a decree of June 20, 1719, permitted only those to subscribe for the new certificates who already possessed an amount four times greater of the old certificates. Already fortunes had been made by the rise in the first certificates; they were in still greater demand as soon as it became necessary to possess a certain amount of them in order to obtain the new shares, which on this account were called the "*filles*" (daughters), and rose rapidly. — This rise was maintained by new schemes. On June 25 the state ceded to the *Compagnie des Indes* all the profit it might make by the coinage of money, in consideration of a sum of 50,000,000, payable monthly in fifteen equal sums. The company issued 25,000 new shares at a nominal value of 500 livres, but at an actual price of 1,000 livres, at which the first shares were selling. It was necessary, before being permitted to subscribe for the new certificates, to qualify by holding five shares of the old to obtain one share of the last issue. These were named the "*petites filles*" (grand-daughters) and had the same success as the preceding ones. The company had guaranteed its shareholders a dividend of 12 per cent., dating from Jan. 1, 1720. At the beginning of September all the shares were placed and were selling at a price of 5,000 livres, those which had been subscribed for in *billets d'état*, as well as those the amount of which had been furnished in specie. — On Sept. 2 the *Compagnie des Indes* undertook a new enterprise, which was in some sort the crowning of all. It had secured the rescision of the contract with the brothers Paris for the farming of the taxes; it took upon itself the collection of the taxes at 52,000,000, and in addition the payment of 1,500,000,000 of the king's debts. The creditors of the state were paid by orders on the cashier of the *Compagnie des Indes*, payable in notes or specie. In order to provide the funds needed for the repayment, the company was authorized to issue transferable shares bearing 3 per cent. interest, payable half yearly; it was itself to receive 3 per cent. on the 1,500,000,000 which it furnished to the government. — In reality there was nothing more in this transaction than a conversion of annuities. The state, instead of paying 4 per cent. now only paid 3 per cent., thereby making an annual saving of 15,000,000. The company borrowing and lending at 3 per cent. seemed to be performing a disinterested speculation; but it is easy to comprehend that in a transfer of 1,500,000,000 of capital for the repayment of which the choice was given between a bond of definite amount and the shares of a company whose brilliant success was everywhere prophesied, many capitalists would choose the shares. The company issued 324,000 shares, nominally for 500 livres, payable in tenths monthly, but which, if sold at the market price of the day, would bring it a gain of 1,620,000,000, with which sum it could easily meet all its requirements. — The "*Système*" was complete. Law, sharing a delusion which still finds defenders, confounded price with value; he believed that it was sufficient to raise prices to increase a nation's capital; he attributed to the augmented quantity of paper money, of the "sign," to use the language of the time, the property of creating value, which belongs only to labor. It was with this object that several decrees had been issued with the view of discouraging the use of metallic currency and that stock-jobbing was over-stimulated. A decree of Sept. 26 having settled that the company's shares could only be paid in notes, gold and silver lost in a moment 10 per cent. in exchange with paper. The shares sold in the open market were bought up eagerly, and their price rose constantly for several months. There is no need to seek far for the cause of this rise; foreseeing that the payment of the second tenth would embarrass the holders and would occasion a fall, an order of the council made the payments quarterly, and postponed till the month of December, 1719, the payment which fell due at the end of October, the following till March, and the third till June, 1720. On the other hand, the *Banque Royale*, which, in accordance with the decree of Dec. 4, 1718, was forbidden to issue notes for a greater amount than 100,000,000 livres, had issued them to the extent of 520,000,000 at the end of October, 1719; of 640,000,000 at the end of November, and on Dec. 29 it was decided that the amount of notes should be raised to 1,000,000,000. The sophism on which Law's system was founded became a gigantic illusion. But this illusion created facts which were very real. Specie in its two common uses was replaced by paper. The sums amassed and hoarded up for future consumption took the shape of shares; the sum for present use became bank notes. — What was the nature of the real values represented by the shares of the *Compagnie des Indes* and the billets or notes of the *Banque Royale*, and what was the disposable capital operated with? We do not know exactly what the operations of the bank were, but it is likely that discounting commercial paper was the least important. Perhaps it made advances on shares deposited with it; probably it simply met the financial wants of the government

by its notes, so that its paper was based upon no actual value; it was merely a state debt bearing no interest. — The paper issued in the shape of shares by the *Compagnie des Indes* amounted to a nominal principal sum of 312,000,000, issued at a price of 1,797,000,000. But, out of this enormous amount what had been the real payments into the company's treasury? The official documents do not give it exactly, and besides they are not particularly worthy of credence. The company's resources in revenue may be better estimated. They were, first, 49,000,000, due annually by the state; second, the company's profit on the tobacco monopoly, on the tax farming, on the *rentes* and salt tax of Alsace, and on the coinage of money; and third, the gain on the commercial profits of the company, estimated at 8,000,000. The estimate of the company's profits was singularly exaggerated; for it is at least doubtful if a commercial company constituted without real capital, or, if it be preferred, with a capital of 50,000,000, could realize immediate and considerable profits by the commerce and colonization of Louisiana and Canada, and even by that of the coast of Africa and China. Besides, all its income consisted of an annuity due by the state, the profits on the farming of the public revenue, and the very uncertain gain to be obtained from a monopoly granted by the state. Finally, admitting that the company's revenues reached the exaggerated total of 82,000,000, it could only pay a very moderate interest on a capital of 1,797,000,000, ill calculated to keep up the inflated price of the shares, whatever might be the depreciation of the currency owing to the multiplication of bank notes, since, after all, this depreciation would also reduce the real value of the revenue. It is evident, then, that Law's system could not live, not only on account of the faulty constitution of the bank, but also of that of the *Compagnie des Indes* itself. By exhausting all the resources of stock jobbing, an edifice of opinion and credit, whose lease of life could not be a long one, had been erected on very slender foundations. It remained to be seen who should be the victim of the illusion, who should give solid and real value in exchange for new paper. — It is well known that the success of Law's system was beyond all expectation. The factitious fortunes made by the rise in value of the first shares had fired men's imaginations; all who had any disposable capital hurried to the market with it. Those who had not, sold lands, houses, government bonds, etc., and stock-jobbing soon raised the price of the different securites issued by Law to the enormous sum of 12,000,000,000. Certainly if the style of reasoning employed by the publicists of our day be adopted, such signs of prosperity had never before been seen, and, to use the language of the present, business was never as brisk as it was then. The documents of the day are filled with incredible stories of the magnificence of the houses, the furniture and the retinues of the *nouveaux riches* of that time and the court people, who, in that ephemeral prosperity, had the chief share after the lackeys. The state was not less munificent than private persons; it remitted 80,000,000 of taxes in arrear, did away with vexatious burdens, studied new systems of imposts, and even brought to a successful close a short war with Spain without increasing the burdens which pressed on the people Every one was intoxicated with his dream of wealth. What was the real cause of all this wealth? The consumption in a few months of almost the entire value of the metallic money of the country, both that which had for long been kept as a treasure or reserve and that which served for the purposes of exchange and circulation. The same phenomena were produced as would have been produced had a treasure trove of two or three thousand millions suddenly been discovered and spent productively or unproductively in a few months. — It was not the *Compagnie des Indes* itself which gathered the fruit of this movement; nor was it the creditors of the state, for but a small number of them had been paid in time to convert their bonds into shares; it was the people of the court, with the regent himself at their head, who benefited equally by the unlimited issue of the bank's notes and the jobbing in shares If stock-jobbing was not the sole object of Law's system, it can not be denied that it filled a very large place in it, and it is difficult to understand in what other interest the decrees of the council postponed the payment of the amounts about to fall due on the shares. Would this have been done if the genuine success of the unique commercial monopoly which had been created had been the only end in view? Certainly not. Besides, without having recourse to conjecture, it is sufficient to glance at the documents of the day to see that Law had imported into France or brought to light every means by which a factitious price may be given to securities of doubtful and uncertain value. Since that time the art of appropriating another's property by stock gambling has made no advance; there is but a repetition of the same tricks. — A catastrophe was inevitable, but Law did not see it. He was fully persuaded that it was possible to sustain the currency of money which was wholly imaginary, by exchanging it for securities whose value was hypothetical; and when the crisis overtook him, he did not even have recourse to the means which might have lessened the effect of the catastrophe It must be recognized, too, that the want of morality in the government of the time and the extravagant habits which Law himself had encouraged, would scarcely have permitted him to use the means suitable, even had he himself wished to do so. — Toward the end of December, 1719, discerning foreigners, and those of the French who had a calculating turn of mind, saw that it was time to withdraw from the speculation. After having themselves operated a rise in which the shares reached the value for a moment of 20,000 livres, they sold out, and, with the price obtained,

bought real estate, bullion, merchandise—in a word, real wealth. This was called realizing. It will be understood that the sale of a number of the shares soon ran down the price. At the same time the presentation of notes to be exchanged depleted the bank of specie, even although an edict forbade the use of silver in payments of above forty livres, and of gold in payments of over 300 livres, and although, on Jan. 28, 1740, another edict gave compulsory circulation to the notes throughout France, and the edict ordering the reminting of money was carried out vigorously. In February it became necessary to forbid private persons, under pain of confiscation, to have in their possession more than 500 livres in specie, and in March gold and silver were demonetized completely. On Feb. 22, with an end in view which it is not easy to determine, the *Banque Royale* was united to the *Compagnie des Indes*. The value of shares was at that time far above the price of issue. A declaration of March 11 fixed the exchange between notes and shares at a settled rate of 9,000 livres the share. Law imagined that by this means he could control the issue of notes; but to succeed it would have been necessary that one of the two objects exchanged should have possessed some intrinsic value. Now the value of the share was not much more real than that of the note, and, however it might be counted, it was impossible to maintain the share at a price of 9,000 livres. On May 21, then, the share was reduced to 5,000 livres. The rate of exchange established by the declaration of March 1 only served to increase still more the issue of notes, which was, according to report, carried to three thousand millions It is well known that the destruction of notes which had come back, promised by edict, was not honestly carried out, and that M. de Trudaine, provost of the merchants' guild, was removed from office because he refused to become a party to the government's frauds —It is useless to recall the events which marked the fall of Law's system: the creation of annuities payable in *billets de banque*, the repeated edicts which altered continually the metallic currency, the indictments filed, the confiscations made; how the bank was besieged and reduced to the redemption of one note only of ten livres for each person; the want of specie for the purposes of exchange; the reduction of wages, the engrossing of merchandise, the riots, and the terrible distress which succeeded one of the most extraordinary revolutions of fortunes which history tells of. After having, in the space of six months, promulgated about forty financial edicts, the government was reduced to yielding to public opinion and the force of circumstances. On Nov. 1, 1720, it declared that the notes should be receivable according to private agreement, and as, in spite of the compulsory circulation, they were at a discount of about 90 per cent., they ceased to possess any sort of value. Some time previous to this, Law had been obliged to escape by flight the vengeance of those whom his system had ruined. About two years were needed to prepare the system, and about the same length of time sufficed to develop it and to see its fall. In his speculations, founded on an erroneous conception of the creation of wealth, Law had succeeded, at first, by the importation into France of new and good commercial processes; and because of circumstances entirely unconnected with his theory, from the moment that his ideas were confronted with facts, Law's system crumbled. — It was not, as has been said and repeated often, because Law's system was carried to excess that it failed. If operations had been confined to the *Banque Générale*, if that had been allowed to develop within the limits of its by-laws without resorting to rash or adventurous speculations, it might have rendered great services; but this bank was only a decoy, meant to accustom the people to the use of paper; it was in no way a part of the system; Law's writings and the edicts leave no doubt of this. His theories on the subject of paper money were like a story in the Arabian Nights, and the system was only the practical application of those theories. — In spite of the financial difficulties resulting from the downfall of Law's system, it would have been easy to reap some advantage from the impulse imparted to business and from the state of men's minds at the time, from the custom of the association of small amounts of capital into one whole to accomplish any great purpose, and from the bank of issue Nothing of the kind was done: the winding up of the affairs of the system, which was confided to Law's bitterest enemies, was conducted with a fury of reaction too frequent in France. The object seemed to be to destroy every trace of the great financial events that had just taken place, in such a way as to leave nothing of them but their ruins All Barême's arithmetic was put under contribution to prove that Law had been a spendthrift and a knave, who had not only ruined private persons, but involved the state in debt, and people affected to speak with horror of paper. The system became the object of the declamations of philosophers and the epigrams of wits. — The history of Law's experiments, not yet completed from an economic point of view, would be a curious and very instructive study in examining the theories based on paper money and stock-jobbing. All that has been dreamed of or tried of this kind since 1720 had been conceived and tried by the fertile genius of Law. The study of the system would be the more curious inasmuch as the author of it had at his disposal, at least with respect to the mass of the people, absolute power, that he used this power to its utmost extent, and that he lived in a society accustomed to this power, as to all other monopolies. After this great lesson which confirms so thoroughly the teaching of science, the demonstration of the sterility of paper money and stock jobbing is complete. COURCELLE-SENEUIL

LAWS, Agrarian, (*agrariæ leges*). Those enactments were called agrarian laws by the Ro-

mans which related to the public lands (*ager publicus*). The objects of these agrarian laws were various. A law (*lex*) for the establishment of a colony and the assignment of tracts of land to the colonists, was an agrarian law. The laws which regulated the use and enjoyment of the public lands, and gave the ownership of portions of them to the commonalty (*plebes*), were also agrarian laws. Those agrarian laws indeed which assigned small allotments to the plebeians, varying in amount from two jugera to seven jugera (a jugerum is about three-fourths of an English acre), were among the most important; but the agrarian laws, or those clauses of agrarian laws which limited the amount of public land which a man could use and enjoy, are usually meant when the term agrarian laws is now used.—The origin of the Roman public land, or of the greater part of it, was this: Rome had originally a small territory, but by a series of conquests carried on for many centuries she finally obtained the dominion of the whole Italian peninsula. When the Romans conquered an Italian state, they seized a part of the lands of the conquered people; for it was a Roman principle that the conquered people lost everything with the loss of their political independence; and what they enjoyed after the conquest was a gift from the generosity of the conqueror. A state which submitted got better terms than one which made an obstinate resistance. Sometimes a third of their land was taken from the conquered state, and sometimes two-thirds. It is not said how this arrangement was effected; whether each landholder lost a third, or whether an entire third was taken in the lump, and the conquered people were left to equalize the loss among themselves. But there were probably in all parts of Italy large tracts of uncultivated ground which were under pasture, and these tracts would form a part of the Roman share, for we find that pasture land was a considerable portion of the Roman public land. The ravages of war also often left many of the conquered tracts in a desolate condition, and these tracts formed part of the conqueror's share. The lands thus acquired could not always be carefully measured at the time of the conquest, and they were not always immediately sold or assigned to the citizens. The Roman state retained the ownership of such public lands as were not sold or given in allotments, but allowed them to be occupied and enjoyed by any Roman citizen, or, according to some, by the patricians only at first, and in some cases certainly by the citizens of allied and friendly states, on the payment of a certain rent, which was one-tenth of the produce of arable land, and one-fifth of the produce of land planted with the vine, the fig, the olive, and of other trees the produce of which was valuable, as the pine. It does not appear that this occupation was originally regulated by any rules: it is stated that public notice was given that the lands might be occupied on such terms as above mentioned. Nor was the occupation probably limited to one class, either the patricians or the plebeians; either of these two portions of the Roman community might occupy the lands. The enjoyment of the public land by the plebes is at least mentioned after the date of the Licinian laws. Such an arrangement would certainly be favorable to agriculture. The state would have found it difficult to get purchasers for all its acquisitions; and it would not have been politic to have made a free gift of all those conquered lands which, under proper management, would furnish a revenue to the state. Those who had capital, great or small, could get the use of land without buying it, on the condition of paying a moderate rent, which depended on the produce. The rent may not always have been paid in kind, but still the amount of the rent would be equivalent to a portion of the produce. The state, as already observed, was the owner of the land: the occupier, who was legally entitled the possessor, had only the use (*usus*). This is the account of Appian ("Civil Wars," i., 7, etc.). The account of Plutarch ("Tiberius Gracchus," 8,) is in some respects different. Whatever land the Romans took from their neighbors in war, they sold part and the rest they made public and gave to the poor to cultivate, on the payment of a small rent to the treasury (*aerarium*); but as the rich began to offer a higher rent, and ejected the poor, a law was passed which forbade any person to hold more than 500 jugera of (public) land. The law to which he alludes was one of the Licinian laws. ("Camillus," 39)—This mode of occupying the land continued for a long period. It is not stated by any authority that there was originally any limit to the amount which an individual might occupy. In course of time these possessions (*possessiones*), as they were called, though they could not be considered by the possessors as their own, were dealt with as if they were. They made permanent improvements on them, they erected houses and other buildings, they bought and sold possessions like other property, gave them as portions with their daughters, and transmitted them to their children. There is no doubt that a possessor had a good title to his possession against all claimants, and there must have been legal remedies in cases of trespass, intrusion, and other disturbances of possession. In course of time very large tracts had come into the possession of wealthy individuals, and the small occupiers had sold their possessions, and in some cases, it is said, had been ejected, though it is not said how, by a powerful neighbor. This, it is further said, arose in a great degree from the constant demands of the state for the services of her citizens in war. The possessors were often called from their fields to serve in the armies, and if they were too poor to employ laborers in their absence, or if they had no slaves, their farms must have been neglected. The rich stocked their estates with slaves, and refused to employ free laborers, because free men were liable to military service and slaves were not. The free population of

many parts of Italy thus gradually decreased, the possessions of the rich were extended, and most of the laborers were slaves The Italian allies of Rome, who served in her armies and won her victories, were ground down by poverty, taxes and military service. They had not even the resources of living by their labor, for the rich would only employ slaves; and though slave labor under ordinary circumstances is not so profitable as free labor, it would be more profitable in a state of society in which the free laborers were liable at all times to be called out to military service. Besides this, the Roman agricultural slave was hard worked, and an unfeeling master might contrive to make a good profit out of him by a few years of bondage; and if he died, his place would readily be supplied by a new purchase. Such a system of cultivation might be profitable to a few wealthy capitalists, and would insure a large amount of surplus produce for the market; but the political consequences would be injurious — The first proposition of an agrarian law, according to Livy, was that of the consul Spurius Cassius, B. C. 484, a measure, as Livy observes, which was never proposed up to his time (the period of Augustus) without exciting the greatest commotion. The object of this law was to give to the Latins half of the lands which had been taken from the Hernici, and the other half to the plebes. He also proposed to divide among the plebes a portion of the public land, which was possessed by the patricians. The measure of Cassius does not appear to have been carried, and after the expiration of his office, he was tried, condemned, and put to death, on some charge of treasonable designs, and of aspiring to the kingly power. The circumstances of his trial and death were variously reported by various authorities. (Livy, ii., 41) Dionysius ("Antiq. Rom.," viii., 76) says that the senate stopped the agitation of Cassius by a measure of their own. A consultum was passed to the effect that ten men of consular rank should be appointed to ascertain the boundaries of the public land, and to determine how much should be let and how much distributed among the plebes; it was further provided that if the Ispolite and allied states should henceforth aid the Romans in making any further acquisitions of land, they should have a portion of it. The senatus consultum being proposed to the popular assembly (*δῆμος*), whatever that body may here mean, stopped the agitation of Cassius. This statement is precise enough and consistent with all that we know of the history of the agrarian laws; nor does its historical value seem to be much impaired by the remarks of Niebuhr upon it. ("Licinian Rogations," vol. iii., note 12.)— At length in the year B. C. 375, the tribunes C. Licinius Stolo and L. Sextius brought forward, among other measures, an agrarian law, which, after much opposition, was carried in the year B. C. 365. The measures of Licinius and his colleague are generally spoken of under the name of the "Licinian Rogations." The provisions of this law are not very exactly known, but the principal part of them may be collected from Livy (vi., 35), Plutarch ("Tib. Gracchus," 8), and Appian ("Civil Wars," i., 8). No person was henceforth to occupy more than 500 jugera of public land for cultivation or planting; and every citizen was qualified to hold to that amount, at least, of public land acquired subsequently to the passing of the law. It was also enacted that every citizen might feed 100 head of large cattle and 500 head of small cattle on the public pastures. Any person who exceeded the limits prescribed by the law was liable to be fined by the plebeian ædiles, and to be ejected from the land which he occupied illegally. The rent payable to the state on arable land was a tenth of the produce, and that on lands planted with fruit or other trees was a fifth. This is not mentioned by Appian as a provision of that law which limited the possessions to 500 jugera, but as an old rule; but if the law of Licinius contained nothing against it, this provision would of course remain in force. A fixed sum was also paid, according to the old rule, for each head of small and large cattle that was kept on the public pastures.—The rent was farmed or sold for a lustrum, that is, five years, to the highest bidder. There was another provision mentioned by Appian as part of the law which limited possession to 500 jugera, which is very singular. To render it more intelligible, the whole passage should be taken together, which is this: "It was enacted that no man should have more of this land (public land) than 500 jugera, nor feed more than 100 large and 500 small cattle, and for these purposes the law required them to have a number of free men, who were to watch what was going on and to inform."* Niebuhr simply expresses the last enactment thus: "The possessors of the public land are obliged to employ free men as field laborers in a certain proportion to the extent of their possessions." Nothing is said as to any assignment of lands to the plebeians by the law of Stolo, though Niebuhr adds the following as one of the clauses of the law: "Whatever portions of the public land persons may at present possess above 500 jugera, either in fields or plantations, shall be assigned to all the plebeians in lots of seven jugera as absolute property." He observes in a note: "No historian, it is true, speaks of this assignment, but it must have been made"; and then follow some reasons why it must have been made, part of which are good to show that it was not made. But though Livy does not speak of assignments of land as being made to the plebes, such assignment is mentioned as one of the objects of his laws in the

* This passage of Appian is very obscure, but it has certainly been misunderstood by Niebuhr. The Latin version is "Decretum praeterea est, ut ad curanda opera rustica certum numerum liberorum alleret quisque, qui ea quae agerentur inspicerent dominoque renunciarent." The word "domino" is an invention of the translator. The words *τὰ γιγνόμενα* may mean all "the produce," as in Thucydides (vi., 54); and this is a more probable interpretation than that given above.

speech of Licinius (Livy, vi., 39) and of his opponent Appius Claudius (vi., 41). — About two hundred and thirty years after the passing of the Licinian law, the tribune Tiberius Sempronius Gracchus, who was of a plebeian but noble family, brought forward his agrarian law, B. C. 133. The same complaints were still made as in the time of Licinius: there was general poverty, diminished population, and a great number of servile laborers. Accordingly, he proposed that the Licinian law as to the 500 jugera should be renewed or confirmed, which implies, not perhaps that the law had been repealed, but at least that it had fallen into disuse: but he proposed to allow a man to hold 250 jugera, in addition to the 500, for each son that he had; though this must have been limited to two sons, as Niebuhr observes, inasmuch as 1,000 jugera was the limit which a man was allowed to hold. The land that remained after this settlement was to be distributed by commissioners among the poor. His proposed law also contained a clause that the poor should not alienate their allotments. This agrarian law only applied to the Roman public lands in Apulia, Samnium, and other parts of Italy, which were in large masses: it did not affect the public lands which had already been assigned to individuals in ownerships, or sold. Nor did it comprise the land of Capua, which had been made public in the war against Hannibal, nor the Stellatis Ager: these fertile tracts were reserved as a valuable public property, and were not touched by any agrarian law before that of C. Julius Cæsar. — The complaints of the possessors were loud against this proposed law; and to the effect which has already been stated. They alleged that it was unjust to disturb them in the possessions which they had so long enjoyed, and on which they had made great improvements. The policy of Gracchus was to encourage population by giving to the poor small allotments, which was indeed the object of such grants as far back as the time of the capture of Veii (Livy, v., 30): he wished to establish a body of small independent landholders. He urged on the possessors the equity of his proposed measure, and the policy of having the country filled with free laborers instead of slaves; and he showed them that they would be indemnified for what they should lose, by receiving, as compensation for their improvements, the ownership of 500 jugera, and the half of that amount for those who had children. It seems doubtful if the law as finally carried gave any compensation to the persons who were turned out of their possessions, for such part of their possessions as they lost, or for the improvements on it. (Plutarch, "Tib. Gracchus," x.) Three persons (*triumviri*) were appointed to ascertain what was public land, and to divide it according to the law: Tiberius had himself, his brother Caius, and his father-in-law Appius Claudius, appointed to be commissioners, with full power to settle all suits which might arise out of this law. Tiberius Gracchus was murdered in a tumult excited by his opponents at the election when he was a second time a candidate for the tribuneship (B. C. 133). The law, however, was carried into effect after his death, for the party of the nobility prudently yielded to what they saw could not be resisted. But the difficulties of fully executing the law were great. The possessors of public land neglected to make a return of the lands which they occupied, upon which Fulvius Flaccus, Papirius Carbo, and Caius Gracchus, who were now the commissioners for carrying the law into effect, gave notice that they were ready to receive the statements of any informer; and numerous suits arose. All the private land which was near the boundary of the public land was subjected to a strict investigation as to its original sale and boundaries, though many of the owners could not produce their titles after such a lapse of time. The result of the admeasurement was often to dislodge a man from his well-stocked lands and remove him to a bare spot, from lands in cultivation to land in the rough, to a marsh or to a swamp; for the boundary of the public land after the several acquisitions by conquest had not been accurately ascertained, and the mode of permissive occupation had led to great confusion in boundaries. "The wrong done by the rich," says Appian, "though great, was difficult exactly to estimate; and this measure of Gracchus put everything into confusion, the possessors being moved and transferred from the grounds which they were occupying to others" ("Civil Wars," i., 18.) Such a general dislodgement of the possessors was a violent revolution. Tiberius Gracchus had also proposed that so much of the inheritance of Attalus III., king of Pergamus, who had bequeathed his property to the Roman state, as consisted of money, should be distributed among those who received allotments of land, in order to supply them with the necessary capital for cultivating it. (Plutarch, "Tiberius Gracchus," 14.) It is not stated by Plutarch that the measure was carried, though it probably was. — Caius Gracchus, who was tribune B. C. 123, renewed the agrarian law of his brother, which it appears had at least not been fully carried into effect; and he carried measures for the establishment of several colonies, which were to be composed of those citizens who were to receive grants of land. A variety of other measures, some of undoubted value, were passed in his tribunate; but they do not immediately concern the present inquiry. Caius got himself appointed to execute the measures which he carried. But the party of the nobility beat Caius at his own weapons; they offered the plebes more than he did. They procured the tribune Marcus Livius Drusus to propose measures which went far beyond those of Caius Gracchus. Livius accordingly proposed the establishment of twelve colonies, whereas Gracchus had only proposed two (Plutarch, "Caius Gracchus," 9.) The law of Gracchus also had required the poor to whom land was assigned to pay a rent to the treasury, which payment was either in the nature of a tax

or an acknowledgment that the land still belonged to the state: Drusus relieved them from this payment. Drusus also was prudent enough not to give himself or his kinsmen any appointment under the law for founding the colonies. Such appointments were places of honor at least, and probably of profit too. The downfall of Caius was thus prepared, and, like his brother, he was murdered by the party of the nobility, B. C. 121, when he was a third time a candidate for the tribunate. — Soon after the death of Caius Gracchus, an enactment was passed which repealed that part of the law of the elder Gracchus which forbade those who received assignments of lands from selling them. (Appian, "Civil Wars," i., 27.) The historian adds, which one might have conjectured without being told, that the rich immediately bought their lands of the poor; "or forced the poor out of their lands on the pretext that they had bought them"; which is not quite intelligible.* Another law, which Appian attributes to Spurius Borius, enacted that there should be no future grants of lands, that those who had lands should keep them, but pay a rent or tax to the ærarium, and that this money should be distributed among the poor. This measure then contained a poor-law, as we call it, or imposed a tax for their maintenance. This measure, observes Appian, was some relief to the poor by reason of the distribution of money, but it contributed nothing to the increase of population. The main object of Tiberius Gracchus, as already stated, was to encourage procreation by giving small allotments of land, a measure well calculated to effect that object. Appian adds: "When the law of Gracchus had been in effect repealed by these devices, and it was a very good and excellent law, if it could have been carried into effect, another tribune not long after carried a law which repealed that relating to the payment of the tax or rent; and thus the plebes lost everything at once. In consequence of all this, there was still greater lack than before of citizens, soldiers, income from the (public) land, and distributions." — Various agrarian laws were passed between the time of the Gracchi and the outbreak of the Marsic war, B. C. 90, of which the law of Spurius Thorius (*lex Thoria*) is assigned by Rudorff to the year of the city 643, or B. C. 111; and this appears to be the third of the laws to which Appian alludes as passed shortly after the death of Caius Gracchus. Cicero also ("Brutus," 36) alludes to the law of Thorius as a bad measure, which relieved the public land of the tax (*vectigal*). The subject of this lex was the public land in Italy south of the rivers Rubico and Macra, or all Italy except Cisalpine Gaul; the public land in the Roman province of Africa, from which country the Romans derived a large supply of grain; the public land in the territory of Corinth; and probably other public land also, for the bronze tablet on which this law is preserved is merely a fragment, and the agrarian laws of the seventh century of the city appear to have related to all the provinces of the Roman state. One tract, however, was excepted from the Thoria lex, the ager Campanus, or fertile territory of Capua, which had been declared public land during the war with Hannibal, and which neither the Gracchi nor any other politician, not even Lucius Sulla, ventured to touch: this land was reserved for a bolder hand. The provisions of the Thoria lex are examined by Rudorff in an elaborate essay. — In the year B. C. 91 the tribune Marcus Livius Drusus the younger, the son of the Drusus who had opposed Caius Gracchus, endeavored to gain the favor of the plebes by the proposal of laws to the same purport as those of the Gracchi, and the favor of the Socii, or Italian allies, by proposing to give them the full rights of Roman citizens. "His own words," says Florus (iii., 17), "are extant, in which he declared that he had left nothing for any one else to give, unless a man should choose to divide the mud or the skies." Drusus agitated at the instigation of the nobles, who wished to depress the equestrian body, which had become powerful; but his agrarian profusion, which was intended to gain the favor of the plebes, affected the interests of the Socii, who occupied public land in various parts of Italy, and accordingly they were to be bought over by the grant of the Roman citizenship. Drusus lost his life in the troubles that followed the passing of his agrarian law, and the Socii, whose hopes of the citizenship were balked, broke out in that dangerous insurrection called the Marsic or Social war, which threatened Rome with destruction, and the danger of which was only averted by conceding, by a lex Julia, what the allies demanded (B. C. 90). The laws of Drusus were declared void, after his death, for some informality. — The proposed agrarian law of the tribune P. Servilius Rullus, B. C. 63, the year of Cicero's consulship, was the most sweeping agrarian law ever proposed at Rome. Rullus proposed to appoint ten persons with power to sell everything that belonged to the state, both in Italy and out of Italy, the domains of the kings of Macedonia and Pergamus, lands in Asia, Egypt, the province of Africa, in a word, everything; even the territory of Capua was included. The territory of Capua was at that time occupied and cultivated by Roman plebeians (*colitur et possidetur*), an industrious class of good husbandmen and good soldiers: the proposed measure of Rullus would have turned them all out. There was not here, says Cicero (ii., 30), the pretext that the public lands were lying waste and unproductive; they were in fact occupied profitably by the possessors, and profitably to the state, which derived a revenue from the rents. The ten persons (*decemviri*) were to have full power for five years to sell all that belonged to the state, and to decide without appeal on all cases in which the title of private land should be called in question. With the money thus raised it was proposed to buy lands in Italy on which

* ταῖσδε ταῖς is probably corrupt.

the poor were to be settled, and the decemviri were to be empowered to found colonies where they pleased. This extravagant proposal was defeated by Cicero, to whose three orations against Rullus we owe our information about this measure. — In the year B. C. 60 the tribune Flavius brought forward an agrarian law, at the instigation of Pompey, who had just returned from Asia, and wished to distribute lands among his soldiers. Cicero, in a letter to Atticus (i., 19), speaks at some length of this measure, to which he was not entirely opposed, but he proposed to limit it in such a way as to prevent many persons from being disturbed in their property, who, without such precaution, would have been exposed to vexatious inquiries and loss. He says, "One part of the law I made no opposition to, which was this, that land should be bought with the money to arise for the next five years from the new sources of revenue (acquired by Pompey's conquest of Asia). The senate opposed the whole of this agrarian measure from suspicion that the object was to give Pompey some additional power, for he had shown a great eagerness for the passing of the law. I proposed to confirm all private persons in their possessions; and this I did without offending those who were to be benefited by the law; and I satisfied the people and Pompey, for I wished to do that too, by supporting the measure for buying lands. This measure, if properly carried into effect, seemed to me well adapted to clear the city of the dregs of the populace, and to people the wastes of Italy." A disturbance in Gallia Cisalpina stopped this measure; but it was reproduced, as amended by Cicero, by C. Julius Cæsar, who was consul in the following year, B. C. 59. The measure was opposed by the senate, on which Cæsar went further than he at first intended, and included the Stellatis ager and Campanian land in his law. This fertile tract was distributed among 20,000 citizens who had the qualification which the law required, of three children or more. Cicero observes ("Ad Attic.," ii , 16), "That after the distribution of the Campanian lands and the abolition of the customs duties (*portoria*), there was no revenue left that the state could raise in Italy, except the twentieth which came from the sale and manumission of slaves." After the death of Julius Cæsar, his great nephew Octavianus, at his own cost and without any authority, raised an army from these settlers at Capua and the neighboring colonies of Casilinum and Calatia, which enabled him to exact from the senate a confirmation of this illegal proceeding, and a commission to prosecute the war against Marcus Antonius. Those who had received lands by the law of the uncle supported the nephew in his ambitious designs, and thus the settlement of the Campanian territory prepared the way for the final abolition of the republic. (Compare Dion. Cassius, xxxviii., 1–7, and xlv., 12.) — The character of the Roman agrarian laws may be collected from this sketch. They had two objects: one was to limit the amount of public land which an individual could enjoy; the other was to distribute public land from time to time among the plebes and veteran soldiers A recent writer, the author of a useful work (Dureau de la Malle, *Economie Politique des Romains*), affirms that the Licinian laws limited private property to 500 jugera, and he affirms that the law of Tiberius Gracchus was a restoration of the Licinian law in this respect (ii., 280, 282). On this mistake he builds a theory, that the law of Licinius and of Tiberius Gracchus had for their "object to maintain equality of fortunes and to create the legal right of all to attain to office, which is the fundamental basis of democratic government." His examination of this part of the subject is too superficial to require a formal confutation, which would be out of place here. But another writer already quoted (Rudorff, *Zeitschrift für Geschichtliche Rechtswissenschaft*, x , 28) seems to think also that the Licinian maximum of 500 jugera applied to private land, and that this maximum of 500 jugera was applied by Tiberius Gracchus to the public land. Livy (vi., 35), in speaking of the law of Licinius Stolo, says merely, "Nequis plus quingenta jugera agri possideret," but, as Niebuhr observes, the word "possideret" shows the nature of the land without the addition of the word public. And if any one doubts the meaning of Livy, he may satisfy himself what it is by a comparison of the following passages (ii., 41; vi., 4, 5, 14, 16, 36, 37, 39, 41). The evidence derived from other sources confirms this interpretation of Livy's meaning. That the law of Gracchus merely limited the amount of public land which a man might occupy, is, so far as we know, now admitted by everybody except Dureau de la Malle; but a passage in Cicero ("Against Rullus," ii., 5), which he has referred to himself in giving an account of the proposed law of Rullus, is decisive of Cicero's opinion on the matter; not that Cicero's opinion is necessary to show that the laws of Gracchus only affected public land, but his authority has great weight with some people. — It is however true, as Dureau de la Malle asserts, that the Licinian laws about land were classed among the sumptuary laws by the Romans. The law of Licinius, though not directly, did, in effect, limit the amount of capital which an individual could apply to agriculture and the feeding of cattle, and jealousy of the rich was one motive for this enactment. It also imposed on the occupier of public land a number of free men: if they were free laborers, as Niebuhr supposes, we presume that the law fixed their wages. But their business was to act as spies and informers in case of any violation of the law. This is clear from the passage of Appian above referred to, the literal meaning of which is what has here been stated, and there is no authority for giving any other interpretation to it *

* The precise meaning of this passage of Appian is uncertain. If the words τὰ γιγνόμενα refer to the produce, their duty was to make a proper return for the par-

The law of Tiberius Gracchus forbade the poor who received assignments of land from selling them; a measure evidently framed in accordance with the general character of the enactments of Licinius and Gracchus. The subsequent repeal of this measure is considered by most writers as a device of the nobility to extend their property; but it was a measure as much for the benefit of the owner of an allotment. To give a man a piece of land and forbid him to sell it, would often be a worthless present. The laws of Licinius and Gracchus, then, though they did not forbid the acquisition of private property, prevented any man from employing capital on the public land beyond a certain limit; and as this land formed a large part of land available for cultivation, its direct tendency must have been to discourage agriculture and accumulation of capital. The law of Licinius is generally viewed by modern writers on Roman history as a wise measure; but it will not be so viewed by any man who has sound views of public economy; nor will such a person seek, with Niebuhr, to palliate by certain unintelligible assumptions and statements the iniquity of another of his laws, which deprived the creditor of so much of his principal money as he had already received in the shape of interest. The law by which he gave the plebeians admission to the consulate was in itself a wise measure. Livy's view of all these measures may not be true, but it is at least in accordance with all the facts, and a much better comment on them than any of Livy's modern critics have made. The rich plebeians wished to have the consulate opened to them: the poor cared nothing about the consulate, but they wished to be relieved from debt, they wished to humble the rich, and they wished to have a share of the booty which would arise from the law as to the 500 jugera. They would have consented to the law about the land and the debt, without the law about the consulate; but the tribunes told them that they were not to have all the profit of these measures; they must allow the proposers of them to have something, and that was the consulate: they must take all or none. And accordingly they took all.—The other main object of the agrarian laws of Rome was the distribution of public land among the poor in allotments, probably seldom exceeding seven jugera, about five English acres, and often less. Sometimes allotments of twelve jugera are spoken of. ("Cicero against Rullus," ii., 31.) The object of Tiberius Gracchus in this part of his legislation is clearly expressed; it was to encourage men to marry and to procreate children, and to supply the state with soldiers. To a Roman of that age, the regular supply of the army with good soldiers would seem a sound measure of policy; and the furnishing the poorer citizens with inducement enough to procreate children was therefore the duty of a wise legislator. There is no evidence to show what was the effect on agriculture of these allotments; but the ordinary results would be, if the lands were well cultivated, that there might be enough raised for the consumption of a small family; but there would be little surplus for sale or the general supply. These allotments might, however, completely fulfill the purpose of the legislators. War, not peace, was the condition of the Roman state, and the regular demand for soldiers which the war would create, would act precisely like the regular emigration of the young men in some of the New England states; the wars would give employment to the young males, and the constant drain thus caused would be a constant stimulus to procreation. Thus a country from which there is a steady emigration of males never fails to keep up and even to increase its numbers. What would be done with the young females who would be called into existence under this system, it is not easy to conjecture; and in the absence of all evidence we must be content to remain in ignorance. It is not stated how these settlers obtained the necessary capital for stocking their farms; but we read in Livy, in a passage already quoted, that on one occasion the plebes were indifferent about the grants of lands, because they had not the means of stocking them; and in another instance we read that the treasure of the last Attalus of Pergamus was to be divided among the poor who had received grants of lands. A gift of a piece of land to a man who has nothing except his labor, would in many cases be a poor present; and to a man not accustomed to agricultural labor —to the dregs of Rome, of whom Cicero speaks, it would be utterly worthless. There is no possible way of explaining this matter about capital, except by supposing that money was borrowed on the security of the lands assigned, and this will furnish one solution of the difficulties as to the origin of the plebeian debt. It is impossible that citizens who had spent most of their time in Rome, or that broken-down soldiers should ever become good agriculturists. What would be the effect even in the United States, if the general government should parcel out large tracts of the public lands, in allotments varying from two to five acres, among the population of New York and Philadelphia, and invite at the same time all the old soldiers in Europe to participate in the gift? The readiness with which the settlers in Campania followed the standard of young Octavianus shows that they were not very strongly attached to their new settlements.—The full examination of this subject, which ought to be examined in connection with the Roman law of debtor and creditor, and the various enactments for the distribution of grain among the people of Rome, would require an ample volume. The subject is full of interest, for it forms an important part of the history of the republic from the time of the legislation of Licinius; and it adds one to the many

pose of taxation, that is, of the tenths and fifths. But this passage requires further consideration. All that can be safely said at present is, that Niebuhr's explanation is not warranted by the words of Appian.

lessons on record of useless and mischievous legislation. It is true that we must make some distinction between the laws of Licinius and the Gracchi, and such as those proposed by Rullus and Flavius: but all these legislative measures had the vice either of interfering with things that a state should not interfere with, or the folly of trying to remedy by partial measures those evils which grew out of the organization of the state and the nature of the social system. — The nature of the agrarian laws, particularly those of Licinius and the Gracchi, has often been misunderstood in modern times; but it is a mistake to suppose that all scholars were equally in error as to this subject. The statement of Freinsheim, in his "Supplement to Livy," of the nature of the legislation of the Gracchi, is clear and exact. But Heyne ("Opuscula," iv., 351) had the merit of putting the matter in a clear light at a time, during the violence of the French revolution, when the nature of the agrarian laws of Rome was generally misunderstood. Niebuhr, in his "Roman History," gave the subject a more complete examination, though he has not escaped error, and his economical views are sometimes absurd. Savigny (*Das Recht des Besitzes*, p. 172, 5th ed.) also has greatly contributed to elucidate the nature of possession of the public land, though the main object of his admirable treatise is the Roman law of possession as relates to private property. BOHN.

LAWS, Sumptuary, laws designed to repress or moderate the expenditures of private citizens. Such laws existed in almost all the ancient republics and in most of the modern states. — The ancient republics were based, as we know, on equality of conditions.* As soon as that equality was in a certain measure changed, the very existence of the state was in peril. Legislators, then, to avert the danger, had recourse to agrarian laws, sumptuary laws, laws to favor marriages, and laws ordering the employment of free men in field labor. All these laws, so diverse in the nature of the subjects to which they applied, were inspired by one single idea and tended to the same end, to prevent the extinction of the free population, from which the national armies were recruited. These laws, which to-day seem strange to us, show how the ideas of the ancients on liberty differed from ours, and how different was their social condition from that which exists among us. — "The Romans," says Plutarch, "thought the liberty ought not to be left to each private citizen to marry at will, to have children, to choose his manner of life, to make feasts; in short, to follow his desires and his tastes, without being subject to the judgment and supervision of any one. Convinced that the deeds of men are manifest in these private actions, rather than in public and political conduct, they had created two magistrates charged with keeping guard over morals, and reforming and correcting them, so that no one should allow himself to be enticed from the path of virtue into that of voluptuousness, or should abandon the ancient institutions and established usages" — But the censure instituted at Rome was only one particular form given to the exercise of a right which all antiquity recognized in the state. They thought that by prohibiting the use of articles of luxury, they would repress the avidity of the great and diminish the general consumption of society, that impoverishment would be retarded; that men of the middle class would be prevented from falling into indigence, from which they could emerge only by labor; for we must remember the fundamental principle of the military republics, that labor was dishonorable. Public opinion excused the Roman patrician for having poisoned and assassinated; it would not have pardoned him for engaging in commerce or working at a trade: hence a whole economic system that was artificial and against nature. — At Rome, we find sumptuary tendencies in even the law of the Twelve Tables. "Do not carve the wood which is to serve for a funeral pile. Have no weeping women who tear their cheeks, no gold, no coronets." People never regarded these prohibitions. The *Oppian law*, passed almost immediately after the establishment of the tribunate, forbade matrons to have more than a half ounce of gold, to wear clothing of diversified colors, or to use carriages in Rome. Soon, in the year 195 before our era, the abrogation of that law was demanded, and the demand supported by a revolt of women, as described by Titus Livy. In spite of the opposition of Cato, who, in his speech, showed the intimate relation of that law to the agrarian laws, its abrogation was decreed. — Fourteen years later, under the inspiration of the same Cato, the *Orchian law*, limiting table expenses, was promulgated. Twenty years later the *Fannian law* was passed for the same end. It fixed the expense of the table at about ten cents for each individual on ordinary days, and at less than thirty-one cents for the days of festivals and games. It was prohibited to admit to one's table more than three outside guests, except three times a month, on fair and market days; prohibited to serve at repasts any bird, were it merely a fatted chicken; prohibited to consume more than fifteen pounds of smoked meat per year, etc. Soon the luxury of the table passed these narrow bounds, and Sylla, Crassus, Cæsar and Antony, in succession, caused new decrees to be issued against gluttony. — It is true that, by a singular coincidence, most of these men who made laws against luxury at the table, were conspicuous in history for their excesses. The infamy of the feasts of Sylla, Crassus and Antony has come down to us through all these centuries; and if Cæsar was less addicted to gluttony than these famous personages, he introduced no less luxury at his repasts. This circumstance likewise proves clearly

* The error of this statement appears from the writings of Aristotle. *Vide* Blanqui's Hist. of Polit. Econ., chap. ii., p. 10.—E. J. L.

that all these statesmen, whatever course they followed themselves and whatever were their personal tastes, considered sumptuary laws a political remedy in some sort applicable to a people in a bad condition. It was not through regard for morals, for private integrity, that they had recourse to sumptuary laws; it was to preserve, if it was still possible, the Italian race, which was rapidly disappearing under the two-fold action of pauperism and civil wars. But private expenses can not be regulated either by laws disregarded by the very persons who make them, or by physical means; the change must be effected through public opinion, religion and morals. When public opinion is so corrupt as to honor theft and despise labor; when all religion is destroyed; when it is honorable among the great to eat and drink immoderately, and to vomit in order to eat again, laws can have no efficacy. Sumptuous banqueting also, incredible as it may seem, increased under the emperors. The emperors then also made sumptuary laws at the same time that they were presenting the spectacle of the most scandalous excesses. Some of them, however, gave what was better than laws, grand examples of abstinence and sobriety, but without result, without power to arrest society on the declivity down which it was precipitating itself. It is as impossible to regulate the employment of wealth acquired by conquest and robbery as that of wealth acquired by gaming. — The sumptuary laws in all ancient countries were of no avail. Sometimes evaded, sometimes openly despised, they did not arrest the increase of luxury, and did not retard the downfall of the military republics founded upon equality. It seems to us, however, that J. B. Say has treated them with a little too much disdain in the following passage, where he has, however, clearly brought out the difference between the sumptuary laws of antiquity and those of modern states: "Sumptuary laws have been made, to limit the expenditures of private individuals, among ancient and modern peoples, and under republican and monarchical governments. The prosperity of the state was not at all the object in view; for people did not know and could not yet know whether such laws had any influence on the general wealth. * * The pretext given was, public morality, starting with the premise that luxury corrupts morals; but that was scarcely ever the real motive. In the republics the sumptuary laws were enacted to gratify the poorer classes, who did not like to be humiliated by the luxury of the rich. Such was evidently the motive for that law of the Locrians which did not permit a woman to have more than one slave accompany her on the street. Such was also that of the *Orchian law* at Rome, a law demanded by a tribune of the people, and which limited the number of guests one could admit to his table. During the monarchy, on the contrary, sumptuary laws were the work of the great, who were not willing to be eclipsed by the middle classes. Such was, doubtless, the cause of that edict by Henry II., which prohibited garments and shoes of silk to any others than princes and bishops." — There were, in ancient times, other motives for the enactment of sumptuary laws than desire to gratify the poorer classes, and in feudal monarchies the laws originated in other causes than a jealousy of the great. These monarchies were also an artificial creation, founded "on ancient institutions and received usages"; these institutions, these usages, tended to entail property in some families, and to settle rank permanently; and if antiquity had its agrarian laws, which meant equality, feudal society, we must not forget, had its own, which meant inequality and hierarchy. — The advent of movable wealth and of luxury profoundly disturbed feudal society, where all was founded on the pre-eminence of that property considered especially noble, viz., real estate. A system of agriculture which had become fixed by tradition did not allow the nobility to increase their revenues, while the profits of commerce, navigation and the industries, and the possession of movable capital, elevated the middle class. The luxury of this class, who were eager to imitate the style of the great, disturbed the harmony of society: it deranged a hierarchy without which people saw only disorder. Hence arose sumptuary laws, which distinguished classes by their garb, as the grades in an army are distinguished by the uniforms. — The vanity of the great, perhaps, called for the sumptuary laws of modern nations, as the jealousy of the lower classes had welcomed those of the ancient republics. But, in antiquity as in feudal monarchies, the legislator was inspired by state considerations, by a desire to prevent innovations which he considered as fatal. From the time when the plebeians came into competition with the luxury of the nobles, from the moment that they were their rivals, it was evident that, if the way was left open for such competition, wealth would finally gain the victory over birth in the opinion of the people, *i. e.*, over the nobility themselves. Now, as feudal monarchies were founded on the right of race, everything that could diminish the authority of this right, tended to subvert the constitution of the state. Even those who did not clearly perceive the import of the luxury of the bourgeois, and who, bourgeois themselves, could not be wronged by it, nevertheless felt that this luxury disturbed the established order, and they supported the sumptuary laws. — These laws, then, were at all times inspired by the desire of arresting an irresistible movement resulting from the very force of things, from the development, disordered perhaps, but logical, of human activity. They were, moreover, powerless, and were always evaded by a sort of tacit and general conspiracy of all the citizens, without any one daring or being able to find fault with the principle, without any one thinking of contesting the power of the legislator on this point in the very least. In fact, we must remember that in monarchies in modern times, the law-making power was scarcely less extended

than in antiquity. People did not recognize the right of every man to work, and still less, the right to work when he pleased; and, what was of much more consequence, they professed that the king held a strict control over his kingdom, and would not allow one class to encroach on the rights of another, or to change the rank assigned to it by ancient custom. "The said lord the king," we read in an ordinance of 1577, "being duly informed that the great superfluity of meat at weddings, feasts and banquets, brings about the high price of fowls and game, wills and decrees that the ordinance on this subject be renewed and kept; and for the continuance of the same, that those who make such feasts as well as the stewards who prepare and conduct them, and the cooks who serve them, be punished with the penalties hereunto affixed. That every sort of fowl and game brought to the markets shall be seen and visited by the poulterer-wardens, in the presence of the officers of the police and bourgeois clerks to the aforesaid, who shall be present at the said markets, and shall cause a report to be made to the police by the said wardens, etc. The poulterers shall not be allowed to dress and lard meats, and to expose the same for sale, etc. The public shall be likewise bound to live according to the ordinance of the king, without exceeding the limit, under penalty of such pecuniary fines as are herein set forth against the innkeeper, so that *neither by private understanding nor common consent* shall the ordinance be violated."—The world to-day lives in a different order of ideas, and when we read the ordinances of French kings, we find them no less strange than the ancient laws: they seem to us to apply to a social condition in which each laborer was a civil officer, as in the empire of Constantine. These ordinances are nevertheless the history of but yesterday, the history of the eve of the French revolution, and we are still dragging heavy fragments of the chain under which our fathers groaned. But ideas and sentiments have gone far in advance of facts: we have difficulty in comprehending the intervention of the government in the domestic affairs of families, and in contracts which concern only private individuals. As to luxury, it can not disturb classes, in a society where all are on a level, and it can not do much harm if the law of labor is respected, if rapine can not become a means of acquiring property. — Since the revolution, no sumptuary law has been enacted in France, and yet the luxury of attire which formerly distinguished the nobility has disappeared. A duke dresses like anybody else, and he would be ridiculed if he sought to distinguish himself by a manner of dress different from others. Such is sumptuary law in our time. Any one who should try to make himself singular by particular garments or an exceptional mode of life, would be immediately noted, not as a dangerous citizen, but as a ridiculous fellow. Opinion has undergone an entire revolution. Private expenses are meanwhile increasing, and this increase, too, is pretty rapid. They can not, however, depart far from uniformity: vain prodigalities can not be a title to glory in a society where the law of labor is recognized, and the one who will surrender himself to them, however rich he may be, is forced by public opinion to wear a certain modesty, even in his greatest excesses. Sumptuary laws can no longer be proposed. We need not think the honor of the change is due to our wisdom, to our pretended superiority to the ancients; let us simply recognize, (and it is in this that progress consists), that the essential principle of society has changed: the world moves on another basis. — When the Roman people had, in despite of the observations of Cato, abrogated the Oppian law against the luxury of women, Cato, who had become censor, attempted to have it revived in another form. He included in the census, that is, in the valuation of the wealth of the citizens, jewels, carriages, the ornaments of women and of young slaves, for a sum ten times their cost, and imposed a duty on them of $\frac{3}{1000}$ or $\frac{3}{100}$ of the real price. He substituted a sumptuary tax for a sumptuary law. The moderns have done as did Cato. After the sumptuary laws had become a dead letter, they imposed taxes on the consumption of luxuries. England has taxes on carriages, on servants, on armorial bearings and on toilet powder. So far as political economy is concerned, these taxes are irreproachable; but they bring little into the treasury, and have scarcely any influence on consumption or on morals.

COURCELLE-SENEUIL.

LEGAL TENDER. (See COMPULSORY CIRCULATION.)

LEGISLATION is the exercise of that part of the sovereign power which promulgates new laws; modifies and repeals old laws; gives to ethical convictions their crystallized form by expressing in apt language the conception of society as to what constitutes offenses, and prescribes their punishment; formulates how contracts should be made and observed; and regulates the affairs of men in their relations with the state and with each other. In this concrete form it is the expression of the will of the law-making power of the community, behind which stands its administrative machinery to enforce that expression of will by punishment for its infraction, or by changing relative rights and duties, if the law applies to matters of contract instead of matters of penal law. The legislation need not necessarily emanate from a legislative body. A convention of the people, either directly or through representative bodies other than legislatures, formulates and establishes the highest laws in any given community by the organic distribution of powers in a nation or community in the shape of a constitution. This is fundamental legislation. All other legislation of the community is subsidiary to it. There is a considerable amount of legislation done by judges in their interpretation of statutes,

or in the application of general principles to new cases, which we may for the present leave out of sight, because while judge-made law is law, it does not, in ordinary parlance, come under the head of legislation. It is referred to here for the purpose of drawing attention to the fact that the legislature is not the only source of law. In European countries a large proportion of what occupies what is ordinarily termed legislation in the United States falls under the head of administrative rescripts, which have the force of law. Each particular minister in the constitutional governments of Germany, France and Italy has the power to make administrative regulations for the departments under his control, which have the same character as, and indeed are not distinguishable from, a great part of the laws which encumber the statute books of the United States. For instance, all that class of legislation which grants charters of cities and governments for counties, and changes their nature from time to time, would all come under some ministerial department and be regulated and changed or modified, as the case might be, without any appeal to the general legislative body. By reason of this and kindred large bodies of regulations emanating from executive officers, the legislatures of those countries are but little encumbered with the questions that vex and worry us, which come under the head of local and special laws that form the bulk of the statutes annually enacted in the United States; but, on the contrary, the legislative bodies of those countries are freer to devote their attention to the general legislation of the community, because it is not properly deemed legislative work to regulate the administrative machinery of the minor administrative organizations of the community. — The legislative bodies of the United States have been modeled upon those of England. In every state of the Union there are two legislative houses corresponding to the senate and house of representatives of the national legislative body, and to the house of lords and house of commons of the English parliament. The senate is the house of greater dignity and smaller numbers, the dignity arising from the longer term of office and the greater comparative power of each individual legislator because of the larger district which elects him. — The theory upon which legislation proceeds from a law-making body is, that that body is placed in a situation of such altitude above the surrounding individual and personal interests of the community, that its members can see general interests as contradistinguished from personal interests, and by general regulations denominated laws hold the special and personal interests in check and compel them to work harmoniously for the public weal. In so far as that theory is carried into practice the laws that emanate from such bodies are, unless proceeding from a wrong point of view, generally wholesome and beneficial. If the organization of the legislative body, or the practice which has in time grown up in its procedure, results in the domination of individual or personal interests instead of the general public weal, the laws of that community, received from such a body, are sure to be inharmonious and mischievous. — Laws divide themselves naturally into organic laws, into general legislation, special legislation, public legislation, and local legislation. — The subject of legislation is the whole domain of human activity. Whether it shall extend its field into any particular branch of human activity, or leave it free to the natural law which would in the absence of such legislation regulate it, is a question of expediency, the consideration of which belongs to a different branch of the science of government from that which we are called upon to treat of herein. — Organic laws are the laws made by the sovereign, by which governmental powers are distributed and prerogatives which belong to the sovereign are delegated to agents, either for a definite period or for all time. These organic laws may emanate, like magna charta, from the king; they may be the result of a determination of the sovereign, as represented by the imperial crown, to associate with itself in the exercise of legislative and judicial powers, a larger number of subjects than had theretofore been consulted with reference to matters of government, (in such manner have European governments gradually developed into constitutional monarchies); they may be the result of revolution and civil strife, which throws the sovereign power back into the hands of the people; or they may, by constitutional conventions as in America or constituent assemblies as in France, exercising that sovereign power, represent the sovereign for the time being, and in such representative body formulate and promulge a constitution, placing sovereign power, in their subdivisions of executive, judicial and legislative authority, in individual hands, and prescribe the limits within which such authority is to be exercised. These organic laws are generally declared to be for all time, but subject to amendment in a manner prescribed by the organic law itself — The ultimate sovereignty of the community rests in its people. Whether they are to exercise that ultimate sovereignty in the form of a constitutional convention or in some more constantly acting form, is a question with reference to which it is not needful to lay down rules, as the exercise of that power comes into life, as a general rule, as the result of some great civil strife, or some great crisis, and the necessities that have called it into being prescribe the limitations and form within which the sovereign exercises its power. To these organic laws constant reference must be made for the purpose of ascertaining the powers of the legislature that it calls into being, and it is almost needless to say that whatever contravenes the organic law is void, as being beyond the scope of the authority deputed to the legislative body, and therefore of no effect; in other words, is unconstitutional legislation. — The laws which are not organic emanate from the legislative body, which is itself created by the organic law. The distin-

guishing feature between organic laws and legislative laws is, that one legislature can not bind the hands of another upon general public questions. In the United States it has been, however, held that a legislative measure may create a contract which it is not in the power of another legislature to break without the consent of the other contracting party, but this limitation upon the power of the legislature arises solely from the fact that the constitution of the United States puts a limitation in that particular upon the state legislative power in declaring that no state shall pass any law impairing the obligation of a contract, which also includes inviolability as to its own contracts. — *Public Legislation.* It is the duty of the law-making power to see to it that the laws of a community shall be readily understood, shall be harmonious, and shall press as little as possible upon proper legitimate individual enterprise; that all remedial legislation shall be adapted to its ends, and shall be clear in expression; that all criminal legislation shall define crimes in conformity with existing facts; shall keep pace with the perverse ingenuity of mankind in the discovery of new methods of appropriating other people's property under the form of legitimate business; and shall prescribe punishments of a definite character. All legislation which irritates and does not punish is useless and mischievous legislation. All legislation is as to form subject to rules which can not safely be neglected by the legislator, and the disregard of which has resulted in infinite mischief to society. The elements of every legislative expression consist, 1, in the description of a legislative subject; 2, in the enunciation of the legal action; 3, in the description of the case to which the legal action is limited; and 4, the precedent conditions on the performance or doing of which the legal action operates. — *Legal Subject.* The definition of the person, artificial or natural, who may or may not do a particular thing, who shall or shall not refrain from doing a particular thing; and this subject should be clearly defined. The *legal action* is a definition of the right, the privilege or the power, or the obligation or liability granted to or imposed upon the legal subject. The *description* of the case to which the legal action is limited, is a setting forth of the state of facts which shall create the conditions applicable to the legislative subject, and which shall call into being the right, privilege, obligation or duty. The *conditions* on which the legal action becomes operative are invariably conditions precedent, because a law, although universal as to its subjects and unrestricted as to cases, can nevertheless become operative only upon the performance or non-performance of certain conditions. Example: *Subject*, all persons born in this state above the age of twenty-one; *action*, shall have the right to vote; *description*, at all elections to be held for judges of court of appeals; *condition precedent*, if they shall have registered twenty days before the date of such election. A law may embrace any number of subjects, actions, descriptions or conditions precedent, may fill a volume, and yet the law will be combinations, in one form or another, of these simple elements The first duty, therefore, of the law-maker in relation to a law, after having determined upon its usefulness, is to see whether these various elements of the law into which it may be resolved are correctly described and follow each other in their natural order — *Legislative Methods.* The constitutions of the states of this Union enjoin upon the legislative body many conditions, upon the proper performance of which their legislation will depend as to its constitutionality. Tax laws are required to be passed by a certain majority; bills are required to be read a certain number of times, either by their titles or read through; journals are to be kept; ayes and noes are to be entered therein; a certain number of ayes are requisite for certain kinds of legislation; and in many other particulars the form of legislation is prescribed. The legislative body is required to organize committees; to sit a certain number of days; and to follow certain forms as to methods of enactment. A vast body of rules has been adopted by the legislative assemblies of this country by which their deliberations are governed. Forms are prescribed as to the manner in which bills are to be introduced; what committees are to be appointed; how the speaker is to be elected; what powers he is to exercise; how debate is to be regulated; how communications between the two branches of the legislative body, and between them, or either of them, and other bodies or the executive, are regulated and carried on; how witnesses are to be examined; petitions introduced and acted upon; and divisions determined. Committees are required to report in a particular manner, and the various stages through which a bill passes are carefully prescribed by such rules and are generally followed. The power of amendment is subject to rules; and even the debates, both as to the time which each individual speaker is to occupy and the license he is to have in debate, are subjected to regulation. It would be a mere repetition of any one of the numerous manuals of rules to set forth with greater particularity what these rules are. It may be conceded that they are necessary for the purpose of governing the presiding officer's action, so that his rulings shall not be arbitrary, and to give method and system to the conduct of the deliberative body. These rules are so numerous and so complex, that a leading member of congress stated that it takes at least one session of congress for an intelligent and diligent member to learn the rules so that he may take part in the debate with efficiency. A great part of the time of every deliberative body is taken up with questions arising under the rules, and perhaps necessarily so This is all subtracted from the necessary work of the session. Freedom of debate has ever been regarded as one of the essential requisites of a deliberative body. In the United States this freedom of debate has, however,

been for a considerable number of years subjected to the limitations of the rule known as the *previous question*, a motion which, if supported by a sufficient number of the majority, is made for the purpose of cutting short debate and to compel the presiding officer to put the main question at once with the view promptly to ascertain the will of the house. The French have in their deliberative bodies recognized the same rule by a motion for a *clôture*, or close of the debate. In the English parliament this rule has not until recently prevailed. It was only in consequence of the power exercised by the Irish members on questions affecting the Irish people to prevent legislation by obstructive motions and speeches, that compelled the adoption of a rule somewhat analogous to the *previous question* in the United States and the *clôture* of France, in a motion of *urgency of public business*, which the government may make and which upon the support of two-thirds of the house closes the debate. — The rules adopted in the United States as to methods of enactment are quite inadequate to meet the necessities of modern legislation; and there is not a state in the Union in which the complaint is not well grounded that the laws passed by the legislative bodies are slipshod in expression, are inharmonious in their nature, are not subjected to proper revision before their passage, are hurriedly passed, and impose upon the governors of the states a duty not intended originally to be exercised by them, that of using the veto power in lieu of a board of revision for the legislative body; and so badly is the gubernatorial office organized for any such purpose that the best intentioned governor is compelled to permit annually a vast body of legislation to be put upon the statute book, which is either unnecessary, in conflict with laws not intended to be interfered with, or passed for some sinister and personal ends. — In the United States there is no such thing as real responsibility for the legislation of the session lodged anywhere. Neither in congress nor in the various states is the duty imposed upon any individual or body of men to formulate and to propose public legislative measures. The party in power is supposed to be responsible in some degree for the legislation of a session, but in no state in the Union nor in congress does the political party in the ascendency consider itself charged with the public legislation of a session except in so far as it may have made specific pledges in party platforms as to the redress of some grievance. Under our system of government it frequently happens that one party has a majority in one legislative body while the other party has a majority in the other legislative body, or that the party having control of both chambers of the legislature has no control of the executive, and as both houses and the governor must combine to create a law, all responsibility for legislation is, in such cases, lost by being thus divided. In constitutional monarchies, such as England, the ministry are charged with the duty of initiating public legislation. The absence of any ministry in the states of the Union having relation to the legislature, imposes the task of proposing and formulating laws, either upon private individuals imbued with public spirit, upon others seeking to use the law for their personal ends, or upon the individual members of the legislature seeking to obtain some benefit for their constituencies, possibly for the state, or for some private interests that move them. As there is no consultation between the members of the legislature before they meet in session, by which they might as a body become animated by an *esprit de corps* for the promotion of certain legislative measures during the course of the legislative year, the consequence is, that from the opening of the legislature until its close each individual member proposes whatever law he pleases; it is put into the legislative hopper to be sent to its respective committee, and each important committee has, during the course of a legislative session, many times the measures, thrust upon it for examination and report, that it can with anything like care or deliberation consider, even if it were, as is not generally the case, thoroughly competent to perform legislative work. This absence of responsibility as to public legislation, and the promotion of such legislation exclusively by individual action, have created a degree of mischief quite beyond computation. And when the resources of the country shall have been more thoroughly exploited, and by the growth of wealth and the intricacy of social organization changes in the law become more mischievous and far reaching than now, we shall be forced to adopt in all our methods of legislation a change so great that it will be well nigh revolutionary in character, by creating in every state in the Union either a council of revision or a ministerial body charged with the duty of formulating and proposing the public laws of the session, and made responsible also for their proper enactment. — The influence of the lobby in pressing private and local bills for personal ends has proved so formidable an evil in the United States that many of the states of the Union, within a decade, have, by acts of constitutional conventions or regular amendments to their organic laws directly acted upon by the people, prohibited their legislative bodies from enacting special laws in a variety of cases. The restriction in the state of New York is as follows: "The legislature shall not pass a private or local bill in any of the following cases: changing the names of persons; laying out, opening, altering, working or discontinuing roads, highways or alleys, or for draining swamps or other low lands; locating or changing county seats; providing for changes of venue in civil or criminal cases; incorporating villages; providing for the election of members of boards of supervisors; selecting, drawing, summoning or impaneling grand or petit jurors; regulating the rate of interest on money; the opening and conducting of elections or designating places of voting;

creating, increasing or decreasing fees, percentage or allowances of public officers, during the term for which said officers are elected or appointed; granting to any corporation, association or individual the right to lay down railroad tracks; granting to any private corporation, association or individual any exclusive privilege, immunity or franchise whatever; providing for building, and chartering companies for such purposes, except on the Hudson river below Waterford, and on the East river, or over the waters forming a part of the boundaries of the state. The legislature shall pass general laws providing for the cases enumerated in this section, and for all other cases which in its judgment may be provided for by general laws. But no law shall authorize the construction or operation of a street railroad except upon the condition that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having the control of that portion of a street or highway upon which it is proposed to construct or operate such railroad be first obtained; or, in case the consent of such property owners can not be obtained, the general term of the supreme court, in the district in which it is proposed to be constructed, may, upon application, appoint three commissioners, who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners." — This limitation of the power of the legislature to enact private and special laws creates in its turn an evil far greater than that which it was intended to remedy. Private and local legislation is in itself not a bad thing. One of the advantages of the common law is its adaptation to individual cases. It has infinite power of combining and applying itself to changes of circumstances and of cases. Any unbending, unyielding general rule becomes in time oppressive and mischievous. Equity jurisprudence has arisen simply for the purpose of making even judge-made common law subservient to the necessities of society and to the requirements of justice, which is the object of all law. — It is no demerit of modern legislation that it applies itself minutely to special cases. It would in fact be the greatest merit of any system of laws that they varied exactly as every case varied in its elements. It is general and indiscriminating rules that constitute the harshness of any system of law—rules which, subjecting special classes of persons to unintended and unforeseen oppression, require for their mitigation the arbitrary modifications of the judicial construction of courts of equity. The more a legislature is civilized, the more it measures and considers differences in each class of cases and adjusts the law to their varieties. In this process of modifying and adjusting the law to special cases, Conde, in his essay on legislative expression, says that "The constant action of the legislature and of the judiciary of England has undeniably made a greater and better progress than the institutions of any other country; and to desire a codification or simplification which should destroy these nice adjustments or diminish in any way the specialization of the law; or to propose arrangements to cripple or obstruct its future further extension of specific legislation, would be to sacrifice aptness and certainty in the law to verbal generality, and to supplant the beneficent officiousness of the legislature by the despotic formalities of the methodizer." This criticism upon resorting to the exercise of the power of general legislation instead of meeting the exception by special legislation, is fraught with special meaning to the people of the United States because their general legislation is not watched over by a body of hereditary legislators, as is that of England by the house of lords, or that powerful committee of the house of commons known as the ministry, charged with the duty of promoting the general legislation of a session. The general legislation of this country is in the hands of individual legislators, and by forbidding special legislation in a great number of cases by the recent constitutional changes, the whole body of general law is thrown into the arena of special interests, to be changed, modified or destroyed as special interests may dictate; so that the object which was heretofore sought in the state of New York and in other states by a special law is and will hereafter be sought to be attained in large measure by a change in the general law to meet special cases, thereby creating special legislation in its worst form, to wit, general laws repealed, altered or modified to meet a special case or a special interest Far better would it have been to have followed in that particular the example of England in methodizing legislation. English legislation was not free from corruption and the lobby until methods were discovered and applied by which both the one and the other could be extirpated. As late as 1844 Mr. Herapath, M. P., felt himself at liberty positively to assert that members had not been merely canvassed to support a bill, but that large sums had been spent upon them to secure their support. The "Athenæum" said, about that time, "It is the fashion to assume that our legislators are not now open to pecuniary bribes; it may be so, but we must leave that question to be decided by our children's children If public rumor be not more than usually scandalous and false, there are some curious revelations yet in store for these youngsters, relating to railway bills." One company was able to boast that it had command of one hundred suffrages in the house of commons; and Francis, in his "History of the Railway," says, "that members were personally canvassed, solicitations were made to peers, influences of the most delicate nature were used, promises were given to vote for special lines before the arguments were heard, advantages in all forms and phases were proposed, to suit the circumstances of some and the temper of

others. Letters of allotment were tempting; human nature was frail; and the premium on five hundred shares irresistible." This pressure of private legislation upon parliament began, in time, seriously to interfere with the performance of its public duties, with the passage of general laws, and with the administration of the empire; and in 1847 a code of standing orders was adopted, which, together with certain statutes as to costs and the establishment of the "Gazettes" and the notices for publication therein, now regulate practice in relation to private bills with the same completeness and detail, with the same careful regard as to the rights of parties, as the practice in courts of law is regulated by the supreme court judicature act, or by our own codes of procedure. Fully to realize this very complete system, it is well to follow the course of a private bill through the palace of St. Stephen's. Every bill conferring any power on a special borough, city or town, or upon any corporation or individual or set of individuals, or amending any powers already conferred, is regarded as a private bill; and even bills conferring powers on the metropolitan board of works are regarded as private bills; the bills in relation to the corporation of London are classified as private bills, and indeed all bills which in the United States come under the designation of special and local bills, are denominated private bills, and must pass through the course prescribed by the standing rules. — These bills are divided into two classes. The first class embraces all subjects of enlarging or altering the powers of corporations; or which may relate to a church or a chapel building, burial ground, to cities or towns, to paving and lighting, to county rates, to ferries, to fisheries, to gas works, to lands, to letters patent, to local courts, to markets, to police, to poor rates. The second class includes the making or maintenance of any aqueduct, archway, bridge, canal, cut, dock, drainage, embankment, ferry, harbor, navigation, pier, court, railway, reservoir, sewer, street, tramway, turnpike, tunnel or waterworks; in fewer words, the second class embraces all such bills as involve the exercise of the right of eminent domain. Bills of both these classes must, before parliament meets, be preceded by a notice of intention to apply for the powers they contain, together with the time when copies of the bill will be deposited in the private bills office in the house of commons. If it is a bill of the second class, this deposit must be accompanied by the submission of an accurate engineering and topographical survey of the lands intended to be taken, together with the names of the owners, the value of the lands, and an estimate of cost. A notice long in advance of the session must be published in the London, Dublin or Edinburgh "Gazette," if it affect an English, Irish or Scottish interest, for six weeks prior to the deposit of the bill. If the bill is one of the second class it must also be published in a newspaper having the largest circulation at the nearest point where such land is to be affected or taken. A list must also be deposited of the names of the owners, lessees and occupiers of any property which is to be taken or affected by the powers intended to be granted by the bill. These notices of the intention to apply are published in the month of November. It will be remembered that parliament generally meets in the early part of February, unless specially convened. Two copies of the bill, and in the case of a bill belonging to the second class, two copies of the plan, a book of reference in relation to the plan, and a list of owners, a copy of the list of owners, and copy of the "Gazette" notice, must be deposited in the office of the clerk of the peace in every county or district wherein the improvement is to be made or the powers to be exercised; one copy of each of the same documents at the office of the board of trade; one copy in the parliament office; one copy in the private bills office of the house of commons; a copy of the plans and sections at the parish clerk's office; and in the event of its being any churchyard or burial ground bill, or if any commonable land is proposed to be interfered with, a copy must likewise be deposited in the office of the secretary of state for the home department. On or before Dec. 15 notice must be personally served on the owners, lessees and occupiers of all lands, houses and premises which are to be affected by the provisions of the bill; on or before Dec. 17 a printed copy of the bill must be deposited at the parliament office of the house of lords; and on or before Dec. 21 a printed copy of the bill, with the petition annexed, at the private bills office of the house of commons, and the private bills office of the board of trade. And, in addition to all this, in the case of any canal, railway or tramway bill, or one relating to any public work, requiring the exercise of the right of eminent domain, there must be deposited, on or before Dec. 31, an estimate of expenses signed in duplicate, one for the lords and the other for the commons, at the private bills office, and at the parliament office. An entire list of owners and occupiers must be deposited in the house of lords in the same form as that in the house of commons on or before Jan. 14, a deposit of a sum of money equal to 5 per cent. of the estimates must be made in the high court of justice, and a deposit must be made at the time of the filing of the papers to pay the expenses of the bills in the two houses of parliament. — If the bill is unopposed, it is taken up by officers called examiners, who begin their work on or about Jan. 18, according to such directions as shall have been made by the speaker. Seven days' notice of the proposed examination of the petition and bill is sent out; if the petitioners do not then appear before the examiners the bill is stricken out. If the petitioners appear, which appearance is generally made by the parliamentary agent or solicitor, a judicial inquiry is then made whether the provisions of the standing orders as to notice, publication, deposits of plans and moneys have all been duly complied with, and whether the necessary disbursements for the consideration of

the bill have been deposited, which vary in the first instance from £20 to £30. If upon such examination it appears that the rules of procedure have not been complied with, the bill is thrown out, with the indorsement "standing orders not complied with," and nothing further can be done with the bill during that session. A qualified or conditional opposition may be made by the adversaries to it, upon the question of non-compliance with the standing orders, so as to avoid the necessity of a trial of the bill on its merits. If it can be shown before the examiners that either through negligence or fraud the promoters of the bill have failed to comply with the parliamentary requirements, the bill is thrown out in the same manner as though the examiners had discovered the defects by their unaided inquiry. Assuming that the examiners find that the promoters have fully complied with all these preliminary requirements, the private bill is then referred to the chairman of the committee of ways and means of the house, who, at a conference on private and local bills with the chairman of committees of the house of lords, determines in which house of parliament the bills shall respectively be first considered, and in what order they shall be considered; upon this determination neither parties nor counsel are heard. Thereupon the chairman of the committee of ways and means, with the assistance of the counsel to the speaker, examines all the private bills independently of the question whether opposed or unopposed, and calls the attention of the house and also that of the chairman of committees to all points which may appear to him to require it; and at any time after a private bill has been referred to a committee, the chairman of the committee of ways and means is at liberty to report to the house any special suggestions relative thereto which occur to him to require it, and to inform the house that in his opinion any unopposed private bill should be treated as though it had been opposed, and evidence should be taken to prove the petition and clauses affirmatively. — Before the committee acts upon a private bill, whether opposed or unopposed, it is again submitted to the chairman of the lords committees and his counsel, who amends it, alters it, or recasts it as he may see fit; or if he finds that it is inexpedient, on the whole, that the bill should pass, he indorses it that "the lords will not concur in the passage of this bill," and all further progress thereon is arrested, because the commons, since the existence of the standing orders, have rarely seen fit to urge upon the lords the passage of any private bill when so high an authority as Lord Redesdale, who has been for many years the chairman of its committees, signifies the disinclination of his chamber to consider a special private bill. Hence the suggestions that come down from Lord Redesdale's committee to the promoters or to the house of commons are generally incorporated in the bill in the way of amendments almost without question, as the result of the scrutiny of an upright, careful and conscientious jurist. The bill is then referred to committee; the committee carefully consider its provisions, call in the aid of the parliamentary agent or counsel, who has indorsed the bill, to explain it, assist in its modification if modifications are suggested, and the bill is then reported to the house, favorably or adversely, as the committee may determine. If disapproved of by the committee, as a general rule there is an end to the bill. While the power really exists on the part of the house to disagree with the report of the committee, they recognize the fact that a disagreement is inexpedient as against a committee who have examined with judicial care and impartiality the provisions of the bill. — The chairman of the ways and means committee, and three other members, are appointed by the speaker as referees, who constitute tribunals for the trial of opposed bills. They have power to suggest the increase of their number and to constitute subcommittees. Upon special bills committees those men are generally selected who are specially fitted as experts. They enter into an examination of the question whether the bill is to become a law, and if so, under what modifications, restrictions and safeguards. This committee, therefore, enters upon a real trial of the petitions for and the counter petitions against private bills, to aid the house in determining its course. — The chairmen of these various committees of selection meet together and form a calendar of opposed bills. In the case of bills for which there are regular standing committees of the house, such as railway and canal bills, such committees try them, and do so acting under the suggestions, whether opposed or unopposed, of the board of trade. The standing committees who have in the first instance the power to try the bill, if they see fit so to do, can either do so or place it upon the general calendar of these courts thus constituted for the trial of opposed cases. The trial is, as already observed, upon issues joined upon the petition for the bill and its several clauses, by a counter petition against it, in which the counter petitioners deny the facts set forth in the petition and ask that they may be heard in opposition to the bill. The opposed bill is treated precisely as an unopposed bill as to all the preliminary stages; it passes through the hands of examiners as to compliance with standing orders, the scrutiny of the chairman of committees of the house of lords and the house of commons, etc. When once on the calendar of the general or special committee to which the same is referred, it takes its turn for hearing precisely as a cause which is put upon the calendar of the court awaits its time for trial. — If, as sometimes happens, the private bill is of considerable public importance, when the chairman of the ways and means committee of the house of commons seeks a conference with the chairman of the committee of the house of lords for the purpose of determining which bills should be considered first in the house of lords and which in the house of

commons, then such a bill, if deemed of sufficient public importance, is by the chairman simultaneously introduced in the house of commons and lords and referred to a special joint committee of the houses, who thereupon proceed to try the petition for the bill as a joint court. Evidence is then taken precisely as in a court of justice, although somewhat greater latitude is allowed both to the counsel and to the court. The rule as to hearsay testimony is also somewhat relaxed, but documents are produced, maps examined, experts heard, elaborate arguments of counsel delivered, and every adverse interest allowed a hearing; suggestions are made with reference to amendment, and all proceedings are precisely in the same form as though these committee men were judges. — No man can become a member of the committee to sit upon a special bill without making a declaration in writing that neither the borough that he represents nor he himself individually has an interest in the bill to be considered, and that he will hear all the evidence before voting upon the acceptance or rejection of the bill; thus again recognizing the judicial character of the determination of the committee, and applying to each special case that general rule which applies to the judiciary that they are not permitted to sit in cases in which they have a personal interest. — To secure the full attendance of members of committees it is a standing rule that it can transact no business if two or more of its members are absent. And if a member absents himself more than twice from a committee, his name is taken off that committee, and that of some other member is substituted; and when any incorporated company presents itself before parliament to have any of its powers extended, altered or amended, any body of shareholders, although in the minority, may be heard in opposition to such bill. — At any stage of the proceedings if the promoters of the bill abandon it, the bill is disregarded and thrown out, and the expense incurred down to the point of abandonment is lost to the parties who have promoted the bill. By the 28th and 29th Victoria a complete system of costs was established in relation to contests before committees, so as to make the proceedings still more analogous to those of a court of justice. This gives the power to the committee on a private bill to compel the petitioners to pay the costs where the committee find that the preamble of the petition is not proved, or if on the motion of the opposition any provision for the protection of such opposing petitioner is inserted, or whenever the committee strike out or alter any provision for the protection of the opposing petitioner, and report that the opposing petitioner has been unreasonably or vexatiously subjected to the necessity of defending his rights, by reason of the promoters of the bill not carefully guarding the same in the bill as filed. On the other hand, when the committee report that the opposition has been vexatious and that the promoters of the bill should not have been opposed, so much of the costs and expenses as relate to the trial of the bill may be thrown upon the opposing petitioners. This act, however, very wisely provides that no land owner, who at his own risk and charge in good faith opposes a bill which proposes to take any of his property, shall be mulcted in costs because of the non-success of his opposition. — The expenses in the way of disbursements for filing, for examiner's fees, etc., attending the passage of an unopposed bill, are scarcely ever less than £200. The money is deposited and paid at the various stages of the bill as preliminary to its being further considered and carried through the house; and these disbursements pay the whole expense of parliament—its stationery for public purposes, its speaker's special counsel, its parliamentary draughtsman, etc., as well as the expenses incidental to the consideration of the bill by the committee. — All bills are subjected to being redrafted by officers under the supervision of the speaker's counsel — the parliamentary draughtsman. This speaker's counsel is generally a lawyer of great dignity and attainments. Sir Henry Thring has for many years held this position, and if the bill in question is one to which public attention has been drawn, the probabilities are that it is submitted to his scrutiny and revision, in addition to the revision and scrutiny of Lord Redesdale, the chairman of committee of house of commons and the committee that tries the bill. England's course of procedure, by bringing method into its legislation, has completely done away with the lobby in the sense that it is known in the United States There is a difference of the same character between such a system and the course of legislative action in the vast majority of the states of the Union that there is between the procedure before the supreme court of the United States and before some court in southern Russia or Turkey. — When committees of parliament became courts, a heavy draft was made upon the Westminster bar to supply this new demand for special training for inquiry and debate, and numerous lawyers soon devoted themselves exclusively to the trial and argument of causes before the parliamentary bar. A new class of solicitors, known as parliamentary agents, came into existence, drawn from the same classes of the community as those which supply the practitioners at the chancery or common law bars. These agents prepare briefs for counsel, draw the bills and attend to all the practice part of private bills legislation. Honors and distinction are won as much at the parliamentary as at the law and equity bars, and the silk gown is at St. Stephen's, as at Westminster, the reward of merit. Parliamentary lawyers are not so readily transferred to the bench or the woolsack as are those who practice in the courts of justice; their emoluments are larger, however; hence the parliamentary practitioner acquires pecuniary fortune more readily than his brethren who practice in the courts of justice, and thereby feels himself somewhat compensated for not being

able to look forward to the comfort, ease and social distinction which accompany English judicial positions. — England, therefore, has relieved itself from the pressure which the modern corporations and the growth of wealth have brought upon its legislative functions, by submitting their demands to so careful a scrutiny and trial, and surrounding property with such safeguards that it can dispense with written constitutional guarantees, too frequently inoperative in the United States, to prevent encroachment of accumulated and corporate wealth upon the rights of property not thus consolidated. — A word upon the subject of *Codification.* — There are two classes of codifications: one, codification of legislative enactments; the other, codification of common law. The codification of legislative enactments, when legislation has become so constantly active, varied and so complex, arising from so many different motives, and is so irresponsible as in the United States, is essential from time to time for the purpose of producing harmonious legislation. The question is not open to us as to whether there shall be codes, but simply who shall become codifiers of legislation of this description, and therefore every state must from time to time pass new laws which are in the nature of codifications of the pre-existing ones, simply for the purpose of enabling their courts of justice to determine what the law is. An illustration how mischievous such a state of things may become, is the fact that the court of appeals in the state of New York was compelled in 1875 to declare that it was impossible for it to determine what the condition of the law in relation to taxation and assessment, applicable to the cities of New York and Brooklyn, then was, in consequence of the number and the chaotic condition of the laws in that regard. Codification of the common law is a matter of more delicacy, requiring a higher order of intellect, and should be undertaken only if the codifier is intellectually the superior of the judge; otherwise greater mischief is done by codification of that character than by the general development of the law at the hands of judges. — Legislation is a practical art, and not a science. The ordinary objection that is made to codes, that they are cast-iron systems, is only true if the minds which formulate the codes are of the cast-iron class. If, on the one hand, they have intelligence carefully to state the common law or equitable principle in well-chosen legal phraseology, to limit it and apply it to cases already decided, and to leave the courts free to apply the principle to whatever further cases may arise, codification is an unmixed good. If, on the other hand, narrow-minded or ignorant men undertake the codification of the people's laws, such codification will be mischievous. It is with formulating the laws of the people as it is with the administration of justice—as much depends upon the persons who are to administer or to codify as upon the subject matter of the administration or codification. — An attempt has in recent years been made to deal with the mischief of constant and unwise changes in the law by the adoption of constitutional amendments, by virtue of which, legislative bodies meet biennially instead of annually. This is the merest refuge of imbecility against the evil of bad legislation. The only parallel for this treatment of political distempers is to be found in the treatment of physical ailments which prevailed in the good old days of Doctor Sangrado, who argued, "When man is sick, his blood is bad; tap him of half his blood, and he is about half as sick as he was." Bad legislation comes from the legislature. Have the legislature meet but half the number of days, and you have but half the amount of bad legislation! If the legislature were convened simply for the purpose of doing mischief instead of doing good, this argument would be true, but then it would be wiser not to have them meet at all. The legislative function is one of the most important and useful that can be administered by man. It is the inadequacy of the members of our legislative bodies for the work they have in hand, and the bad methods they have adopted for the performance of that work, which creates the mischief. Let us secure better qualified men and improve the methods, and we shall regard the meeting of our legislative bodies with expectations of benefit instead of with fear and dread. Had some one proposed at the time of the corruption of the judiciary in the city of New York (1870–72), that, for the purpose of remedying the evil of improper and corrupt judicial judgments, Judge Barnard should hold but four terms in the year instead of eight, such a reformer would have had his proposition laughed down. The proposition of biennial legislatures instead of annual legislatures, although it finds more favor with the community than the remedial measure of our imagined New York reformer, is not a whit more intelligent as a cure for our radically defective methods of legislation. The only route to reform as to this subject lies in improving the political methods of the United States so as to secure a better class of legislators; methodizing the work of the sessions by safeguards to interests affected by the proper trials of bills; and finally, fixing responsibility for legislation by the creation, for the nation and in each state, of proper supervisory bodies to which proposed laws shall be submitted and acted upon by men capable of being charged with so important a task as the preservation, amending and modifying the public laws of a commonwealth. SIMON STERNE.

LEGISLATURE. (See ASSEMBLY, CONGRESS, HOUSE OF COMMONS, HOUSE OF LORDS, HOUSE OF REPRESENTATIVES, LEGISLATION.)

LETTERS PATENT. (See PATENTS)

LIBERALISM. The word liberalism is of modern, almost of contemporary, introduction; but the thing thus designated is ancient, and springs from human nature itself, and from the very best

roots of this nature, reason and benevolence. The word is complex, and admits of different acceptations, all of which, however, imply a certain loftiness of views and generosity of sentiment, and are based upon the idea that humanity, of itself and of its own dignity, by reason of its self-reliance and the capability and right which it claims of liberty and self-government, without, however, imagining itself infallible, can be enlightened by discussion, and improved by the very experience of its errors. — Liberalism is the consciousness which a free man has of his rights, and of his duties as well; it is respect for and practice of liberty; it is toleration and freedom. "Live and let live" might be taken as its motto, but on condition that there be attached thereto no idea of skepticism or indifference, for liberalism professes one faith, faith in progress, the conviction that liberty is good, and tends to good, that truth is reached by discussion, and that indefinite improvement is the natural movement of humanity. — In individuals we can distinguish a liberal temperament, a liberal spirit, and a liberal character. A liberal temperament is a spontaneous disposition to benevolence, generosity and equity; it may be either natural or acquired. A liberal mind necessarily implies a certain amount of education and instruction; such a mind is frank, well-balanced, is master of itself, and concedes to the reason of other men the rights it claims for its own. A liberal character results from the combination of a liberal temperament and a liberal mind; it puts liberalism into practice; it converts into acts the suggestions of sentiment and the orders of reason. Its rule of conduct is, "Do not to others what you would not they should do to you." The true and consistent liberal is the man who demands liberty even for his opponents, with the clear understanding, of course, that he reserves all rights of legitimate defense. — There have always existed, among nations more or less refined, different shades and grades of liberal minds, characters, and professors of liberal sentiments. Still they have usually formed but exceptions to the general rule, and have been found only among very great minds. — Society is liberal when it forbids preventive precautions in everything affecting individual free will, and makes use of repression no more than is absolutely necessary. Therefore is it that the mollification of the penal laws always goes hand in hand with the progress of liberalism. A religion is liberal when it does not excommunicate all other religions, and more liberal still when it urges, heals and strengthens consciences, instead of enslaving or weakening them. Christianity (see the article under this caption), though liberal in its principles, has in history shown itself in turn liberal and oppressive. A state is liberal when it respects the individual and collective acts of citizens as far as they do not encroach upon its own lawful rights, for the state also claims liberty for itself. But in the liberalism of states as well as in that of individuals there are degrees. Before the full bloom come the germs and the first development. There may be a certain liberalism even in what appears to be thoroughly illiberal. A religion intolerant in its principles may be to a certain extent tolerant, that is, liberal, in its practice. An absolute government may be relatively more or less liberal; it manifests a little of this liberality if it does not carry the exercise of its power to excess, and, by benevolence or calculation, allows a certain scope to the liberty of its subjects and to their manifestations of opinion; it is still more liberal if it encourages and extends education, or if it makes use of its power to introduce into its institutions *motu proprio*, liberty or the conditions of liberty. Thus, in our own time, the emancipation of the serfs of Russia was a liberal act of very great importance performed by an absolute government. — On the other hand, a republic may not be liberal, although the republican form of government is in theory the ideal of *self-government;* it is not liberal if it does not guarantee its citizens their liberty, or if it allows the minority to be deprived of their liberty, or even restricted in its enjoyment by the majority, or if, finally, the greater part of those who are called to share in the government are incapable of such participation by their lack of education and of independence. In this last case, moreover, a republican state can scarcely live; the *élite* of the nation are swallowed up in the multitude, and the multitude, incapable of governing itself, voluntarily abandons its personality to a master. Democracy, if lacking in liberal capacity, is always on the very brink of Cæsarism: the history of Rome and of some other countries is proof of this.—Thus we perceive that we must distinguish between a liberal and a democratic spirit. The two are often confounded, and are in fact often found participating together in great political movements, just as they were, for example, in the French revolution. But they can always be distinguished. Democracy attaches itself to a form of government; liberalism, to liberty and the guarantees of liberty. The two may agree; they are not contradictory, but neither are they identical, nor necessarily connected. In the moral order, liberalism is the liberty to think, recognized and practiced. This is primordial liberalism, as the liberty to think is itself the first and noblest of liberties. Man would not be free in any degree or in any sphere of action, if he were not a thinking being endowed with consciousness. The freedom of worship, the freedom of education and the freedom of the press are derived the most directly from the freedom to think. In the economic order, liberalism is the recognition of the freedom of labor and of all the liberties which pertain thereto, including the right of property, which is the legitimate extension of human personality. In the political order, liberalism consists, first of all, in the pursuit of the guarantees of liberty. It does not admit that men are bound, when they associate themselves together and create a political society, to sacrifice some portion of their individ-

ual liberty. Its idea of the social contract is quite different; liberalism regards it as an association of all in order to assure to each his individual liberty. Only it does not confound this liberty with arbitrary power, nor with the right to encroach upon the liberty of others. The liberty which it intends to guarantee is that which is suited to reasonable beings, capable of restraining and governing themselves, and it is precisely with a view to guaranteeing this liberty that it demands laws against license, arbitrary power and encroachments of all kinds, including those made by the state. Its chief desire is to surround the personal liberty of citizens with the strongest safeguards, so as to preserve it against every assault. This is the essential point, and it is not without reason that the English consider *habeas corpus* the very corner stone of their constitution. The right of assembly and association may be considered as an appendix of individual liberty, and should be inviolable, provided it does not aim at the subversion of the state. — The chief guarantee of liberty of every kind is to be found in the constitutional limitation of the power of the state, and in the reciprocal balance of the constituted powers. Liberalism does not, however, any longer put absolute faith in Montesquieu's celebrated formula on the separation of the powers. In constitutional monarchies the executive power and the legislative power are separated merely by an abstraction; in fact, they are united and fused in the person of the responsible counselors of the crown, who are nothing more than delegates of the national representative assembly. The separation of the judicial power from the other branches of the administration is much more important, for the independence of the bench can not be too firmly established. The division of national representation into two chambers is likewise considered an almost essential condition of a liberal government. Liberalism loves to multiply the counterpoises and elements of resistance and equilibrium. The democratic spirit, on the contrary, is a leveling one. — Another difference between the liberal spirit and the democratic spirit is, that the right to dispose of one's self, which is individual liberty, does not necessarily imply, according to the *liberal* doctrine, the right to dispose of the state, that is, to govern the state. Liberalism desires control and discussion; it desires also the progressive extension of political rights and the greater and greater participation of the citizens in the government, but it does not at all admit *a priori* the principle of the government of all by all, which is the aim *par excellence* of democracy. What it considers most important is, that the citizens should be free, and guaranteed their freedom; in other words, to obtain a *maximum* of liberty under a *minimum* of government. It desires that citizens should be masters of their persons and of their affairs, but it admits them to the management of the affairs of the nation only by reason of certain or at least presumed titles. Democracy considers only the right, while liberalism takes into account capacity also. Democracy desires to realize all at once an absolute ideal; liberalism does not recognize this ideal, but it tends to it by successive steps: it is just, in principle, that all should share in the administration of public affairs, but it is not always politic to allow it in practice. Democracy demands absolute equality; liberalism does not absolutely reject a distinction of classes, provided these classes are not exclusive castes. Democracy is revolutionary; liberalism is rather reformatory: it willingly respects historical facts, and does not crush those who oppose and refuse to submit to it, except when this is necessary to defend itself. But it must be active and vigilant, and be ever on the watch for possible and opportune reforms, if it does not wish to be outstripped by the eagerness of the democratic spirit. Democracy neither procrastinates nor reflects; it proceeds by bounds; and liberalism may find itself outstripped if it be at all sluggish. In this case it does not protest against accomplished facts, for it is no more reactionary than revolutionary; but it endeavors, by means of education, to fully instruct its citizens in the rights which they have prematurely acquired, and even under the very reign of democracy it preserves its peculiar character and its *raison d'être*. It knows that democracy can not develop and last except by becoming liberal, and it makes it its duty to render it liberal. The last word of pure democracy is the imperative mandate which is founded upon the false hypothesis of the equal capacity of all, and upon the idea—entirely logical if considered from the point of view of the absolute sovereignty of the people—of the superiority of the governing body over those who are governed. Liberalism never allows the imperative mandate; it does not imagine that all those who have the right to vote are able to govern; it merely recognizes in them the ability to determine who appear to them capable of taking part in the government. It considers election as an homage paid to superiority, and the representative form of government as the government of the nation by the most worthy, who have been chosen for this very reason by their fellow-citizens. A democracy which carries its logic as far as the imperative mandate, and adheres to it, can not last, for it is contrary to the nature of things, which will always avenge itself if it be not respected. — Democracy tends necessarily to a republican form of government; liberalism is not averse to it, and does not desire its downfall when it is established. But it also accommodates itself very well to a constitutional monarchy, and it does not even occupy itself with the famous question, why does the king reign and not govern? This question, which has so frequently been made the subject of controversy, is wrongly formulated and entirely idle. The prince should not, and if he understand his own interests will not, organize a secret government, a *camarilla* behind his cabinet; but from the moment he consults

with his ministers he shares in the government, and his share in it is exactly proportioned to his faculties and to his influence. Whether he persuade his ministers to carry out his plans, or be persuaded to acquiesce in theirs, does not concern any one, since the cabinet assumes the responsibility of the government before the national representatives The true head of the government, whether prince or premier, will always be he whose genius renders him superior to the rest. The true formula of constitutional monarchy is the undivided administration of the government by the crown and the national representatives. The division of influence among those who exercise power is a matter to be determined by talent and authority, and not by formulas. Sir Robert Peel, king of England, would have brought about commercial reform quite as easily as Sir Robert Peel, prime minister, for he would easily have found ministers to serve him and a majority to support them, if public opinion were in his favor. The only difference between a constitutional sovereign and a despot is, that the former can not govern in opposition to public opinion; he may anticipate it or follow it, but he can not oppose it; and the only restriction placed upon him is, that he must abandon his own opinion when this opinion is found not to be in accord with the general opinion, and to change his responsible counselors when his cabinet has fallen into the minority. The duty of parliamentary government is not, as is commonly believed, to rob the sovereign for the benefit of his ministers; but it is always to confer power upon the most worthy, that is to say, upon the man who best expresses the sentiment of the nation and best answers the general needs of the moment. If the sovereign is most worthy, he rules his ministers; he both reigns and governs; if he is not the most worthy, his ministers, who have been elevated to power by public opinion, supply his place and govern him; he does not govern, and reigns only nominally.— The essential thing, from a liberal point of view, is that the state occupy itself only about the general interests, and that these interests be regulated conformably to the general opinion. Under a monarchical form of government the predominance of public opinion is assured by means of the ministerial responsibility; in a republic, by the limited duration of the executive power. Liberalism equally accepts both these forms of government, and moreover, without overlooking the logical superiority of the second, it plainly admits the relative and historical reasons which may in many circumstances prevent it from prevailing over the first. It judges that the almost infallible *selection* by which the leaders of parties rise to power in a constitutional monarchy afford surer guarantees than the republican *election* which always admits of some intrigue, and which does not always give power to the most capable, as has been frequently proven by the presidential elections of the United States. But liberalism is never exclusive; it understands monarchical England as well as the republican United States, and explains the reasons which account for the continuance of monarchy in England, and those which have produced from the same race, upon American soil, a successful republic. But it does not understand a monarchy without ministerial responsibility, any more than it would understand a republic with an executive power whose term of office would be unlimited. In a republic the ministers should not be held responsible, since he by whom they are appointed periodically submits his administration to the verdict of the nation. In a monarchy they ought always to hold office at the discretion of public opinion, for the simple reason that the head of the government is never submitted to this opinion. — Liberalism, although it has the same end in view as the democratic spirit, differs from it both in its philosophical belief and in its methods of procedure. It is, for still stronger reasons, opposed to socialism, which is an exaggeration of democracy. Socialism desires social equality, which is a chimera, and the methods which it imagines, would be, could they be made successful, outrages upon both liberty and property. It does not agree with liberalism upon any point; it ignores or overlooks the organic laws of progress and even the conditions of human nature. Liberalism must, therefore, of necessity, combat socialism whenever it meets with it; it can not enter into its spirit; it can not give it any direct satisfaction; but it is nevertheless forced to admit that socialism, along with much ignorance, allows of a certain amount of lawful aspirations, for it responds to the instinctive feeling of justice and the desire of happiness which are equally inborn in all of us, but to which mankind should resolve to grant only partial satisfaction although more and more approximative. Life, although constantly facilitated and bettered, will always be a struggle for liberalism; but equity, and still more, prudence, bind it not to compromise with socialism, which it could never do, but to watch it and disarm it as much as possible, on the one hand by enlightening it, on the other by applying itself to the economic reforms and social improvements which are compatible with the natural laws of progress. Everything that favors education, labor, economy and the acquisition of property, is liberal. Liberalism is not merely an affair of legislation, it is also and especially a matter of individual initiative. The characteristic principle of liberalism is not to expect anything from the state, but to require a great deal of activity and foresight of the citizens themselves. — We must also call attention to the fact that the liberalism of a society may not be in exact keeping with its legislation. It may happen that there will be more liberalism in the public manners than in the laws. Thus in our times the almost unrestricted liberty which the press enjoys in England is more an affair of manners than of legislation. There are restrictive laws, but general tolerance on the one hand, and the

moderation of the writers themselves on the other, have caused them to fall into disuse. This latter point is essential. A free mind may, if it is generous, go beyond its duty, but should never exceed its rights, and frequently it is not even prudent to do all that it lawfully may. Thus it will secure its own liberty without ever restricting that of others. — We will conclude this brief theoretic exposé with some historical data. — As we have already said, the liberal spirit has always been present and active in the civilized world. In antiquity Solon was a legislator more liberal than democratic; Cicero was a publicist and a liberal statesman. Most of the republics of classical antiquity began with a liberal and well-balanced republic, to turn from that to pure democracy, and fall at last into demagogy, and thence to princely rule, tyranny and Cæsarism. The liberalism of antiquity, however, was marked by the same essential traits as that of modern times. It conceded, especially among the Romans, less to the individual and more to the state. Individual property is to-day more extended, more distinct also and better determined. The modern individual feels that he has rights and relations entirely independent of the state. This change is due in great part to Christianity. Besides, the institution of slavery in ancient times made liberty, even the most elementary, the privilege of the few; and labor, which we honor in itself and in its results, was considered as degrading and servile. From antiquity have come down to us these altogether aristocratic expressions: liberal education, that is, education worthy of a freeman; and the liberal arts, as opposed to the mechanical arts—an opposition founded upon the ancient prejudice against the labor of the mechanic, and which continues in our modern society without any reason for its existence and by the sole force of habit. — Modern liberalism is allied by an incontestable affiliation to the reformation, whose action has by no means been restricted to the domain of religion, nor to countries that have become Protestant. The France of the eighteenth century is greatly indebted to Protestant England for her fund of ideas; Voltaire and Montesquieu both bear testimony to this fact. It is France, however, that deserves the credit of giving to liberal ideas a European extension. England alone, and two states on the continent too small to exercise any great influence, Holland and Switzerland, had at that time (in the eighteenth century) a free government and liberal institutions; but under the impulse of French philosophy, most of the absolute states of the continent, some of their own deliberate choice, others out of pure enthusiasm, or to be in the fashion, allowed themselves to be drawn more or less into the current of liberalism. Joseph II., Leopold of Tuscany, and many other princes, belonged, after their own fashion, to the liberal school. Frederick II. was an example of a liberal absolute monarch. But France, where the movement originated, presented also the most perfect and complete expression of this liberalism before the revolution, which would perhaps have provoked the revolution if Turgot's power had equaled his genius and his will. — The French revolution was itself the grandest and most generous explosion of liberalism of which history makes mention. Resuming, specifying, generalizing all that the eighteenth century and the preceding ages had accomplished, attempted or partially performed, it formulated, in what are called the Principles of '89, the code of the liberal gospel of humanity. The practical result, however, but very imperfectly responded to the theory. Liberalism found itself in opposition to the formidable task which circumstances had imposed upon it, for the very reason that it is of its nature rather reformatory than revolutionary. Contrary to its original plan, the revolution was obliged to completely rebuild a crumbled political edifice and upon ideal foundations, when even if all its ideas had been correct, it would perhaps have been unable to succeed, for political constitutions can not be treated like a geometrical problem, and the concrete world will not allow abstract theory to leave it out of consideration. The constituent assembly itself failed in the construction of a constitutional monarchy, not only because of the weakness of the monarch, but especially perhaps because it adhered too closely to the letter and wished to apply too rigorously the absolute theory of Montesquieu on the division of power and the separation of the executive and the deliberative branches of the government. This was still more strikingly illustrated when the *Contrat Social* had gained the ascendency over *l'Esprit des Lois*. It was principally the influence of Rousseau, combined with false notions of the political state of the ancients, that misled the revolution. The assemblies which succeeded the constituent assembly were democratic to excess, but by no means liberal. There should, it is true, be some account taken of the pressure of circumstances. — It is a noticeable fact that among the various party appellations, so numerous at the time of the revolution, that of liberalism is not found, although no designation could have better served to characterize the constituent assembly as a whole, or certain of its most eminent figures, above all, Mirabeau, who is the statesman of liberalism, *par excellence*. The adjective from which the substantive *liberalism* is derived then had only its ancient Latin and aristocratic meaning. It was not until about the time of Napoleon's first consulate that a party originated who called themselves or were called *liberals;* but this is not the only example afforded by history of a tendency or an opinion existing from all time, which did not receive its proper definition until a given time arrived. We have seen the word *Cæsarism* invented in our own day, which corresponds to an idea anterior even to the proper name from which it is derived, the idea of a democratic society, which is incapable of governing itself, and prefers despotism to anarchy. It may

be said, moreover, in a general way, that all things existed, and may have even existed for a long time before they were named. — The word *liberal* was used for the first time to designate a party, or rather only a coterie, in a wretched epigram of the poet Ecouchard Lebrun (wretched in every sense of the word); which may be freely rendered, so as to retain the point of it, as follows: What is this word "liberal" which some men of a certain calibre are constantly using, whether good or bad? It is the diminutive of *liber* (free). These men of a certain calibre were probably the circle of Madame de Stael and Benjamin Constant, and it is not impossible that Lebrun wished by railing at them to pay his court to the first consul. In any case, this epigram shows that it is a question rather of something new than of men of a certain calibre taken in a bad sense. Sainte-Beuve formally attributes the invention of the term liberal to Chateaubriand, but he does not produce his proofs. The word is found, it is true, in the "Genius of Christianity"; but this work did not appear until 1802, and the epigram of Lebrun appeared earlier than that. Madame de Stael also makes use of the word *liberal* in its new acceptation in "Corinne," which was published in 1807.—The empire was not made for liberalism, nor liberalism for the empire. There existed between them a reciprocal antipathy. The liberals were to Napoleon the worst of ideologists, and found themselves in the midst of the most refractory surroundings. Individual liberty, independence of thought, control discussion; in a word, the dignity of man, which they cherished most jealously, were the very things which Napoleon could not endure. He did not possess the first atom of liberalism, but, on the contrary, discerned with marvelous penetration all that in democracy is distinct from liberalism. A very striking illustration of this is found in a letter, in which when counseling his brother Joseph, king of Naples, how to govern, he thus describes the results that he expects from the civil code: "Tell me the titles you would wish to give the duchies in your kingdom. They are but mere titles; the principal thing is the value attached to them. They must be pledged for two hundred thousand pounds of revenue. I have also required that all those bearing titles should have a house in Paris, because Paris is the centre of the whole system, and I wish to have at Paris a hundred fortunes, all of which will have grown up with the throne, and will be the only large fortunes, because they are trusts; *and let those that will not be thus considered, be scattered by means of the civil code. Establish the civil code at Naples, and all that will not ally their fortunes to yours will go to ruin in a few years*, and those you wish to preserve will grow strong. *This is the great advantage of the civil code.* * * You must establish the civil code in your kingdom; it will consolidate your power, for by its means all fortunes that are not mere trusts of the crown will crumble, and there will remain no great houses but such as are fiefs to your royal self. *This it is that has ever led me to preach the civil code, this it is that induced me to establish it.*" — The meaning of the emperor was, that the ideal and mathematical justice of the civil code incessantly crushes and destroys acquired fortunes and positions, which have always to be begun anew, and under it the liberal elements never acquire sufficient consistency to offer a check to despotism. All the families, all the citizens, are too constantly wrapped up in their own affairs to be able to devote themselves carefully, independently and disinterestedly to public affairs: their aspirations can but renew the myths of Tantalus and Sisyphus, and despotism remains master of the field. This opinion of Napoleon is not without weight, and, following an instinct which is perfectly just, a part of the contemporary liberal school, without complaining of the right of primogeniture, demand the liberty of making a will. Equal division is much more democratic, and more conformable to the rules of abstract justice, but it is contrary to liberty, it violates the principle of property and the authority of the father of the family; it is productive of evil consequences both social and political. It is beneficial to the public weal that all have not their fortune to make, and that there are persons independently situated, whose position is firm and stable, who can resist the central power. The general interests should be intrusted to those who have no need to busy themselves about their own affairs. Moreover, between equal division in the midst of the family and equal division in the more extended family of the state, there is but a difference of more and less, and no difference of principle at all. — Either by a chance coincidence, or being brought over from France, the word "liberal" underwent the same change of meaning in Spain under the empire that it had undergone in France under the consulate, and was at once employed to designate a great political party, which contributed not a little to its acceptation in this sense throughout all western Europe. The Spaniards assign the year 1810 as the precise date of this change of meaning. "Consider for a moment," says Benavides, in his discourse delivered upon his reception into the royal Spanish academy, "two words of most frequent use in modern times, *liberal* and *liberty*. Down to ten years ago liberal meant generous, splendid, magnificent; all Spaniards agreed upon this signification, and no one had the least doubt upon the subject." The Spanish liberals were the authors and defenders of the constitution of 1812, which was abolished by Ferdinand VII. in 1814, re-established in 1820, and violated anew in 1823 They are also called the constitutional party, and it is a noticeable fact that from 1815 to 1830 the words "liberal" and "constitutional" have been synonymous, not only in Spain, but also in France, and in different neighboring states. Germany, particularly in the smaller states, had her liberals. The programme of these liberal

parties may be briefly said to consist in demanding constitutional guarantees where they did not exist, and defending them against reaction where they already existed. The democratic movement, properly so called, had then but little importance. The pure liberal opinion was in the ascendant, and was content with a throne surrounded with constitutional institutions. Such has long been the form of government in England; but the English liberals have not on this account been idle; they had other reforms to bring about, especially the emancipation of the Catholics and the reform of the electoral system. — In France, under the restoration, one might almost say that the liberal party was the entire nation. All that were not *ultra* were liberal, or at least called themselves liberal, for we must add that the flag of liberalism covered all sorts of merchandise, and especially a great deal of Bonapartism. The songs of Béranger are the expression of this strange combination of legend and the empire and of the Principles of '89. There were also by the side of such liberals as Royer, Collard and Benjamin Constant, who were content with the *Charte* and the dynasty, on condition that the latter should not conspire against the *Charte*, other liberals who wanted another dynasty, or who even, like Lafayette, favored the republic. The first of these only were consistent liberals, but the ordinances of July created a case of lawful defense, which united all sections of the party in common resistance. — The revolution of July was the grand triumph of liberalism, and its effects, as is well known, were not confined to France; its action was felt even in England, where it brought the liberals into power and hastened reforms. A short time before the year 1848, an impartial witness, de Nesselrode, proved that the position of France in Europe had never been stronger than under the monarchy of July and under the influence of liberal ideas. Unfortunately, victorious liberalism was wanting in grandeur and in self-confidence. It became narrow and timid. The electoral ground, that is to say, the legally recognized territory, remained much too circumscribed, and those who occupied it shut themselves up in it as in a citadel. Liberalism appeared immovable and sterile, the democratic movement took the ascendant, and the governing class expiated its inertness and its lack of foresight by the revolution of 1848. — But liberalism, although overthrown and worsted, did not on this account lose its *raison d'être*. It had never been able to raise any objections to universal suffrage but such as were based upon considerations of its inopportunity. Now that universal suffrage has got in the advance of it, its task should be to pursue and overtake it. In other words, a liberal government, the liberal party, liberal minds, should apply themselves above all things to instruct, enlighten and elevate universal suffrage; in a word, to arm it with the capacity requisite to the proper fulfillment of its duties. — European liberalism will never admit that universal suffrage is infallible, nor that it is the form or the supreme guarantee of liberty, nor that a republic is the only good form of government. It professes, on the contrary, and always will profess that forms may vary according to historical data, and that the interests of liberty are not always directly and necessarily best served in proportion to the number of voters. But universal suffrage once established, it will put aside as illusory and dangerous every thought of reaction or restriction, just as it does under a monarchy; it will reject the expedient of revolution, because it does not wish to try the unknown. But it will not be content with words; it will demand liberty and the guarantees of liberty of the republic, just as it demanded them of the monarchy: it will demand that the state be confined to its lawful limits, and it will not consider the despotism of a convention any better than the despotism of an individual. Contrary to the absolute logic of democracy, it will prefer two chambers of deputies to one single assembly, provided always that it find elements sufficient for a double assembly. In default of such an institution, it would seek other means of establishing an equilibrium, for it knows that a power without a counterbalance necessarily becomes absolute. A. NEFFTZER.

LIBERAL REPUBLICAN PARTY (IN U. S. HISTORY), an abortive offshoot from the regular republican party in 1870–72. — Attention is called elsewhere to the destructive influences of the rise of the republican party in 1855–6 upon the democratic party of the time. (See REPUBLICAN PARTY, I.) In every state the element represented by such men as William Cullen Bryant, S. P. Chase, Lyman Trumbull, and Montgomery Blair, democrats by choice, were forced into the new party by the progressively proslavery attitude of their natural party. (See DEMOCRATIC PARTY, V.) A re enforcement of much the same nature was added to the republican party, after 1861, under the name of "war democrats." A peace democrat in 1864 asserted that a war democrat and a republican were only "two links of the same sausage, made out of the same dog"; there was, however, an essential difference, which became gradually more strongly apparent after the end of the rebellion. The coercive measures, which seemed to the dominant party absolutely necessary to the maintenance of the natural rights of southern negroes, (see RECONSTRUCTION, KU-KLUX KLAN), were such as were likely to wean the originally democratic element from the republican party; and from 1867 until 1871 there was an increasing exodus of this nature, but not sufficient in numbers to influence seriously the enormous popular vote. The passage of the "ku-klux act" of April 20, 1871, and its enforcement, increased this movement so much that it seemed to need only organization and boundaries to become a perceptible current. — The opportunity was afforded by the success in Missouri of a union of "liberal republicans"

and democrats in 1870–71. (See MISSOURI.) Its leading features were universal suffrage and universal amnesty, a reform of the tariff and the civil service, and the cessation of "unconstitutional laws to cure ku-klux disorders, irreligion or intemperance." The leaders of the Missouri fusion, after gaining complete control of their own state, issued a call, Jan. 24, 1872, for a national convention at Cincinnati, May 1 following. In the nature of things the proposed gathering could not be at all representative, for the new party had no organization and no units for representation. The delegates were therefore, in the main, practically self-appointed; and thus there came into the convention another element, thoroughly honest and patriotic in purpose, but entirely foreign to the natural course of the movement. There was no hope of an independent existence for the new party; it could hardly hope to convert the party which it had left by defeating it: its only logical plan was to organize such a course of transit to the democratic party as should put new blood into that party, restore it to its ancient principles, and raise it out of the slough into which it had fallen. But there was also dissatisfaction among republicans pure and simple: in the growth of that party new men had gained control of it, new methods had been introduced, and the resulting "personal government" of the party had created considerable discontent. This feeling—the desire to reform, not to defeat, the republican party—was strongly represented at Cincinnati, and its influence brought the party to an ignominious failure. Its determination not to abandon the protective system, caused the introduction of the ridiculously ambiguous tariff utterance; and its determination to follow republicans only, brought about the fatal nomination of Greeley. If the convention had been homogeneous, the tariff utterance would have been clear and consistent, some original republican of democratic tendencies would have been nominated for president and some acceptable democrat for vice-president, and the ensuing presidential election would at least have been doubtful. — The convention met according to appointment, and selected Carl Schurz, of Missouri, as chairman. A platform in twelve paragraphs was adopted: 1, recognizing the equality of all men before the law; 2, opposing any reopening of the questions settled by the last three amendments; 3, demanding universal amnesty; 4, local self-government, impartial suffrage, and the maintenance of the writ of *habeas corpus*, and 5, civil service reform; 6, "recognizing that there are in our midst honest but irreconcilable differences of opinion with regard to the respective systems of protection and free trade, we remit the discussion of the subject to the people in their congressional districts, and to the decision of congress thereon, wholly free of executive interference or dictation"; 7-12, calling for the maintenance of public credit, a return to specie payments, and a cessation of land grants to corporations. On the first ballot for candidate for president, Charles Francis Adams had 203 votes; Horace Greeley, 147; Lyman Trumbull, of Illinois, 100; B. Gratz Brown, of Missouri, 95; David Davis, of Illinois, 92½; A. G. Curtin, of Pennsylvania, 62; S. P. Chase 2½, and Charles Sumner 1. Curtin and Sumner were withdrawn at once; Brown's vote fell to 2 on the following ballots; Davis' vote fell gradually to 6 on the sixth ballot; and Trumbull's rose to 156 on the third ballot, and then fell to 19 at the end. Adams' vote rose on all six ballots, as follows: 203, 233, 264, 279, 309, 324; and Greeley's as follows; 147, 239, 258, 251, 258, 332. Before the sixth ballot was declared, changes made Greeley's vote 482, and Adams' 187. The former was thus nominated. On the second ballot for a candidate for vice-president, B. Gratz Brown was selected by a vote of 495 to 261 for all others, and the convention adjourned. July 9, the democratic national convention adopted the platform and candidates prepared for it at Cincinnatti. (See DEMOCRATIC PARTY, VI.) — The whole movement had really failed, so evidently that in June the leaders of it endeavored to obtain another convention from which the absolute republican element should be excluded. June 20, a meeting was held in New York city, on the call of Carl Schurz, Jacob D. Cox, William Cullen Bryant, Oswald Ottendorfer, David A. Wells, and Jacob Brinkerhoff, and nominated as presidential candidates William S. Groesbeck, of Ohio, and Frederick L. Olmstead, of New York. But it was too late; the new ticket was not heard of after the day of its announcement, and the Greeley campaign went on to its final overwhelming defeat. (See ELECTORAL VOTES, UNITED STATES.) The result was entirely due to the refusal of democrats to vote for a candidate who was their lifelong and natural opponent, and whom their leaders had evidently only taken as a stalking horse; the only matter for wonder is that the democratic proportion of the total vote fell off but 3½ per cent. under the circumstances (1868, 47.3 per cent., 1872, 43.8 per cent.). — Many of those who had originated the movement returned, before or after the election, to the republican party; others remained in the opposition. The name of the party survived until 1876, owing to the presence of a few senators and representatives in congress who still held to it; but its substance departed with Greeley's defeat, if it had really survived his nomination. The only practical result was the "new departure" of the democratic party for the future; but it can hardly be supposed that this missionary work was the primary object of the Cincinnati convention. — Authorities must be sought in the current newspapers.

ALEXANDER JOHNSTON.

LIBERIA. The republic of this name is situated to the south of Sierra Léone, on that part of the west coast of Africa called the *Seed Coast*. Its territory consists of a series of settlements,

some commercial, others agricultural, stretched along the seacoast for a distance of 960 kilometres, and extending back an unlimited distance into the interior. Its capital is Monrovia, situated on the bay of Cape Masurado and the river of the same name. It was, when first founded, 1821–2, merely a colony of free negroes, which the American colonization society (founded Dec. 31, 1816) established to procure for these victims of color prejudice a better lot than in America, and at the same time to rid the soil of America of an element of its population judged inferior to the white race even by the members of the society themselves. By additions from within and without, the free and Americanized population of Liberia amounted, in 1872, to 19,000 souls, who exercised a political influence over 700,000 negroes (natives, but not savages), scattered over the territory that extends from the sea to the chain of mountains which separates the Liberian territory from the basin of the river Niger in the interior. The primitive colony, governed at first by white men, became, Aug. 24, 1847, an independent republic, governed by a black (or rather a mulatto) head, and was admitted into the family of civilized nations. It has been recognized by England, France, Belgium, Holland, Prussia, the Hanseatic cities, Italy, Denmark, Portugal, and finally (in 1861) by the cabinet at Washington. Its relations with foreign nations have been regulated by a dozen friendly treaties.— The constitution provides for a president, a vice-president, a house of representatives (thirteen in number), elected for two years, and a senate (of eight members), elected for four years. The president may be re-elected. The first president, Roberts, after having administered the government for the colonization society during six years, was elected when the republic was proclaimed, and three times re-elected (1848–56); his successor, Stephen Allen Bensen, was re-elected four times (1856–64); the third president was D. B. Warner (1864–8); the fourth, J. S. Payne (1868–71); the fifth, who again assumed the office in 1872, was J. J. Roberts. Anthony W. Gardner is the present president. — This dignity, like other governmental offices, can be conferred only on a negro. Various ministers form its executive agents. Suffrage is universal. — The judicial power is vested in a superior court, and two tribunals, established, as occasion requires, by the legislature. — In administrative matters the republic is divided into four counties (Monferrado, Grand-Bassa, Sinoë and Maryland), which are subdivided into districts. The civil affairs of the counties are managed by four superintendents chosen by the president with the advice of the senate; those of the districts by municipal magistrates elected by the citizens. — The revenues of the republic amount to about $120,000, of which more than $70,000 are derived from customs duties, and about $50,000 from the various other taxes. The expenses are a little less than this sum. The public debt, contracted for the erection of establishments of general utility, amounts to upward of $600,000, $500,000 of which were borrowed in London in 1871. Since 1874 no interest has been paid on this debt. — Education is furnished in the district schools and churches. English is the official language. Monrovia has a college and library. The wealthier families send their children to Europe to complete their education. Protestantism is the dominant religion. — Labor is obligatory; each inhabitant is obliged to cultivate a piece of land. — The Liberian colony has developed, in spite of the frequent aggressions of hostile negroes from the adjacent country; the Liberians are faithful to the laws which they have adopted, honest in their dealings, religious and moral, to at least as great a degree as other African colonies governed by whites. The Liberians have not, however, escaped all criticism; they have been reproached with reducing to slavery the natives who resist their power, and through the complicity of their citizens, selling them to the slave traders; but severe regulations imposed by the legislature in the session of 1857–58 upon this traffic and upon immigration, exonerate the republic from all participation in acts, which, if they have any real existence, are but the crimes of individuals. — Besides, lawful commerce affords ample opportunity to the activity of the Liberians; it is carried on in Monrovia and in the factories along the coast, subject to moderate import and export duties. The exports aggregate nearly $600,000, composed principally of palm oil, logwood and ivory; but the variety of local products promises a more extended traffic in the future. Rice, coffee, sugar, pepper, indigo, peanuts, arrowroot, maize, etc., grow on its fertile soil. The cultivation of cotton is encouraged by the cotton spinners' association of Manchester. Iron is common, and gold is not rare; there are also indications of coal — By these varied sources of wealth which it is developing from day to day, and still more by the establishment of order with perfect liberty, the little republic of Liberia is a very interesting example of what negro communities may become. Fortunately exempt from the violent traditions which still weigh heavily upon Hayti, owing its foundation to the disinterested devotion of whites, composed of freedmen who were ordinarily the best of the slaves, admitted into fraternal relations of friendship with civilized nations, it will serve as a test of what the negro race can attain to when left to self-government. Its progress thus far warrants the hope that it will continue worthy to rank by the side of the Senegambian colonies which France and England possess and administer in the same region of western Africa.

—Bibliography. *Die Negerrepublic Liberia*, in *Unsere Zeit*, vol. iii., Leipzig, 1858; Baldez, *Six Years of a Traveler's Life in Western Africa*, London, 1861; Blyden, *The Republic of Liberia, its Status and its Field*, in *Methodist Quarterly Review*, New York, July, 1872; Hutchinson, *Impressions of Western Africa*, London, 1858; Ritter, *Begründung und gegenwärtige Zustände der Republic Liberia*, in *Zeitschrift für allgemeine Erdkunde*, vol. i.,

Leipzig, 1853; Oberländer, *Westafrika*, Leipzig, 1874; Stockwell, *The Republic of Liberia*, New York, 1868; Wilson, *Western Africa*, London, 1856.

JULES DUVAL.

LIBERTY PARTY. (See ABOLITION.)

LIBRARY OF CONGRESS. This institution calls for notice because of its importance in connection with the copyright system, as well as because it is the great library of the United States government. Established at Washington in 1800, this library has survived two conflagrations, and has risen, in 1882, to 450,000 volumes, besides about 200,000 pamphlets. Its primary uses being for the national legislature, it has been rendered very complete in jurisprudence, political and economic science, and history; and in what are known as *Americana* it has by far the largest collection in the country. Its 10,000 bound volumes of newspapers represent more than a century of journalism in Europe and America. The supreme court of the United States, the heads of departments and bureaus, and the foreign diplomatic corps resident in Washington draw upon its stores; and while not a library of general circulation, it is freely open to the public use. — The librarian of congress is made by law the keeper of all copyright records, and the custodian of all publications deposited with the government in evidence of copyright. The process of obtaining copyright is very simple; the law requires a printed copy of the title of the work before publication, with a fee of fifty cents for record, and fifty cents for certificate of record, followed, within ten days after publication, by two copies of the work, which may be sent free by mail. Prior to 1870 the records of copyright were kept by the clerks of the United States district courts in fifty different places in the states, with the somewhat confusing result that there was no central office of record, and no ready means of answering questions as to literary property. Since the transfer of the entire registry and records to Washington, the status of every publication can be traced as to copyright title. Moreover the deposit of copies in pursuance of copyright is made vastly more complete, and authors and publishers are assured of finding nearly every publication protected by copyright in this national repository. A separate fire-proof library building is soon to be erected, the great collections of literature and science, including the copyright department, having long overflowed the limited space within the capitol. — Copyright in the United States runs to any citizen or resident therein, for the term of twenty-eight years from date of entry; and may be renewed for fourteen years longer by the author, or by his widow or children, making forty-two years in all. The annual number of copyright entries in the office of the librarian of congress considerably exceeds 20,000.

A. R. SPOFFORD.

LICENSE AND LIBERTY have their common origin in the human will, but, at the same time, liberty proceeds from reason, and license from passion. As a consequence, liberty is naturally well regulated, circumspect and moderate, without requiring the intervention of any restrictive law. Liberty, legally unlimited, keeps within the bounds which the general welfare, morality and self-respect assign to it, of its own accord, and almost without effort. It emanates from a sentiment of our own dignity, and is its most powerful safeguard. License knows neither rule nor moderation; it recognizes no law; neither morality nor human respect restrains it It is inspired by caprice, seeks only momentary gratification, and makes no sacrifice in the interests of the future. — Can license always be distinguished from liberty? We believe it can; and the characteristic marks which we have enumerated will enable any person to distinguish the one from the other, if he will but examine the facts impartially. Unfortunately, this impartiality is not always found, and the enemies of progress do not hesitate to attribute to liberty the faults of license. Consequently we have to oppose license as well as despotism, though with different means. We employ firmness, self-respect and love of equality against despotism; against license our only resource is to extend political education and to enlighten men as to their true interests.

MAURICE BLOCK.

LICENSE TAX. A license tax is a tax upon trade, and is paid for the privilege of pursuing an industrial or commercial occupation or a profession. The general idea of a license is that it confers a right that could not exist without the license, but this idea must, when license taxes are considered, be extended. For there are many trades and occupations which are not in themselves unlawful, and which could be followed without any interference by the state, yet which are made subject to a license tax. Thus, in the case of attorneys, notaries, peddlers and plate dealers, whose occupations do not imply any illegality, duties were for many years imposed on such as followed them. In general, license duties are mainly imposed in connection with the police power of the state, and for the purpose of regulating or prohibiting certain occupations which may be injurious to the interests of society in any form or when carried to excess. This idea was embodied in the constitution of the state of Arkansas of 1868, which provided that "the general assembly shall tax all privileges, pursuits and occupations that are of no real use to society; all others shall be exempt." (Art. 10, § 17.) And in carrying out this idea of regulation the tax may be made so pressing as to prohibit an occupation. Thus, a tax of $1,000 imposed on keepers of gaming implements, was clearly intended to be prohibitory, "and its payment would not give the owner the privilege of making use of it, which was illegal under another statute." (State

vs. Doon, R. M. Charlt., 1.) — Where regulation is the object of a license tax, revenue is a secondary consideration; and, in fact, in many instances the charge is only what is sufficient to defray the expense of regulation, and no revenue accrues to the taxing power. And where a grant is made by a state to a municipal corporation of power to issue licenses, it would appear that regulation was the object, unless there is something in the language of the grant, or in the circumstances under which it was made, indicating that revenue was contemplated; and the charge is not then known as a tax, but as a fee. "The license fee for retailing liquors is in no proper sense a tax. Its object is not to raise revenue. It has for many years been thought that this business was one dangerous to the public peace and public morals, and it has been the uniform practice of the country to subject it to regulation, require license from some public functionary before it is engaged in, and to punish as a crime the pursuit of it without a license. The license is part of the public regulations of the country, and the fee is intended rather to prevent the indiscriminate opening of such establishments than to raise the revenue by taxation." (Burch *vs.* Savannah, 42 Geo., 596, 598.) And a like reasoning will apply to charges like those for licenses for marriages, places of public amusement, auctions, draymen, hackmen, and for inspection. The sphere of such duties is limited, for, if generally applied, they become an obstruction to trade; but in the cases of a traffic or occupation which entails upon the government special inconvenience in its regulation, there are just grounds for imposing a special tax upon such occupation or trade; and objections such as that the charge is unequal and invidious, because the rest of the community is not subject to it, or that those taxed are not assessed on the amount of business done, will not hold. There can be little doubt that such taxes or charges, if properly imposed, do tend to diminish the evils against which they are directed; but experience has shown that when prohibition is intended, other and more direct means are to be found in legislative action which is expressly prohibitory than in the circuitous method of imposing a charge difficult or impossible to be borne. When imposed for revenue there is no limit to the taxing power. — A license tax is usually a fixed charge for each occupation, and as such it is an unequal and unjust tax, because if a heavy charge, it weighs more heavily upon those who carry on business on a small scale, or whose services are in little demand. The tendency of such duties is thus to favor the concentration of the business taxed into the hands of the wealthier undertakers, and this tendency is increased in proportion as the duty is increased. Indeed, the first license tax imposed in England was believed to be a protective measure. A duty was imposed on all persons traveling through the country as hawkers and peddlers, and on every horse or other animal used by them. It is supposed that this measure was adopted in the interests of the shopkeepers; for as means of locomotion were very limited, in the remote districts the difficulty and inconvenience of reaching towns where shops existed were such as to cause trade to be carried on to a much greater extent then than now by peddlers, and by imposing a heavy tax on these traveling salesmen they were discouraged and trade brought back to the shops. The intention may be to create such a concentration and even a monopoly, as in the case of the very heavy license fees exacted from pawnbrokers in Dublin, which are said to owe their origin to a purpose of giving a monopoly of the business to a few favored retainers of the court. The concentration thus, directly or indirectly, brought about would assist the supervision of the licensed trade or occupation by the state; but it is an unjust interference with trade, and when the tendency to crush out the small trader is under natural conditions as strong as it is at the present day, legislation should seek rather to aid than to do injury to him. — A license tax is an indirect tax, and is not finally paid by the person whom the state recognizes as the payer; for the latter reimburses himself from his customers. There are certain cases, as was pointed out by Mr. Cliffe Leslie, in which it may prove a direct tax. "A petty retailer, to give real examples, takes out licenses to sell spirits, beer and tobacco; he advances the customs and excise duties on tea, sugar, and the rest of his stock; he pays perhaps sixpence in the pound on his shop; and after all these duties have been advanced, his shop is burned to the ground, or he falls sick and loses his business, or he is defrauded and becomes bankrupt; or a large dealer, to whom the taxes are a 'flea-bite,' takes away his customers; or from one of twenty other causes the return to all his outgoings is ruin. * * There are thousands of poor men who every year embark their little savings or borrowed money in losing ventures of this sort on which they pay taxes; and not unfrequently one cause of their failure is the advantage which wealthier rivals find in those very taxes. Thus, excise and customs duties on commodities, trade licenses, licenses to keep horses and public carriages, etc.,—though treated not only by theorists but even by chancellors of the exchequer, as taxes on consumers alone—are often heavy direct taxes on a working class of producers, over and above the general diminution of wages which the whole system of so-called indirect taxation occasions." ("Fortnightly Review," February, 1874.)—But regulation apart, there is little to recommend an extensive system of license duties, such as is at present in use in France under the name of *patentes*. They are unequal, and all attempts to make them equal have failed. In France and some other countries the charges for licenses to sell alcoholic liquors is graduated according to the population of a place, and the number of retail dealers in each place is limited. In such cases the charge may be regarded as a return for the privilege of selling under a partial monopoly. But when it is attempted to

adjust license duties to the amount of business done, or the profits received, by the payer, all the difficulties that are arrayed against the income tax (see INCOME TAX) are met with, and the tax is no more equal than before. Mr. McCullough says that they are too contradictory of the plainest principles ever to become prominent sources of income; and Paul Leroy Beaulieu, the author of the best work on taxation in the French language, asserts, that the problem of making license duties equal is like that of squaring the circle. — In the United States license duties have been mainly employed by the different states in connection with the police power, and they have been granted also to municipal corporations. The federal government in 1861–2 imposed an elaborate system of license taxes, the main object of which was revenue, and in fact regulation was hardly thought of except so far as was necessary to the collection of the taxes. Under such a system it occurred that many occupations were charged with license taxes under both national and state laws, and many interesting questions regarding the legality of the federal law were raised, and notably in regard to lotteries and liquor dealers, for the former had been declared illegal by the laws of the majority of the states, and the latter were proscribed by some. In 1866 special taxes were imposed in place of license taxes, but the change lay wholly in the name, and the character of the different taxes remained almost unaltered. In 1871 the greater part of the special taxes were abolished, and only those on distillers and dealers in liquors, and manufacturers and dealers in tobacco, were retained, and these last taxes are still in force. For the purpose of showing the number of occupations taxed during the latter years of this system of license taxes, and after many had been abolished, and to show the relative importance of each as a source of revenue, the following table is taken from the report of the commissioner of internal revenue for 1868:

	1866.	1868.
Apothecaries	$ 43,712 86	$ 58,377.46
Auctioneers	89,724.42	97,448.14
Bankers	1,262,649.05	1,490,383.95
Brewers	105,412.23	270,205.22
Brokers of various sorts	673,260.30	538,417 43
Claim agents	70,637.39	63,149.99
Dealers, retail	1,949,017.04	2,163,632.00
" wholesale	5,428,344.86	1,854,387.80
" retail liquor	2,807,225.59	3,242,915.31
" wholesale liquor	801,531.32	592,045 72
Distillers, coal oil	17,350.12	19,629 66
" spirituous liquors	81,295.06	121,868.92
" apples, grapes, etc	20,239.31	74,188.45
Hotels	580,021.56	656,795.41
Insurance agents	104,866.83	152,143.51
Lawyers	264,886 75	388,030.95
Manufacturers	1,043,030.78	1,427,688.52
Peddlers	679,013.63	724,210.29
Physicians and surgeons	425,596.66	580,566.31
Rectifiers	61,300.91	87,770.28

WORTHINGTON C. FORD.

LIFE INSURANCE. (See INSURANCE.)

LINCOLN, Abraham, president of the United States 1861–5, was born in Hardin county, Kentucky, Feb. 12, 1809, and died at Washington, April 15, 1865, the victim of an assassination. He was taken by his parents to Spencer county, Indiana, in 1816, and in 1830 removed to Decatur, Macon county, Illinois. Here, in 1835–6, he studied law, and was admitted to the bar, and in 1834 was elected to the state legislature, where he remained until 1841. In 1837 he removed to Springfield. He was a whig representative in congress 1847–9, the only member of that party from his state. Declining a renomination, and defeated as the whig candidate for United States senator in 1849, he continued the practice of law until 1858. During this interval he was so frequently engaged in public political arguments with Douglas, that when the latter returned to Illinois in 1858 to "stump" the state for a legislature favorable to his re-election as United States senator, the republican state convention, June 17, 1858, nominated Lincoln against him. The two engaged in a joint debate in seven towns in different parts of the state, from August until October, which attracted attention in every state. Douglas had long been before the country; this debate brought Lincoln fairly abreast with him. On the popular vote the result was as follows: republicans 126,084, Douglas democrats 121,940, Lecompton democrats 5,091; but Douglas had a majority in the legislature and was re-elected. In 1859, when Douglas was called into Ohio to canvass that state in the gubernatorial election, the republicans at once summoned Lincoln to meet him. Early in 1860 he made many addresses in the eastern states, becoming still more widely recognized as one of the ablest leaders of his party; and in May he was nominated by the republican national convention for the presidency. In November he was elected, and in 1865 he was re-elected. (See REBELLION; HABEAS CORPUS; EMANCIPATION PROCLAMATION; DRAFTS; AMNESTY; FREEDMEN'S BUREAU; RECONSTRUCTION, I.; REPUBLICAN PARTY; ELECTORAL VOTES; UNITED STATES.) — President Lincoln's fame will undoubtedly rest mainly upon his connection with the overthrow of slavery; and yet he was never an abolitionist. In 1837, in a written protest against certain resolutions in the legislature, he declared his belief "that the institution of slavery is founded on both injustice and bad policy; but that the promulgation of abolition doctrines tends rather to increase than to abate its evils." In December, 1860, in a private letter to Alex. H. Stephens, he said, "Do the people of the south really entertain fears that a republican administration would, *directly* or *indirectly*, interfere with the slaves, or with them about their slaves? If they do, I wish to assure you, as once a friend, and still, I hope, not an enemy, that there is no cause for such fears." (Italics as in original.) Aug. 22, 1862, just a month before the promulgation of the preliminary emancipation proclamation, he wrote thus to Horace Greeley:

"My paramount object is to save the Union, and not either to save or destroy slavery. If I could save the Union without freeing any slave, I would do it: if I could save it by freeing all the slaves, I would do it: and if I could do it by freeing some and leaving others alone, I would also do that." His record in intervening years is equally consistent, and is, in truth, a representative northern record. Hating slavery *per se*, believing that "if slavery was not wrong, nothing was wrong," hating the dictatorial recklessness born of slavery, he aimed to combat both within the letter of the law, to yield to slavery the territory, and no more, which had been yielded to it at the formation of the constitution, and to maintain the character of the just man, who "sweareth to his own hurt, and changeth not." Lincoln did not destroy slavery: slavery destroyed itself. Its whole life, after 1793, was a journey toward destruction until it stung itself to death in the midst of the circle of fire which had surrounded it. (See SLAVERY.) — For the reason, mainly, that President Lincoln aimed to be the exponent only of the popular will, to confine his functions as guide and leader to efforts to influence the popular will, but to go no faster or farther than the people were ready to support him, his policy was severely criticised during his administration, and a series of intrigues against his renomination, whose inside history has not yet been fully written, marked the years 1863–4. But the honesty of intention, and the final full success of his policy can not be questioned; and these two elements are surely sufficient to justify it. — The natural greatness and kindliness of his mind and heart have taken an unchallenged place in our history. His second inaugural address, shortly before his death, is one of the finest and most magnanimous of American state papers, and its closing sentence might well serve as his epitaph: "With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us finish the work we are in, to bind up the nation's wounds, to care for him who shall have borne the battle, and for his widow and his orphans, to do all which may achieve and cherish a just and lasting peace among ourselves and with all nations." — The best early life of Lincoln is that by W. A. Lamon; the best for general readers is that by J. G. Holland; the most useful for political students is that by H. J. Raymond. Besides, there is a multitude of other lives of Lincoln, memorial proceedings, sermons and eulogies, for which see Bartlett's *Literature of the Rebellion*, 234. See also authorities under articles referred to above; Carpenter's *Six Months at the White House;* Poore's *Lincoln Conspiracy Trial;* Lowell's *My Study Windows*, 150; 15 *Atlantic Monthly* and 12 *National Quarterly Review* (George Bancroft's articles); *McMillan's Magazine*, February, 1865 (Goldwin Smith's article).

ALEXANDER JOHNSTON.

LIST, AND HIS SYSTEM. Frederick List was born in Reutlingen, a free city of Suabia (Würtemberg), Aug. 6, 1789, and died at Kufstein, in the Tyrol, Nov. 30, 1846. His father, a leather dresser, intended him for his own business, but not seeing in him any inclination for it, he decided to make him a government clerk. In 1816, at the age of twenty-seven, he filled a place in one of the central government offices in Würtemberg, and had gained the confidence of M. Wangenheim, the head of the liberal cabinet. This minister having established in Tübingen a school of administrative science, gave List the chair of political economy. At the same time List, in a journal ("The Friend of the Suabian People") started in Heilbronn in 1818 by some of his friends, demanded real national representation, control of the administration, independence of the communes, freedom of the press, and trial by jury; but, shortly after, the reform ministry gave place to its opponents, and this paper was suppressed. — List states in the preface to his principal work that from this time he conceived his theory with its distinction between *cosmopolitan* political economy and *national* political economy, while at the same time he was urging the abolition of provincial duties in Germany, and the development of the industries and commerce of that country by the means used by other peoples. "But," he says, "instead of pursuing my idea by study, my practical mind urged me to put it to the test of application. I was young then (1819), and I hit on the plan of forming an association of merchants and manufacturers to obtain the abolition of the interprovincial taxes and the adoption of a common commercial system; * * the influence of this society on the formation of a compact between the enlightened and high-minded sovereigns of Bavaria and Würtemberg is well known, as also its effect on the German customs association." — (List declares himself the founder and chief agent of this association. This claim has been disputed in the *Conversations Lexicon* and the "Augsburg Gazette" of December, 1840, and elsewhere. List defended himself against those attacks in his preface, and, later, in the *Zollvereins-Blatt* of Feb. 24 and March 3, 1846. Whoever is in the right, one thing remains certain, and that is, that List was the head and soul of the association.) — At the same time List, to put an end to the petty annoyances he suffered from the government, and possessing considerable wealth, resigned his chair, and six weeks later was elected to represent the city of Reutlingen in the Würtemberg estates, but not being yet thirty his election was declared void. He was re-elected at the end of 1820. List speaks of this period as follows: "Imagination must suppose the year to be 1819 to have the explanation of my conduct. Governing class and governed, baron and burgess, politician and philosopher, the whole German world, in fact, was fabricating new plans of political regeneration. Germany was like a country laid waste by war where the old proprietors, reinstated in their rights and once more masters of their own property, were on the

eve of taking possession again. Some demanded the restoration of the former order of things with all its cumbrous antiquities and superannuated customs ; others, rational institutions and agents completely in accordance with modern ideas. Those who gave ear to wisdom and experience were in favor of an intermediate course. Everywhere societies were being formed for the furtherance of patriotic aims. One of the articles of the federal constitution (the 19th) expressly enjoined the organization of a rational commercial system. I saw in this article the foundation on which the industrial and commercial prosperity of my German fatherland might be built." — List declares that he had to fight on one side the partisans of freedom, whom he represents as forming a powerful party (a statement of which we have grave doubts), and on the other, "differences of opinion, internal dissensions and the absolute want of a theoretical base" in his own camp. (List states, also, that there was great lack of the necessary funds to carry on his agitation while the secret service money of the British government was at the disposal of the advocates of the opposition theory. It will be observed that this calumny is a sufficiently common asseveration with the protectionist school. At the end of the last century the opponents of free trade affirmed on one side of the channel that the defenders of the treaty of 1786 had sold the interests of Great Britain to France. Their comrades on the other side were equally persuaded in respect to the same treaty that the interests of France had been sold to perfidious Albion. At a later period Huskisson was accused of selling himself, Cobden also, his purchaser being, according to them, the Czar Nicholas.) But he affirms that this struggle served to advance his ideas and was the cause of his discovering (this word, somewhat an ambitious one to use of a thing already found out, is his own,) the distinction between the theory of values and that of living forces, that is to say, between wealth and its causes, also the abuse that the school (by this word List means the liberal school) makes of the word capital. — From the first day of his parliamentary life he urged upon the assembly a bill advocating the breaking down of internal barriers and the commercial union of the German states, but, the diet adjourning, his proposition was not discussed. Shortly after the session List drew up a petition which was to serve as a programme for the parliamentary opposition, and which was the cause of prosecution against him. In February, 1821, he was expelled from the diet on the motion of the ministry; suit was entered against him and he was condemned to ten months' hard labor for outraging and calumniating the government, the courts and the administration of the kingdom. How different from the treatment he received from the minister Wangenheim! List took refuge in France. Received with sympathy in Strasburg, he liked the town, and there projected several literary works; among others, a translation, with notes, of J. B. Say's "Treatise," but the political animosity of his country drove him from that retreat, then from Baden, and from canton after canton of Switzerland. Going to Paris in the beginning of 1823, to seek occupation there, Gen. Lafayette offered to take him to America with him. This proposal to emigrate pleased him, but his family and his friends dissuaded him from it. The year after, tired of a life of wandering and confident of the royal clemency, he re-entered Würtemberg, but he was imprisoned in a fortress and only set at liberty (January, 1825) on condition of leaving the country. It was then he formed the resolution of going to the United States. Accompanied by his numerous family he arrived in the summer, and hastened to join Lafayette in Philadelphia. The general received him cordially and invited him to accompany him on a really triumphal tour among the American people. It was thus that he made the acquaintance of Henry Clay and the principal public men of the young republic. — After trying several spots he resolved to settle in Pennsylvania, near Harrisburg, with the intention, at a future period, of founding a school of arts and manufactures, but a fever and other circumstances deprived him of success in making the most of a property which he had bought for a moderate sum, and he accepted an offer made him to edit a German paper in the small town of Reading. It was at this time that he published, on the question of free trade, a series of letters in English in the "National Gazette" of Philadelphia. The question was at that time being vigorously debated in the United States, and List informs us that he had then relations with a protectionist association calling itself the Pennsylvanian society for the advancement of arts and manufactures. This society entertained him, reprinted his letters, and passed a resolution inviting him formally "to compose two works, one scientific, in which the theory should be completely elucidated; the other popular, to spread it in schools." This was in 1827. But fortune turned him from this project and postponed the publication of his principal work till twelve years later. — He discovered, almost accidentally, a coal mine of rich promise, and succeeded in due course in forming a company with a capital of $750,000. The mine was successfully opened up under his direction, and in addition a railway was built in connection with it from Tamaqua to Port Clinton, which landed the produce at the Schuylkill canal. The inauguration of this railway took place in the autumn of 1831. But already List, although he had so much to bind him to America, where he had found wealth and consideration, was longing to return to Europe and Germany. It must be said also that the revolution of July, and the changes it seemed destined to make throughout Europe, had something to do with his resolve. Be that as it may, he obtained from President Jackson a mission in con-

nection with the relations between the United States and France, and the federal government at the same time nominated him to the United States consulate at Hamburg. Arriving in Paris toward the end of 1830, he wrote in the *Revue Encyclopédique* on the economic, commercial and political reforms, applicable to France; and in the *Constitutionnel* on the necessity of a new law on the exercise of the right of public domain. He did not go to Germany. "Of his own accord," says M. Richelot, "List almost immediately resigned the Hamburg consulate on learning that the emoluments of the position were needed by the then occupant of the post." Besides, his nomination quickly gave rise to a protest, instigated as he thought by Würtemberg, from the city of Hamburg, and it was not confirmed by the American senate. He returned to the United States toward the end of October, 1831, but the following year he again landed in Europe, the possessor of a fortune which rendered him independent, with the title, purely honorary, of consul at Leipzig, which put him out of the reach of fresh annoyance from the police of his native country. After spending a year in Hamburg he took up his residence in Leipzig in 1833. — Scarcely had he settled in Germany before he contributed both with pen and purse to the publication of an encyclopædia of political and economic science ("Staats-Lexicon"). He continued at the same time to popularize his favorite idea of a network of German railways which he had already developed in letters sent by him to the "Augsburg Gazette" in 1829, and which he urged with success in a pamphlet "On a system of Saxon railway lines as the basis of a German system, and particularly on the establishment of a line between Leipzig and Dresden." This pamphlet, it is said, led to the formation of a company for the construction of the last named line, to which he gave great assistance as a director. He added fuel to the movement in favor of new routes of communication by the railway journal which he published in 1835. His services, nevertheless, were but poorly recompensed; the citizens of Leipzig confined themselves to offering him for all his trouble and expense a present of $1,500. — Shortly afterward he paid a visit to his own country. His fellow-countrymen received him with open arms, but the government refused him the title of citizen, and would only regard him as a foreigner having permission to reside in the country; and this, too, after the bench of Friburg had declared his former conviction null and void. This treatment chagrined him greatly. In addition to this mortification came the proscription of his railway paper in the Austrian empire and the loss of the greater part of his fortune as the result of the financial crisis in the United States. — To restore his health, which had suffered from overwork and from his troubles, he took a trip to Paris in the spring of 1837. He had the opportunity, during this trip, of being presented to King Leopold of Belgium and to Louis Philippe; he also met Dr. Kolb with whom he renewed his former connection and who opened to him the columns of the "Augsburg Gazette"; he received, too, information of a prize offered by the academy of moral and political science, relative to the restrictions on articles of commerce. List relates that he became aware of the competition by pure chance only a fortnight before the date fixed for giving in the essays, but that he nevertheless decided to commit to writing the main idea of his system, and his composition was ranked third out of twenty-seven given in. — (The question was put thus: "When a nation resolves upon free trade or on a revision of tariff legislation, what facts must it consider, to reconcile most equitably the interests of national producers and those of the mass of consumers?" List seems to insinuate that if he was only given the third place it was because MM. Rossi, Blanqui, and the other judges of the competition were, with the exception of M. Ch. Dupin, prejudiced against him by the principles they held. "There were,' he says, after mentioning those three names, "other judges in this assembly, but were their treatises to be rummaged there would only be found ideas suited for female politicians, Parisian dandies, and other mere dabblers, and lastly paraphrases of Adam Smith's paraphrases: of original thought not a vestige, which was to be regretted." To this M. Blanqui has made answer that at that time he was not a member of the academy. As to the section of political economy, the judge of the competition, it was composed, in addition to Messrs. Rossi and Ch. Dupin, of Alexander Delaborde, Villermé and Passy, who had recently been elected in place of Prince Talleyrand.) — It was this essay, a reproduction of the ideas contained in the Philadelphia letters and amplified in the articles published in the "Quarterly Review" and the "Augsburg Gazette," which became the "National System of Political Economy." List worked there in the bosom of his family, who had rejoined him in Paris, when one of his sons, who had chosen to serve in Algeria, died of fever. Deeply affected by this loss, List turned his steps again in the direction of Germany (summer of 1840). On his return to Leipzig he contributed greatly to the adoption of the line taken by the railway from Halle to Cassel, and on that occasion the university of Jena conferred on him the degree of doctor of laws. — He chose Augsburg as his residence, and produced, in May, 1841, his work which again drew public attention to his name and procured his rehabilitation, after an audience accorded him by the king of Würtemberg. The approaching tariff congress of the zollverein for 1842 brought back the discussion between free trade and protection in Germany. Recovered from a fall in which he broke his leg, List recommenced his propagandism. He proposed to the publisher Cotta to found a special organ for economic questions in general and the system of protection in particular. It

was the *Zollvereins-Blatt*, in which till his death he developed his ideas with talent and energy.— At the same time that he was directing and in part writing this sheet, he made numerous journeys which neither benefited his own treasury nor that of the paper, the possession of which Cotta had given up to him. This consideration had caused him to reflect on the means of giving a fresh impetus to his publication, but it was in 1846 that the league and free trade triumphed in England, and he could not resist the desire to see London on that occasion. He related the impressions he received in the two houses of parliament the night on which the abolition of the corn laws was voted by the house of lords. "Dr. Bowring was my conductor, and said to me, 'Permit me to introduce to you Mr. McGregor.' A well-bred man with an intelligent look shook my hand. 'Mr. Cobden desires to make your acquaintance,' another said to me; and a man still young, with a pleasant face, stretched out his hand to me. 'You have come here, then, to be converted.' 'Yes,' answered I, 'and to ask absolution for my sins.' I remained thus a quarter of an hour bantering with my three great opponents. What political life there is in this country! Here you can see history grow."— List remained three months in London. During his stay he wrote a treatise on the advantages and conditions of an alliance between England and Germany. That was his last production. The insignificant effect it had on English statesmen to whom he had addressed it, discouraged him afresh. It must be said that if his reputation had increased, his fortune had far from kept pace with it; that he had failed to obtain an official position in Würtemberg; that the future of his family caused him great uneasiness; and that he had felt deeply the indifference, the disappointments, the hostility and the humiliations his efforts had exposed him to. His nature was vigorous, but restless, passionate, ardent and feverish, and the joys of success and the disappointments of failure had ended by sapping its vitality.— On his return from England in the autumn of 1846, his family and friends found him changed; his internal complaint had increased. In November his disease got worse. One morning he set out for Munich *en route* to Italy, and some days afterward he was found dead in the neighborhood of Kufstein where he had stopped. Before leaving the hotel he had written to Dr. Kolb a despairing letter of farewell, which foreshadowed the approach of death, and by means of which he was identified. List seems to have committed suicide in a fit of temporary insanity, but the manner of death he died has not been clearly ascertained — In reading the life of List interest is aroused in a life so active and a nature so full of courage and so well intentioned. But it must be regretted that one so bright and intelligent should have gone astray under the double influence of error and vanity, so far as to believe himself the founder of a new and natural economic doctrine, when he only dressed in the language of contemporary prejudice the superannuated theory of a system of commercial protection. List appears in four distinct characters: as a politician, as a promoter of German railways, as a promoter of the zollverein, and as a theorist on protectionist tariffs on the frontiers of the German states We have nothing to do with him as a politician, and will confine ourselves to mentioning that he strove for constitutional guarantees, for municipal freedom and decentralization at a time now deemed remote. We must admire the efforts which List made to draw the attention of Europe in general, and of his fellow-countrymen in particular, to the importance of opening up new means of communication. It would be difficult to decide in regard to this whether he really rendered such service as his partisans have claimed for him. The superiority of railroads was so marked from the first that they were built in the United States and then in England, and it is probable that the European continent would also have taken this forward step even if List's voice had never been heard; for, no one owning the ordinary roads, there could not be formed against the new means of communication any of those coalitions of interests which keep prejudice alive and are a bar to progress. — We shall not say the same of the zollverein, to the formation of which his activity, his talent and his pen were more positively necessary. We have nevertheless two remarks to make on this subject, with the view of appraising List's efforts at their proper value. We would remark, first, to those enthusiastic protectionist admirers of this father of the zollverein, as they call him, that List confined himself to asking for Germany the application of an efficacious measure carried out forty years before in France, as the result of the intelligent teaching of physiocrats; in the second place, that he was powerfully helped in his undertaking by the influence of the political ideas of those German states which rightly or wrongly saw in a customs union a preliminary step toward their administrative and national predominance. — Let us consider for a moment List's claims. List, speaking of his ideas, says in his preface: "This system, defective as it may still seem, does not rest in the least on a vague cosmopolitanism, but on the nature of things, on the lessons of history and on national wants." It will be observed that the founders of political economy also took as their basis the nature of things, historical lessons, and national wants. The starting point then of the innovator is nothing new, and what has now to be considered is, whether he has better observed than they the nature of things, or has better understood the lessons of history and the wants of nations. For our own part, there is no question about it. — List has said: "The loftiest association of individual beings actually realized is that of the state, of the nation; the highest imaginable is that of the human race. We know that an individual is much happier as one of a nation than in a condition of

isolation, similarly all nations would be much more prosperous if united by a sense of right, by perpetual peace, and by free trade. Nature little by little is bringing nations to this supreme unison by inducing them, through its differences of climate, of soil and of productions, to barter with each other; through over-population and over-abundance of capital and talents to emigrate or to found colonies. International commerce, in awakening activity and energy by the new wants which it gives rise to, and by the interchange between nations of ideas, discoveries and appliances, is one of the most powerful aids to a nation's civilization and prosperity. But as yet the union of nations through commerce is very imperfect, for it is broken, or at least imperiled by wars and the egotistical measures of this nation or of that. By war, a nation may be deprived of its independence, its possessions, its liberty, its constitution, its laws, its characteristics, in fine, of the measure of cultivation and well-being which it has already attained; it may even be enslaved. By egotistical acts on the part of foreign nations it may be impeded and retarded in its economic development. It is with communes and provinces as it is with individuals. It would be folly to maintain that commercial union is less advantageous than provincial duties to the United States, or the departments of France, and to the states of the Germanic confederation. The united kingdoms of Great Britain and Ireland afford a brilliant and decisive example of the immense results of free trade between associated peoples. It remains but to picture a similar union between all the peoples of the earth, and the liveliest imagination would fail to grasp the amount of well-being and comfort it would bring to mankind."—List admits then, and it is this portion which protectionists who study his writings are compelled to pass by in silence, that the system of free trade, which he called that of the school, is based on a correct idea, an idea which science must admit and work out, that it may fulfill its vocation, which is that of clearing the way for its practical application; and an idea which practice can not ignore without going astray. List, however, finds two faults with the partisans of free trade: first, with not taking into account nationalities, their interests and the conditions peculiar to them; and secondly, with wishing to conciliate nations with the chimera of universal union and peace; and it is here that through sophism and confusion he has missed his proper logical conclusion, and poses as the discoverer of a system which rests on but frail foundations. Thus, he accuses "the school" of confounding cause and effect, of presupposing the existence of the association of international peace, and thus of concluding in favor of free trade. "Peace exists," he says, "between provinces and states already associated, and from this association comes their commercial union. If, on the contrary, associated states begin with a commercial union, free trade would give birth to the enslavement of nations." List starts manifestly with a subtlety: facility of exchange necessarily brings with it international peace; and it could not be admitted that the one is exclusively the cause, and the other exclusively the effect. On the other hand, admitting the truth of List's rule, it follows that free trade ought to be established between nations which are at peace. — The theory of nationality which List is forced to appeal to to cover the flaws in his logic, while proclaiming free trade between the German states, is a perfect snare; for it is a question incapable of solution to decide what is a German state. In the last analysis List wished to limit German nationality by the line of custom houses; but to begin with, where shall this line stop? That, neither he nor any one else can tell. In the second place, this means of "nationalification," to coin a word, is only legitimate when it increases the wealth of the nation. Then comes the question, is free trade or protection the best for increasing a nation's wealth? a question which is the subject of several articles in this work. List in this matter finds himself in a serious dilemma, so completely is the thesis he undertakes to support at variance with that which he made use of to defend the formation of the zollverein and the suppression of internal duties, and which causes him to cite as an example of beneficial federation the union of Ireland with England and Scotland, while the fanatics of the exclusive system attribute to that union the distress of Ireland, which in reality arises from quite different causes, well understood at the present day. — In addition to the supposed difference between liberal economy, which he calls cosmopolitan, and his system which he calls political economy, List believes himself to have made another great discovery, that of the theory of exchangeable values and productive forces. By exchangeable values he means products, wealth; by productive forces, the causes of wealth, the means of labor, industry. He is pleased to say that economists had confounded all these before his day, and on this account to reproach the economic school; he reproaches it, for instance, with having limited its researches to material wealth, and with having failed to appreciate the importance to a nation of means of improving the physical and intellectual instruments of its labor. It is very evident that if List had been a professor of political economy for more than the one year, and if he had consequently had an opportunity of learning something of it, he would have seen that his invention was no invention at all. — He also makes pretensions to having had new ideas on the division of labor, ideas which had escaped the notice of Adam Smith, and this is the conclusion to which he comes: "International division of labor, as well as national, depends greatly on climate and nature. All countries are not suited for the production of tea as China is, of spices as Java, of cotton as Louisiana, of wheat, wool, fruits and manufactures as are the countries of the temperate zone.

A nation would be devoid of reason to wish to obtain by a national division of labor, or by indigenous production, articles for the production of which it is unsuited by nature, and which international division of labor or foreign commerce can procure for it, of better quality and at a low price; but it would betray a want of culture or of activity if it did not use all the means at its disposal to satisfy its own wants, and to procure by a surplus of production what nature has refused to its own soil." Truly this is new indeed! — The idea of nationality, the theory of productive forces, and that of division of labor, are the bases of the book. It seems then to us that we have said sufficient to expose the absurdity of Dr. List's pretensions to be the founder of a new and national system of political economy. His so-called theory is only an ill-compounded amalgam of protectionist ideas on the subjects of politics and economy; and he is not absolutely faithful to it himself, for he declares positively that free trade is the polar star which should guide nations, for it counsels the freedom from taxation of the natural products of the soil and of raw materials; while with regard to manufactured articles, it advocates the gradual extension of the zollverein, that is to say, the widening of the circle of liberty. It is then only by adopting numerous precautions and reservations that the prohibitory and protectionist school can make use of the so-called national system of political economy, and, all things considered, Dr. List is rather an adversary than a partisan of protection, as it is understood in our time. JOSEPH GARNIER.

LITERATURE. It is very easy to understand that literature must have exercised a powerful influence over the course of historical events, but, on the other hand, it is very difficult to explain in a few pages the nature and extent of this influence. Such a question, if put in a general way, carries with it its own answer. Every one will reply in the affirmative by the force of natural instinct alone, which comprehends at a glance all evident truths, and hesitates only before doubtful truths or the subtleties of the spirit of system. No argument is needed to perceive at a glance that the works of human genius must have exercised an influence over the acts of the human race. But how shall we explain and summarize the history of this influence? Such a subject would require, not an article, but an entire treatise, for the forms of this influence have varied immensely according to nations, civilizations and centuries. Besides, this word literature is a synthetic, generic word, which represents, not one single product of human intelligence, but a host of very different and opposite products. The influence exerted by one kind of literature is entirely different from that exerted by another, and to confine ourselves to the most general divisions of literary works that may be given, it is clear that the action of prose is as diametrically contrary to that of poetry, as preservation is contrary to revolution, and as the past is to the present. There are peoples among whom this action of literature appears from the very beginning of their history and continues ever increasing; there are others, however, among whom it did not appear until very late, and when the greater part of their history was already passed. Finally, as a last difficulty, the illustrious men who impersonate this action of literature are nothing more than the runners of whom Lucretius speaks, who pass the torch of life from hand to hand, consequently when, in order to simplify the question, we wish to consider a given period, we very soon perceive that each one of these illustrious men has ancestors, and that the influence of literature in such or such a century can not be explained without recourse to preceding centuries. Thus we find ourselves confronted by a series of successive relations, which leads us from one effect to another up to a first cause of unknown date and name, which is simply the first man that thought. We are therefore compelled to confine ourselves to certain important generalities. — This influence of literature has always existed, but it was not until almost our own time that it became all-powerful. Literature did not begin to be a real agent distinct from the other great moral agents of humanity until the discovery of the art of printing; and the sixteenth century, which is so near our own time, is the heroic age of this new agent. Until then, with some striking exceptions, literature had always preserved the imprint of its origin. In the old priestly and warlike civilizations literature had been, we might say, everything; but if it was everything it was also nothing. It was the hymn which the priests taught the multitude, the song of war or triumph which celebrated the glory of battle, the prophetic canticle which revealed to man the secret of his destiny and of the destinies of his race; but the enthusiasm, the fervor and the courage which it inspired were not its own. It was not it that spoke, it was religion, party feeling, warlike ardor; in a word, all the great moral agents that have served as guides for mankind and with which it was confounded. It was the voice and the word of divine power, but this word was intimately united to this power, and was not incarnated in a distinct personality in such a manner that we may say of literature, as we say of the mystery of the Christian Word, that it was from the beginning of the world, but was not revealed to men until an appointed hour. — In classical antiquity, that is, in Greece and Rome, the mystery was accomplished, the word became flesh and assumed a distinct personality. Literature, liberated from its divine cradle, begins a profane life outside the sanctuary; the sage is distinct from the priest, the poet is distinct from the prophet, the historian is distinct from the man of war and action. As centuries advance, this individuality becomes all the more positive and pronounced. In Greece the literature of the great epoch is limited to the heroic inspiration of the poems of Homer, and

still retains in its liberty something of the sacerdotal and the sacred; but in Rome this character disappears entirely, and we find nothing of it except in the memory of lost works belonging to the semi-fabulous epochs. There the poet, the historian and the sage are as completely free from all sacerdotal influence as they are in our modern civilization. They are mere individuals dependent on themselves alone, upon their own consciences, who in virtue of this inspiration and of this conscience, assume the right to judge the actions of their contemporaries, and to insist upon their decisions to the best of their ability. Here we find the modern man of letters; literature has now put on the form which it is to wear henceforth. It was in Rome and not in Greece that literature assumed the final character, in which we recognize it to-day, and in which men will continue to recognize it to the end of time, It was in Rome alone that it donned its profane *lay* garb, and, of its own authority, constituted itself sovereign and judge. — Under this two-fold title literature has rendered very great services to humanity, and even to-day we, the latest born, live in part upon its benefits. Its influence, however, was much more intellectual than political. It exercised its power over individuals rather than over the general order of things; characters and minds owed it much, but facts owed it little. On the other hand, this action, although so very limited, exerted over individuals an empire which it has never entirely regained. Literature afterward made its way among the masses, but it never succeeded in exercising the same influence over each individual. The opinion which came to a man through it impressed and imposed itself upon his entire being, while now-a-days our opinions can very easily be distinct from our persons. In ancient times, every stoic was a stoic, every epicurean an epicurean, every peripatetic a peripatetic, mind and morals, heart and soul; his creed was shown in his manner of eating and of saluting a friend, in his manner of understanding and supporting life, in his manner of enjoying its benefits and of contending against its ills. — A new moral force, the greatest which the world had ever known, Christianity, undertook to exert over the masses the beneficent influence which ancient literature had been powerless to make them feel. Then began the period of the middle ages, during which literature recommenced its entire history, or, to speak more correctly, continued it by recommencing it, for no matter what may be said to the contrary, there was not during this entire period any break in the continuous progress of the human mind. Literature lived over again during this epoch the two existences of its past history, not successively, but simultaneously. It was sacerdotal and warlike, and at the same time lay and profane. It mingled with religion and the distinction of castes, while preserving its individuality. The peculiarity of the middle ages, and what constitutes its originality in our eyes and gives its poetic form, is precisely this juxtaposition, nearly always inconceivable and sometimes contrary to the nature of all past forms, from those of the rudest civilization to those of the most refined society. It is not the elements of which the middle ages were composed that are new, but the union of these elements. Literature possessed simultaneously during this period the two characteristics which it had possessed successively in ancient times. — In the fifteenth century, literature recovered its true form, and was enabled to renew the glorious history it had already had in Greece and in ancient Italy. But how powerful soever the movement of the renaissance, it is doubtful whether it would have been sufficient to give to literature the decisive influence which it has acquired in modern times, if the chance of an unforeseen discovery had not come to the aid of the human mind. It is more than likely, in fact, that, without printing, the movement of the renaissance would have resulted only in a repetition of the literary history of Greece and Rome. The influence of literature would as formerly have been felt only by individuals; it would have made the same slow progress as during former centuries. Printing gave it wings. By its means the light of the renaissance was communicated from the people who were the natural heirs of Greece and Rome to the people of the rest of Europe who were still semi-barbarians, by its means the reformation was rendered possible, by its means the reign of *spoken* language and oral tradition was destroyed. By placing before men's eyes the documents of their religious history, it inaugurated the reign of individual religion, and made each man judge and critic of his faith. Until then, man had been taught directly by man, oral instruction had been supreme; printing rendered this direct material communication of man to man useless, and destroyed the power which was necessarily dependent upon spoken thought. Mute signs, which can be multiplied indefinitely, henceforth made the thought of each individual the common property of all men. Then the complexion of everything was changed. Education was no longer at the mercy of chance or favor; any one who desired could obtain it. It is no longer necessary to undertake long journeys to listen to the words of some renowned master; his words, stripped of their material clothing, come in search of us. Hitherto man had but one master, and was in consequence obliged to believe in him blindly; henceforth he is to have a great number, whom he may compare one with another, and be free to choose between them. At the same time that it gives to thought the rapidity of lightning, printing creates equality and emulation in the kingdom of mind. It makes the disciple equal to his master by the faculty which it gives man of choosing and judging between those who offer to teach him; it creates emulation among wise and learned men by obliging them to solicit the favor of the public in order to be heard. Parliamentary rule is thus

inaugurated in the dominion of thought, ideas are accepted or rejected by a sort of universal suffrage, and the kingdom of letters which, previous to the discovery of the art of printing, was a veritable monarchy, may now justly bear the name of a republic —It is a republic in every sense, for, since the renaissance, literature has depended only on itself, and has rid itself of all the influences that weighed it down It has at length obtained the glorious personality which we have seen it so energetically and so gloriously striving for in Greece and Rome. The man of genius is no longer obliged to shelter himself behind any other authority than that of his conscience; he need no longer style himself the envoy of God, or justify his inspiration by claiming for it a heavenly origin; he asserts as a natural law that he possesses a power over his fellow-men, which no one can prevent him from exercising. No man who has anything to say has any further need of investiture in order to speak; he need consult no counselors but his conscience and his heart. Public opinion is become a sort of throne constantly offered to the usurpation of human genius. But three centuries have elapsed since this grand movement began, and it has within this short space of time remodeled everything—manners, government, laws, the sciences, interests. It has put man in possession of himself by revealing to him the true idea of humanity; it has reduced government to merely the first of social functions; it has changed the nature of laws, and from decrees imposed by a mystic authority has made them obligations voluntarily assented to.—The culminating period of this grand movement was, as is well known, the eighteenth century. It was then that, for the first time in all the states of Europe, simple individuals were seen setting themselves up as censors of established laws and institutions, and presenting themselves to the people as the true representatives of moral authority, justice and reason. The astonishing feature in this, and what at the same time serves to show the progress made since the renaissance, is, that these pretensions did not shock or astonish any one. It seemed perfectly natural that Voltaire, Montesquieu and Rousseau should argue against the official representatives of the church and the state. Princes listened with docility to the teachings of philosophers, and in order to satisfy their wishes, themselves undertook to overturn the ancient institutions of their states. In Spain, Portugal, Tuscany, Naples, France and Austria, statesmen and princes governed in accordance with the principles which had lately come into favor, with the opinions of philosophers, and in such a manner as gained for them the applause and congratulations of these new kings, whose mere ministers and agents they were for more than fifty years. The end of this great literary and philosophic movement is well known; the event which was its final result is known by the memorable and terrible name of the French revolution. —To sum up, we may say that modern civilization, taken in its entirety, is the offspring of literature, for literature was the principal cause of the three great events which transformed the whole face of European society: the renaissance, the reformation, and the French revolution. Of these three events, two are the legitimate and immediate offspring of literature, the renaissance and the French revolution. The third, the reformation, had another parentage, and was only the adopted child of literature, but we may say that, without this adoption, the child could never have lived. Besides these three great facts, I see but one other, though it is quite an important one, it is true, and runs through the entire political history of the last three centuries: it is the substitution of the monarchical for the feudal form of government. This great fact, whose origin dates much farther back than the sixteenth century, is not, it is true, the offspring of literature, but literature, however, aided it with all its power, and was its most faithful ally. The most zealous partisans of monarchy, the wisest counselors of royalty, are to be found among the men most intimately connected with the renaissance. Thus, even facts, which do not result directly from the influence of literature, still owe their destiny and fortune in part to this influence, and consequently we may say that the political history of modern times is merely their literary history transformed and enlarged.

EMILE MONTÉGUT.

LOBBY—literally, a covered passage or waiting-room—is in politics applied to the passages, or ante-rooms, surrounding a hall of legislation. Hence, by metonymy, the word has come to mean the men who frequent such places to influence legislatures or their members in the interest of certain measures. This application of the word lobby is almost wholly American. The word itself is ancient, and defined in Bullokar's "Eng. Expositor," 1616, as "a gallery." In England, the lobby of the house of commons is the passage immediately outside the hall, into which the members retire on either side of the house to vote on a division. The ayes go out first, being counted as they pass into the lobby, but no record of individual votes is kept, as is the practice in American legislatures. In a speech by Col. Titus on the exclusion bill in parliament, Jan. 7, 1681, he said, "to trust expedients with such a king on the throne would be just as wise as if there were a lion in the lobby, and we should vote to let him in and chain him, instead of fastening the door to keep him out." This is paraphrased by Bramston in the oft-quoted lines:

> "But Titus said, with his uncommon sense,
> When the exclusion bill was in suspense:
> 'I hear a lion in the lobby roar:
> Say, Mr. Speaker, shall we shut the door
> And keep him there, or shall we let him in,
> To try if we can turn him out again?'"

—British political history is sufficiently full of examples of lobby influence. In Queen Elizabeth's

time a speaker of the house of commons, Sir John Trevor, was bribed by rich merchants to exert his influence in parliament in behalf of certain favors to the municipality of London. It was Sir Robert Walpole who originated the axiom, "Every man has his price." In the memorable railway excitement in England, thirty years ago, the railway lobby, by their combinations and cunning employment of the tide of public opinion, wielded a formidable power in parliament. Railway directors openly boasted of the number of votes they could command in the house of commons. Opposition lines were gotten up mainly to be bought off. Many instances are recorded of railway bills costing from £80,000 to £450,000 to get passed. It was these and other scandals which led to the adoption of the present stringent rule of the house of commons, which provides that every private bill or petition must be in charge of some known and recognized parliamentary agent. No person is allowed to act as a parliamentary agent without subscribing an obligation to observe and obey the rules and orders of the house of commons. He must give a bond in the sum of £500, and be registered, besides having a certificate of his respectability from a member of parliament or member of the bar. Any parliamentary agent who misconducts himself in prosecuting any claim or proceeding before parliament is suspended or prohibited by the speaker from practicing. No written or printed statement is permitted to be circulated in the house of commons without the name of a parliamentary agent attached, who will hold himself responsible for its accuracy.—While there is no reason to doubt that what is known as the lobby has existed in one or another form in the legislative history of all free governments, it is certain that the organization and the power of this indefinite influence in political life has often been grossly exaggerated. In times of partisan excitement, when the advocates and opponents of any measure before the legislative body are full of zeal, wild stories are spread abroad through the press, connecting the names of public men with allegations of bribery and corruption. These stories are in the majority of cases utterly unfounded, and yet are as industriously circulated, to meet a real or fancied public appetite for scandal, as if there were no law of libel in existence. Probably there is no public man of any notoriety in our political history who has not at some time been charged with acting or voting under the influence of the lobby.—What is known as lobbying by no means implies in all cases the use of money to affect legislation. This corruption is frequently wholly absent in cases where the lobby is most industrious, numerous, persistent and successful. A measure which it is desired to pass into law, for the benefit of certain interests represented, may be urged upon members of the legislative body in every form of influence except the pecuniary one. By casual interviews, by informal conversation, by formal presentation of facts and arguments, by printed appeals in pamphlet form, by newspaper communications and leading articles, by personal introductions from or through men of supposed influence, by dinners, receptions and other entertainments, by the arts of social life, and the charms of feminine attraction, the public man is beset to look favorably upon the measure which interested parties seek to have enacted. It continually happens that new measures or modifications of old ones are agitated in which vast pecuniary interests are involved. The power of the law, which when faithfully administered is supreme, may make or unmake the fortunes of innumerable corporations, business firms or individuals. Changes in the tariff duties, in the internal revenue taxes, in the banking system, in the mining statutes, in the land laws, in the extension of patents, in the increase of pensions, in the regulation of mail contracts, in the currency of the country, or proposed appropriations for steamship subsidies, for railway legislation, for war damages, and for experiments in multitudes of other fields of legislation equally or more important, come before congress. It is inevitable that each class of interests liable to be affected should seek its own advantage in the result. When this is done legitimately, by presentation and proof of facts, by testimony, by arguments, by printed or personal appeals to the reason and sense of justice of members, there can be no objection to it. What the legislator most needs is light upon every subject that can come before him; and whatever contributes to his knowledge of the numerous and complicated subjects with which he has to deal, and of which he must often be profoundly ignorant, is of value. The only danger to the legislator lies in hearing only *ex parte* evidence, or in giving credence to the too zealous representations of interested parties, while neglecting to inform himself of the facts upon the other side. — It may be said that there are two well-defined classes of lobbyists. The first consists of that great, selfish, unorganized, greedy and rapacious class, known as "strikers," who are ever ready to trade upon the necessities of claimants, or the fears and hopes of the ignorant, to barter a pretended control of votes for money, and to charge a high price for influence which they do not possess. These men are the harpies and vultures of politics, whose frauds and impudent pretensions have often needlessly involved, not only the legislative body, but all who have sought to be heard before it, in public opprobrium. Men capable of bribing others are always ready themselves to be bribed. The genuine political striker will take anybody's money, whether it is earned or not. If the matter which he professes to be able to carry fails, as it generally does, he hides his own malfeasance under the cry of corruption, raised against other men who have defeated him. Pretending to deal in the votes of members to whom he is not even known, he lures on the ignorant or unwary seeker after "influence," till he has gobbled his profit, sometimes doing a large and

lucrative business on fictitious capital, while his real stock in trade consists only in unfaltering impudence and a colossal power of lying. — The other class of lobbyists are of quite another order. They pride themselves upon being men of honor, superior to the petty arts, chicaneries and falsehoods employed by other men. Their endeavors to influence legislation are open and above-board. They seek to organize a public opinion favorable to their measures, by the industrious collection and publication of facts, the distribution of documents, and the taking of testimony before committees. Their eminent respectability secures for them the acquaintance and often the familiar confidence of legislators. Reputable men in every department of life frequently endeavor to influence legislation, even in matters in which they have no pecuniary interest whatever. That such men should be called "lobbyists," or that their presentation of facts and arguments to members of the legislative body should be stigmatized as lobbying, in an invidious sense, would be palpably unjust. Equally unjust would it be to charge a whole legislature with corruption, because individuals have been bribed, or because (as is more frequent) a herd of importunate suitors dog their footsteps in their daily walks, to promote selfish and private interests. — Much has been said and written concerning the Washington lobby, and the existence of a powerful organized body has been assumed as successfully endeavoring to control our national legislation. Numerous as are the men whose casual employment may justify the application to them of the term lobbyist, the power and influence of the congressional lobby has been greatly overrated. Congress is not a body of venal reprobates ready to be corrupted, but a body fairly representing the average intelligence and morality of the people. Bad legislation, of which we have more than enough, is the fruit of ignorance, not of corruption. It is a notable fact that no lobby scheme can be successful unless supported by a strong outside public sentiment. The press has vastly more power than the lobby, and when controlled in the interest of designing men, it is far more to be feared. Yet lobbying in the interest of private schemes of gain has always existed, and will always exist, while human nature remains what it is. There is no such thing as one organized lobby, but every session of congress witnesses many separate and unorganized attempts to influence legislation, sometimes by individuals, sometimes by associated action. Thus, we have the lobbyist with private claims in charge, whether his own or those of other men. We have pension lobbyists, tariff lobbyists, steamship subsidy lobbyists, railroad lobbyists, Indian ring lobbyists, patent lobbyists, river and harbor lobbyists, mining lobbyists, bank lobbyists, mail contract lobbyists, war-damages lobbyists, back-pay and bounty lobbyists, isthmus canal lobbyists, public building lobbyists, state claims lobbyists, cotton tax lobbyists, and French spoliations lobbyists. Of the office-seeking lobbyists at Washington it may be said that their name is legion. There are even artist lobbyists, bent upon wheedling congress into buying bad paintings and worse sculptures, and too frequently with success. At times in our history there has been a British lobby, with the most genteel accompaniments, devoted to watching legislation affecting the great importing and shipping interests. We have even had a French lobby, more than once, since M. Genet undertook to influence American opinion against the neutrality policy of Washington in 1793. There was what was called a Danish lobby in 1868, having as an objective point Mr. Seward's treaty for the purchase of Denmark's West Indies: but no money was used, save for writing and printing, as all concerned had the sense to perceive that money must fail to secure the enactment of any measure distasteful to congress or unpopular with the people. A little farther back, enormous stories were told of a Russian lobby; how that only $5,000,000 out of the $7,200,000 paid for the purchase of Alaska ever reached Russia. The facts were, that not a dollar was paid to a congressman, but $27,000 was invested in skillful attorneys, and $3,000 paid to one Washington newspaper, while the $2,170,000 was expended by the Russian minister, under instructions from his government, in munitions of war and machinery. In the case of President Johnson's trial by impeachment, in 1868, there was an extensive lobby operating back and forth between Washington and New York, and early knowledge of the unexpected acquittal was traded upon by men outside of congress, but the managers found no evidence whatever that any senator received money for his vote. During the Kansas excitement, in Buchanan's administration, there were two powerful lobbies which struck hands to put two distasteful measures through congress: the Lecompton constitution bill (an administration measure), and the Chaffee India-rubber extension patent, which kept a band of lobbyists in pay at Washington for two years. Both measures failed, though more than $100,000 was spent, and the testimony before the Covode committee of investigation failed to show corruption in a single member of congress. In the case of the Pacific mail steamship subsidy lobby, in 1872, more than $800,000 was expended, of which $300,000 went to an ex-congressman, and remained entirely unaccounted for, and the remainder was divided among lobbyists, journalists and obscure employés for supposed influence in the house or senate. The subsidy, which was passed, was for the annual sum of $500,000, but the grant was repealed two years later, and the ways and means committee reported, on investigation, that no money was found to have been paid to any member of congress. In the Crédit Mobilier scandal of 1868 there was no lobby, but a member of congress sold to a few fellow-members the stock of a railway construction company paying large dividends, on the plea that he "wanted to place

the stock where it would do the most good," meaning to the Union Pacific railroad, a beneficiary of congress, in which he was himself largely interested. Resolutions of censure were adopted by the house in this case. — The earliest instance of lobbying in the history of congress was the case of Robert Randall, in 1795, who combined with Whitney and others to procure from congress a grant of western lands to the amount of twenty million acres, for a merely nominal sum. Four representatives were approached and offered shares in the ring if they would favor the scheme. One member was offered money in hand. Randall claimed to have secured thirty or forty members of the house and a majority of the senate, but subsequently admitted the utter falsity of this pretension. Before the bill was offered he was exposed, through the members whom he had approached, arrested by order of the house, reprimanded by the speaker, and discharged after two weeks imprisonment. — The case of John Anderson, in 1818, was an offer of $500 to the chairman of the committee on claims, "for extra trouble in making a report." The offer was in writing, and was immediately laid before the house by the member, with a motion for the arrest of the culprit, who was imprisoned and publicly reprimanded at the bar of the house. The cases of O. B. Matteson and W. A. Gilbert, congressmen from New York in 1857, were instances of corrupt lobbying on a large scale. The report of a committee of the house, by Henry Winter Davis, chairman, declared Gilbert to have cast his vote on the Iowa land bill for a corrupt consideration, consisting of seven square miles of land and some stock given to him. It also charged him with agreement to procure the passage of a resolution for purchase by congress of certain books, on condition that he should receive a certain sum out of the appropriation. Matteson was proven to have incited parties interested in the Des Moines land grant to use a large sum of money and interest in railroad stock corruptly, to procure the passage of the grant through the house. After long and acrimonious debate, during which J. W. Simonton, a journalist, was imprisoned for refusing to disclose the names of corruptible members, resolutions to expel both Matteson and Gilbert were reported and would have passed, but both members forestalled the vote by resigning their seats. — There is no lack of legal penalties to deter lobbyists from making corrupt approaches to members of congress. By section 5450 of the revised statutes, every person who promises, gives, or procures to be offered, any money or value to any member with intent to influence his vote or decision on any matter pending in congress, shall be punished by fine, and imprisonment not exceeding three years. The same penalties are provided for any member of congress who asks or receives any valuable consideration to influence his vote or decision on any matter of legislation; to which is added forfeiture of his office as a member, and permanent disqualification to hold any office of honor, trust or profit under the United States. The true remedy, however, and the only safeguard against the corruptions of the lobby, is to elect to congress none but tried and approved citizens, who have shown themselves worthy of the confidence of the public. (See LEGISLATION.) A. R. SPOFFORD.

LOCAL TAXATION. (See TAXATION, NATIONAL AND LOCAL.)

LOCO-FOCO (in U. S. HISTORY), the radical faction, 1835–7, of the democratic party, properly of New York, though the name was afterward made national. — The early system of bank charters in New York, without any general law, but by special legislation for each case, gave wide room for favoritism, partisanship and open fraud. In 1798–1800 there were but three banks in the state, at Albany, Hudson and New York city, and the latter was entirely controlled by the federalists, who, it was alleged, refused to accommodate their political opponents. Burr contrived to secure from the legislature in 1799 an act "for supplying the city of New York with pure and wholesome water," one clause of which authorized the company to employ its surplus capital "in any way not inconsistent with the laws and constitution of the United States, or of the state of New York." Under this innocent provision a democratic bank was afterward established. As soon as the democrats gained control of the state, in 1800–1, they, in their turn, chartered party banks; and open corruption in the grant of charters went so far that in 1812 the governor prorogued the legislature from March 27 until May 21, in order to prevent the open purchase of the charter of the bank of America from the legislature. In 1821 the new constitution of the state required a two-thirds vote of both houses to charter a moneyed institution; but this, by increasing the amount of purchase necessary, made the grant of new charters in 1825 still more scandalous. All the difficulty was due to the vicious principle of incorporating companies by special legislation. — In 1834–5, when it had become apparent that the bank of the United States would not be rechartered (see BANK CONTROVERSIES, III.), a mania for new banks in New York revived the former scandals; and the opposition which should have been confined to the *system* of incorporation was at first extended to the corporations themselves. Through the summer of 1835 an organization was effected of democrats in New York city opposed to the banks: their original demand was that no special privileges should be given by charter to any corporation, and they assumed the name of the "equal rights party." October 29, 1835, at a meeting called at Tammany hall to act on the report of their nominating committee, the regular or Tammany democrats attempted to seize control of it, entering by the back stairs as the equal rights men came

up the front. Both parties tumultuously elected chairmen; but the Tammany men, finding their opponents too strong for them, turned out the gas and retired. The equal rights men instantly produced candles and "loco-foco" matches, relighted the hall temporarily, and concluded their work. From this circumstance the whig and the regular democratic newspapers invented the nickname of the loco-foco party, which clung to the new faction, and afterward to the whole democratic party, for some ten years. — In January, 1836, the loco-foco county convention adopted a platform, or "declaration of rights"; it declared that the rightful scope of legislation was only to declare and enforce the natural rights of individuals, that no legislature had the right to exempt corporations, by charter, from trial by jury or from the operation of any law, or to grant them special privileges; that charters were subject to repeal; and that paper money in any form was a vicious circulating medium. The party was steadily beaten in city elections, but its vote increased so far that in September, 1836, it held a state convention at Utica, and nominated candidates for governor and lieutenant governor. These were also defeated, but the party's vote showed no signs of a falling off, and in September, 1837, another convention was held at Utica. This body framed and proposed for general discussion a new constitution for the state, one of whose features was an elective judiciary. — President Van Buren's message, Sept. 4, 1837, at the opening of the "panic session," brought the loco-foco element back to its original party, for, as Hammond exactly states the case, "if it did not place the president in an attitude of war against the banks, it placed the banks in a belligerent attitude against him." The message, in its condemnation of the employment of corporations for purposes which might be obtained by private association, in its opinion in favor of gold and silver as the only government money, and in its declaration that the government revenues ought not to be deposited in state banks, enabled the loco-focos to regard Van Buren as their own leader. They were already prepared to do so by the course of some of the whigs in accepting loco-foco nominations, but acting with the whigs when elected. From this time they were a part of the democratic party, but their continuing influence was apparent, 1, in the passage of the safety fund banking law of April 13, 1838 (see NEW YORK, under BANKING), and 2, in the state constitution of 1846, with its elective judiciary, and its prohibition of bank charters, except by general laws. But from 1837 until the slavery question began to take shape, in 1846–7, the whig speakers and journals were careful to give the name loco-foco to the national party of their opponents, as if to imply their general opposition to the moneyed interests of the country, and to tranfer to them the general charges of agrarianism, "Fanny Wright-ism," and revolutionary designs which had at first been leveled at the loco-focos by both the regular democrats and the whigs. (See BANK CONTROVERSIES; INDEPENDENT TREASURY; VAN BUREN, MARTIN; DEMOCRATIC PARTY, IV.) — See 2 Hammond's *Political History of New York*, 489; Byrdsell's *History of the Loco-Foco, or Equal Rights, Party;* 2 von Holst's *United States*, 396; Jenkins' *Governors of New York*, 591; 2 *Statesman's Manual* (edit. 1849), 1058 (the anti-bank portion of Van Buren's message).

ALEXANDER JOHNSTON.

LOG ROLLING. (See PARLIAMENTARY LAW.)

LOOSE CONSTRUCTION. (See CONSTRUCTION.)

LOTTERY is a game of chance whose origin dates back to the time of ancient Rome. Contrived first as a means of amusement for the people, it was gradually introduced into their customs, then into their laws; individuals used it as a means of speculation, governments as a fiscal resource; and lotteries figure even to-day in the budget of a great many states. — The lotteries organized under the Roman emperors after the manner of those which date from the saturnalia, belong to the system of largesses and amusements by which Augustus and his successors controlled the people of Rome. They were the complement of the representations of the circus, and constituted one of the expenses to be paid from the public treasury. From Rome the use of lotteries extended to the cities of Italy and into distant colonies. The eagerness with which the passion for play responded to this at first innocent appeal, suggested to speculators the idea of establishing lotteries on their own account, trusting to the popular cupidity for their support. Thus lotteries outlived the Roman empire and multiplied in Italy, especially in Venice, Genoa and Pisa, where commerce had, in the middle ages, accumulated great wealth, developed luxury, and cultivated an over-great love for gain. — Lotteries were imported from Italy into France and Germany in the sixteenth century. The instance is cited of a lottery authorized by Francis I. in 1539, to help to defray the expenses of war. Under the following reigns, parliament endeavored to resist them, by addressing remonstrances to the sovereigns, and refusing to record the letters patent which authorized private lotteries. But Mazarin carefully refrained from forbidding the amusement of gaming. The lottery was therefore in great favor in the time of Louis XIII. Finally, under Louis XIV. it was definitely adopted and sanctioned by an edict in the year 1700. "His majesty having noticed the natural inclination of his subjects to risk their money in private lotteries, * * and desiring to afford them an agreeable and easy means of procuring for themselves a sure and considerable revenue for the remainder of their lives, and even of enriching their families, by risking sums so small that they can not cause them any incon-

venience, has judged it opportune to establish at the *Hôtel de Ville* at Paris a royal lottery, with prizes to the amount of ten million francs." France was then involved in negotiations concerning the Spanish succession; it was necessary to prepare for new wars and to husband the country's resources which could not be increased in the way of regular taxes already completely drained by the lamentable expedients of the minister Pontchartrain. It was not, therefore, to gratify the natural inclination of his subjects that Louis XIV. established a lottery, it was merely an expedient of the depleted treasury; and it is amusing to observe with what arguments, as false as they are contemptible, the absolute monarch endeavors to justify the edict of 1700.—After this kind of approval, how could private lotteries, which pretended, after the example of the royal lottery, to offer to good fathers of families an agreeable and easy means of enriching their children, be forbidden? Speculators set vigorously to work, and lotteries were multiplied under every pretext, sometimes for the erection of buildings of public utility, sometimes for the endowment of pious foundations or for the erection of churches. The church of St. Sulpice, in Paris, was built in part from the proceeds of a lottery. This manner of investing money "by intrusting it to chance" had become so popular that it was with the greatest difficulty the government resisted the temptation to establish lotteries itself. If honest Turgot refused to introduce this new item of revenue into his financial plan, his successor Clugny was less scrupulous, and, June 30, 1776, the *royal lottery* was created, to replace all private lotteries. The state thus assumed the privilege of allowing tax payers to play; a privilege as productive for the state as it was ruinous for the people, for it is estimated that during the last years of the reign of Louis XIV. it brought into the treasury a revenue of from ten to twelve millions. — By a law of the 22d *brumaire* of the year II. of the republic (Nov. 12, 1793), the convention abolished the lottery of France "as an invention of despotism to make men silent about their misery, by enticing them on with a hope which aggravates their distress." This suppression lasted but a short time. Four months later a law of the 29th *germinal* of the year II. (April 18, 1794) established the lottery of the *Biens Nationaux*, and finally, by a decree of the 9th *vendémiaire* of the year VI. (Oct. 1, 1797), the directory re-established the lottery on its ancient basis. Governments are like individuals: the want of money demoralizes them. The lottery offered a revenue so sure and convenient that the republicans of the convention, who had exhausted their fiscal resources, began to repent of the laudable inspiration that had induced them to renounce it, and it was again given a place on the budget, of which it was finally deprived only by the law of April 21, 1832, which was promulgated by the government of July. In virtue of this law the royal lottery was suppressed from Jan. 1, 1836, and the same year (1836) a second law, under date of May 21, prohibited private lotteries, which were already beginning to succeed to the inheritance left vacant by the recent suppression of the royal lottery, and which would doubtless have continued much more relentlessly the work of demoralization of which the state would no longer accept either the responsibility or the profits. Lotteries of personal property, the products of which were to be applied to works of charity or to the encouragement of the arts, were excepted from the operation of this law, though subjected to various conditions enumerated later on in the ordinance of May 29, 1844. — Lotteries were interdicted in England by a statute enacted during the reign of George II., and suppressed in Belgium in 1830, but were maintained in most of the countries of Germany, in Holland, Spain and Italy. But, in the course of the discussions which the French legislation provoked, discussions which, as we have already seen, ended in prohibition, we may say that this tax (for it was a tax, and the lottery appears in the budgets under this title) was condemned in principle, and that it will, sooner or later, disappear from all the countries where it still exists — "The legislators who sanction such a tax," says J. B. Say, "vote a certain number of thefts and suicides every year: there is no pretext of expense that can justify provocation to crime." This anathema so energetically pronounced in the name of political economy, is but the echo of moral sentiment. The lottery is nothing else than a gambling house. Now, would any one believe that the state could become the partner of gamblers, hold the dice or the cards, and incite the passions which rage around the gaming table! It is useless to discuss such a question. Every sort of governmental lottery should be absolutely proscribed. — But if it is not lawful for the state itself to engage in lotteries, can it interfere in the carrying on of lotteries organized outside of itself for private speculation? Has it here a right to exercise, a duty to perform; or is it, rather, bound to respect the principle of liberty, by abstaining from all interference in the matter, and allowing every one the privilege to act according to his passion or interest? We do not hesitate to declare that liberty does not seem to us to have anything to do in the matter. In the first place, it is a question of moral interest. Now, the principle of liberty ought to be subordinate to the moral law, which rules and inspires all laws. If it be evident that the lottery is an incitement to one of the worst passions which sway the heart of man, that it encourages base cupidity, and is calculated to provoke public scandal, the legislature naturally interferes, and it would fail of its duty if it did not exercise the right it possesses to prevent and repress evil. From an economic point of view it is equally proper to proscribe a business based upon chance, in which wealth, when acquired, is not the fruit of any labor, is acquired only by another's ruin, and is incapable of creating anything. Finally, if considered politically, it should

not leave open a school of demoralization, which attracts particularly the poorer classes, and which most frequently deceives their credulity and covetousness, encourages in them only the worst instincts, and embitters their poverty with despair. We do not know whether lotteries have ever served to amuse the people; but they certainly corrupt them. — To sum up, lotteries under whatever form, whether governmental or private, are blamable and should be forbidden. England, France and Belgium have acted wisely in proscribing them, and it is to be hoped their example will be followed by those countries in which the lottery, retained for fiscal reasons, still resists the reprobation in which it is held. The legislature should not, under any circumstances, recognize or sanction the triumph of chance.

C. LAVOLLÉE.

LOUISIANA, a state of the American Union, formed from territory ceded by France. (See ANNEXATIONS, I.) By the act of March 26, 1804, all that part of the French cession south of Mississippi territory, and of north latitude 33°, was organized as Orleans territory. The rest of the cession was organized under the name of Louisiana territory, changed subsequently to Missouri territory. (See MISSOURI.) The inhabitants of Orleans territory were authorized to form a state government, by the enabling act of Feb. 20, 1811; and under its first constitution the state of Louisiana was admitted, April 8, 1812. It is curious that the words "slave" and "slavery" are not used directly or by implication, unless the use of the phrase "free white male" may be so considered, in any state constitution until that of 1864, which prohibited slavery. Slavery existed in the state, not by its own organic law, but by the territorial act of congress of 1804, which permitted *bona fide* immigrants into the territory to take their slaves with them. (See SLAVERY.) — BOUNDARIES. The enabling act fixed the following boundaries, which were accepted by the first constitution: Beginning at the mouth of the river Sabine; thence up the middle of the Sabine, including islands, to north latitude 32°; thence due north to north latitude 33°; thence due east to the Mississippi; thence down the Mississippi to the river Iberville; thence along the middle of the Iberville and lakes Maurepas and Pontchartrain to the gulf of Mexico; and thence to the place of beginning; including all islands within three leagues of the coast. By a supplementary act of April 14, 1812, the following territory was added to the state: Beginning at the junction of the Iberville and the Mississippi; thence along the middle of the Iberville, the river Amite, and lakes Maurepas and Pontchartrain to the eastern mouth of the Pearl river; up this river to north latitude 31°; thence due west to the Mississippi, and down the Mississippi to the place of beginning. — CONSTITUTIONS. 1. The first constitution was framed by a convention at New Orleans, Nov. 4, 1811–Jan. 22, 1812. It gave the right of suffrage to adult white male tax payers on one year's residence. Representatives were to hold office for two years, and to be possessed of $500 in land; senators to hold office for four years, and to be possessed of $1,000 in land; and the governor to hold office for four years, and to be possessed of $5,000 in land. The governor was to be chosen by the legislature from the two highest candidates in a popular election. New Orleans was made the capital. 2. The second constitution was framed by a convention at Jackson and New Orleans, Aug. 5–24, 1844, and Jan. 14–May 16, 1845, ratified by popular vote Nov. 5, 1845. Its main object was to restrict the legislature in chartering corporations, and to prohibit state aid to corporations. Its further changes were the omission of the property qualifications for office; the lengthening of the suffrage residence to two years; the choice of the governor by popular vote, with a choice reserved to the legislature in case of a tie; and the location of the capital at New Orleans until the close of the year 1848, and thereafter at some place to be fixed by the legislature, not less than sixty miles from New Orleans, whence it was not to be removed but by a four-fifths vote of both houses. Baton Rouge was the point chosen by the legislature. 3. The third constitution was framed by a convention at Baton Rouge, July 5–31, 1852, and ratified by popular vote Nov. 1, 1852. Its main objects were to secure an elective judiciary for short terms, and to empower the legislature to grant state aid to corporations for internal improvements to the extent of one-fifth of the paid-up capital. Baton Rouge was to remain the seat of government. 4 Jan. 26, 1861, a state convention at New Orleans passed an ordinance of secession, which it refused to submit to popular vote. In the same manner it ratified the constitution of the confederate states, and substituted that title for "United States" in the constitution. 5. The fourth constitution was framed by a state convention at New Orleans, April 6–July 23, 1864, and ratified by a small popular vote Sept. 5. It for the first time mentioned slavery in the state, for the purpose of abolishing it. There was no limitation, except for crime, on white adult male suffrage. The capital was fixed at New Orleans. This constitution remained in force in the state until March, 1867, but was not recognized by congress. 6. The fifth constitution was framed by a convention at New Orleans, Nov. 23, 1867–March 9, 1868, and ratified by popular vote Aug. 17–18. It prohibited slavery; declared the ordinance of secession null and void; declared all citizens of the United States to be citizens of the state, and their paramount allegiance to be due to the United States; and gave the right of suffrage to all adult male citizens on one year's residence· but the disfranchisement of ex-rebels was most searching and vindictive, including even those who had written newspaper articles or preached sermons in favor of the rebellion: these were neither to vote nor to hold office until they had filed with

the secretary of state and published in the official journal a certificate that they "acknowledged the late rebellion to have been morally and politically wrong, and that they regretted any aid and com fort they may nave given it." A committee of seven was appointed as a returning board. New Orleans continued to be the capital. 7. The sixth constitution was framed by a convention at New Orleans, April 21 - July 23, 1879. It made adult male suffrage universal, and prohibited any legislative qualification for suffrage or office. The state capital was removed to Baton Rouge. — GOVERNORS: Wm. C. C. Claiborne (1812–16); Jas. Villare (1816–20); Thos. B. Robertson (1820–24); Henry Johnson (1824–8); Peter Derbigney (1828–30); Andre B. Roman (1830–34), Edward D. White (1834–8); Andre B. Roman (1838–42); Alexander Mouton (1842–6); Isaac Johnson (1846–50); Joseph Walker (1850–54), Paul O. Hebert (1854–8); R. C. Wickliffe (1858–60); Thomas O. Moore (1860–64); James Madison Wells (1864–7); B. F. Flanders (military governor, 1867–8); Henry C. Warmoth (June 25, 1868–73); Wm. Pitt Kellogg (1873–7); Francis T. Nicholls (1877–81); Louis A. Wiltz (1881–5). — POLITICAL HISTORY. For the first twenty years of her existence as a state, Louisiana was nominally democratic; her governors belonged to that party, as well as her senators and representatives, though several of them were afterward whigs. The diversity of interests of the French and American citizens, however, formed the more usual dividing line of politics in the state. The former were at least a strong minority, and a singular evidence of its strength was a provision in the constitution which allowed members of the legislature to debate either in French or in English. The organization of the whig party, one of whose tenets was a protective tariff (see WHIG PARTY), changed the course of Louisiana, and from 1830 until 1850 the state, although not steadily whig, was the most nearly so of the southern states, except Maryland and Kentucky. Its electoral vote was given to Harrison and Taylor, the whig candidates, in 1840 and 1848; in 1844 the state was only carried for Polk, the democratic candidate, by unblushing frauds in Plaquemines parish; and in 1836, 1852 and 1856 the democratic majority in the state was under 2 per cent. of the total vote. From 1833 until 1855 the state congressional delegation was never entirely without a whig representative, and Senator Benjamin, who was elected as a whig, held his seat until his state seceded. The strong whig element in the state was the result of its large sugar planting interest, which desired protection against foreign sugars, and could not hope for it from the democratic party. — In presidential elections the whig vote of the state was hardly decreased until the downfall of the party; in congressional elections the democrats steadily gained after 1850, as slavery became the controlling question in national politics. One New Orleans district continued to send a whig representative while there were whigs to vote for, and then sent an "American" representative, who kept his seat until March 3, 1861, after his state had seceded. Throughout the state the American party took the place of the whig organization after 1855, but with a much smaller vote; and in 1860 the state was practically unanimous for secession. — After the capture of New Orleans by the United States forces, April 25, 1862, the former state government was transferred to Opelousas. From that point it controlled the larger part of the state during the war. June 2, 1865, the new governor under the old régime, Allen, issued a proclamation declaring his administration at an end. — In August, 1862, Major General George F. Shepley was appointed military governor, a provisional judiciary was organized by the president's order, and a substitute for a state government was set in motion; but its authority never extended far beyond the immediate neighborhood of New Orleans. Two members of congress were elected, admitted, and held their seats Feb. 9 - March 3, 1863. Under a proclamation of the president, Dec. 8, 1863, an election for state officers was held Feb. 22, 1864, and Michael Hahn was elected governor. March 15, 1864, he was also appointed military governor by the president. A new constitution, the fourth above mentioned, was framed in 1864, under which J. M. Wells was elected governor and was inaugurated March 4, 1865. In November of the same year, apparently with the intention of introducing the late confederate portion of the state to the new constitution, he ordered a new election for state officers, at which he was again elected as the democratic candidate. Although this government was never recognized by congress, it controlled state affairs until March, 1867. The blacks, who were still disfranchised under this constitution, were much dissatisfied with it, and an attempt made by their leaders to reconvene the convention of 1864 at New Orleans for the purpose of framing a new constitution, or of revising the old one, resulted in the riot of July 30, 1866, in which several hundred negroes were killed or wounded. — In March, 1867, Louisiana, like the other insurrectionary states, passed under military government. (See RECONSTRUCTION.) Its succession of major generals commanding was as follows: Philip H. Sheridan, March 19 - Aug. 17, 1867; Winfield S. Hancock, Aug. 26, 1867 - March 18, 1868; R. C. Buchanan, March 20 - June 25, 1868. On Sheridan's recommendation, Wells was removed from his position as governor, and Benj. F. Flanders was appointed in his stead. Under the auspices of these officials the reconstruction of the state was completed, the fifth constitution, as above given, was framed, Henry C. Warmoth was elected governor, and the state was readmitted June 25, 1868. — For a time the republican majority in the state was undisturbed, though the first legislature had to call upon the federal government for troops. (See INSURRECTION, II.) In July, 1871, the republican party

fell apart. One faction, headed by Warmoth and P. B. S. Pinchback, held the state books and records, and was supported by the "metropolitan police," a New Orleans body of men, which the governor was at liberty to use throughout the state. The other faction was led by W. P. Kellogg, F. F. Casey, collector of the port, and S. B. Packard, the United States marshal for the district; and the latter two obtained control of the party organization by holding its conventions in the custom house building, guarding it with federal soldiers, and refusing tickets of admission to the Warmoth delegates. Most of the succeeding difficulties, which soon entirely banished truth, honor and decency from Louisiana politics, seem to have flowed from this action of Casey and Packard, in prostituting the federal buildings to party use in order to compel the federal government, by defending its own property, to defend them; but the federal government, which refused to remove them from office, must take its share of the responsibility. — Early in January, 1872, the members of the two factions in the legislature had split into two legislatures, the Warmoth body meeting in the Mechanics' Institute, and the other at first in Packard's office, and afterward in the "Gem saloon." Open conflict between them was prevented by the federal troops, and the struggle turned toward the control of the state's returning board, and the consequent control of the next legislature. (See RETURNING BOARDS.) The returning board, as constituted in 1870, was composed of the governor, the lieutenant governor, the secretary of state, and two citizens appointed by name. The governor made removals of state officials and appointments of his friends to their places, in order to secure a majority of the omnipotent returning board; the ousted officials, protesting against the legality of their removal, still claimed to be members of the board; and when each set had formally filled the "vacancies" caused by refusal to act with it, the identity of the body was obviously unascertainable. Two returning boards made their appearance, the Warmoth board and the Lynch board, alike in having the governor as a member and in claiming to be the only real board, but different in all other respects. — After a great number of conventions had been held by various factions, the state tickets were at last narrowed down, in August, 1872, to two: one, headed by McEnery and D. B. Penn, for governor and lieutenant governor, supported by the democrats and liberal (or Warmoth) republicans; the other, headed by Kellogg and Pinchback (who had lately abandoned Warmoth), supported by the Packard (or custom house) republicans. The formal voting took place Nov. 4, and then the real struggle began. The McEnery party, through a state judge, obtained an injunction forbidding the Lynch board to canvass the votes; but their opponents had a more potent ally in the person of the federal district judge, Durell, who not only temporarily enjoined the Warmoth board, Nov. 16, from counting the votes, but afterward committed his rival, the state judge, to jail for contempt. — The governor now complicated the case by introducing a third returning board upon the scene. The state constitution of 1868 allows the governor to hold, until the next session of the legislature, bills whose return by him to the legislature within five days has been prevented by adjournment. A new election law had passed less than five days before adjournment, which provided for a returning board of five persons, "to be elected by the senate." Nov. 20, 1872, the governor at last signed the bill; then, since the senate was not in session to elect the members of the board, he appointed five persons, the so-called De Feriet board, to "fill the vacancies." Durell, Dec. 4, decided that he had jurisdiction under the enforcement laws, and made his injunction permanent. Dec. 5, the governor, abandoning the Warmoth board, issued a proclamation announcing the names of the new legislature as ascertained by the De Feriet board. Dec. 6, Durell issued an order, which declared the governor's proclamation to be a violation of his injunction, and directed the marshal, Packard, to seize the state house and prevent the meeting of any "unlawful assemblages." This Packard did, with the assistance of two companies of federal troops. In this place, the Packard legislature was organized Dec. 7; the McEnery legislature met in the city hall Dec. 9; and Jan. 14, 1873, Kellogg and McEnery were both inaugurated as governor. — Two rival United States senators were elected, and the case thus came before the senate. Its committee reported that there was no government in Louisiana; that the McEnery government was most nearly a government *de jure*, and that the Kellogg government was most nearly a government *de facto;* and recommended the passage of a bill for a new election in the state. The bill failed to pass; congress adjourned without action; and the president recognized the Kellogg government, as he had informed congress, in a message of Feb. 25, he would do unless it acted in the matter. The senate committee's judgment on Durell's actions was as follows: "The orders and injunctions made and granted by Judge Durell are most reprehensible, erroneous in point of law, and wholly void for want of jurisdiction, and your committee must express their sorrow and humiliation that a judge of the United States should have proceeded in such flagrant disregard of his duty, and have so far overstepped the limits of federal jurisdiction." — As congress had abandoned the case to the president, and the president had recognized the Kellogg government, the opponents of the latter at first contented themselves with an organized but peaceable resistance to the payment of taxes. The Kellogg legislature proceeded to enforce collection by use of the militia, and the contest rapidly developed into one of force, marked by such tragedies as those of Grant parish, in April, 1873, and Coushatta, in August, 1874, in which the victims were almost invariably negroes. Nothing but the violent revulsion in

the feelings of the north and west against such horrors enabled the federal government to continue its support of the Kellogg government. Sept. 14, 1874, the McEnery party rose in arms, wiped out for the time every vestige of the Kellogg government, and assumed control. Sept. 17 they surrendered without resistance to the federal forces, acting under instructions from Washington; and Sept. 20 the Kellogg government returned to life. — The election in November, 1874, was accompanied by the usual republican charges against the democrats of violence in the election, and by the usual democratic charges of frauds by the returning board. Both parties, however, seemed to acquiesce in the results, which returned fifty democrats and fifty-two republicans to the lower house. The democrats, on the organization of the legislature, Jan. 4, 1875, seated their candidate for speaker in a hasty and disorderly fashion, and proceeded to seat several members whose election was contested. Thereupon Governor Kellogg sent for Gen. De Trobriand, commanding the federal troops in the city, who turned out the just seated members, and restored the house to the control of the republicans. In giving the essential facts of this affair, which caused intense excitement throughout the country, as a startling novelty in legislative organization, it should be mentioned that De Trobriand had just previously entered the hall once before, to keep the peace, at the summons of the democratic speaker. — In March, 1875, congress, by resolution, approved the president's support of the Kellogg government; and in the following month the McEnery legislature agreed to a compromise proposed by a congressional investigating committee, the "Wheeler adjustment," so called from its contriver, Wm. A. Wheeler, afterward vice-president. Under this arrangement the committee seated a number of members whom the returning board had unseated; the democrats gained control of the lower house of the legislature; but the Kellogg government itself was not to be disturbed, but was to be "accorded all necessary and legitimate support in maintaining the laws." Under this compromise the state remained politically in peace until November, 1876, with one exception. In February, 1876, the democratic house impeached Kellogg for "high crimes and misdemeanors" committed since the date of the Wheeler adjustment; but the republican senate fixed the time of trial at less than an hour's time after the reception of the impeachment, and then acquitted Kellogg for want of prosecutors. — The republican state ticket for 1876 was headed by the name of S. B. Packard for governor, and the democratic ticket by that of Francis T. Nicholls. The returns, as sent to the returning board, showed democratic majorities of about 8,000 for the state ticket, and from 3,459 to 6,405 for presidential electors. Gov. Kellogg, on the other hand, telegraphed north that the republicans had carried the state, and that the apparent democratic majorities were due only to democratic violence in five parishes, or counties, whose vote the returning board would certainly reject. Before the returning board met, Nov. 16, it had become evident that the result of the presidential election depended on the decisions of the returning boards of Louisiana and Florida (see DISPUTED ELECTIONS, IV.; ELECTORAL COMMISSION); and a large number of republican leaders, named by the president, and of democratic leaders, named by the democratic national committee, had arrived in New Orleans from all parts of the country to watch the progress of the count. — The main democratic objections to the action of the board, outside of the constitutionality of the board itself, were threefold: 1. The law of 1872 required the board to be composed of "five persons, to be elected by the senate from all political parties." The democratic member had resigned, and the four remaining members (republicans) acted as the board, refusing to pay any attention to four petitions, Nov. 10, 16, 21 and 22, that a democrat should be appointed to the vacancy. 2. The board held secret sessions, from which even the United States supervisors were excluded, in order to decide the cases of contested elections. 3. The board cast out the votes of sixty-nine polls, embracing a part or the whole of twenty-two parishes, for fraud, violence or intimidation, including 13,236 democrats and 2,178 republican votes, changing the result in the state to about 4,000 republican majority. On all these points, the board rested on the absolute control which the election law gave them over the canvass of the votes, without any power of revision by any other authority. From the canvass the board announced, as elected, the republican presidential electors, state ticket, a majority of both houses of the legislature, and four of the six congressmen. — The democratic members of the legislature, to whom the board had given certificates, refused to meet with the returning board legislature. Jan. 1, 1876, two legislatures were organized in different buildings, and Jan. 8 both Nicholls and Packard were inaugurated as governor. By the returning board's count, neither body had a quorum of the senate, but the republican legislature had a quorum of the house. Open conflict was averted, however, until the new president, Hayes, had been inaugurated. In April he sent an unofficial commission to New Orleans, by whose intervention a number of members deserted the Packard legislature, sufficient to give the Nicholls legislature a quorum in both houses. April 20 the federal troops were withdrawn; April 21 the Packard legislature disbanded; and April 25 Packard himself retired from the contest. Since that time the state has been democratic in all elections, state and federal, but there has been no political action worthy of note, except the formation of a new constitution, the sixth, in 1879. — The state has furnished one president to the United States. (See TAYLOR, ZACHARY.) Among those who have became prominent, rather than notorious, in state politics

are the following: Judah P. Benjamin, whig United States senator 1853–61, and secretary of war and secretary of state under the confederacy; Chas. M. Conrad, whig United States senator 1842–3, representative 1849–50, secretary of war under Fillmore, and a representative in the confederate congress; Benj. F. Flanders, republican representative in 1863, and military governor 1867–8; Randall Lee Gibson, democratic representative 1875–83; Wm. H. Hunt, secretary of the navy under Garfield; Josiah S. Johnston, representative 1821–3, and United States senator (whig) 1824–33; Wm. P. Kellogg, republican governor 1873–7, and United States senator 1868–72, and 1877–83; John Slidell, democratic representative 1843–5, United States senator 1853–61, and confederate commissioner to France in 1861 (see TRENT CASE); and Pierre Soulé, democratic United States senator 1847 and 1849–53, and minister to Spain 1853–5. — The name of the province, from which that of the state was taken, was given by La Salle in 1682, in honor of Louis XIV. of France. — See 2 *Stat. at Large*, 283, 701 (for acts of March 26, 1804, and April 8, 1812); authorities under ANNEXATIONS, I.; 1 Poore's *Federal and State Constitutions;* Martin's *History of Louisiana* (1829); Bonner's *History of Louisiana* (to 1840); Gayarre's *History of Louisiana under American Domination* (to 1861); *Report of Senate Committee on Privileges and Elections* (Feb. 10, 1873); *Report of House Committee on Louisiana* (Feb. 23, 1875); *Senate Journal* (1874–5), 475; *House Journal* (1874–5), 603, 25 *La. Ann. Rep.*, 265; Story's *Commentaries* (Cooley's edition), § 1814 (note); and authorities under articles referred to.

ALEXANDER JOHNSTON.

LÜBECK, a free Hanseatic city, situated on the Baltic sea, and forming part of the German empire. This city formerly possessed considerable importance; it was for four years the capital of the Hanseatic league, extending its influence from London to Novogorod, and from Bergen in Norway to the commercial cities of the Rhine and the Danube. But this brilliant epoch in its history has long passed away. Lübeck was, at the close of the year 1882, a city of 50,979 souls, (in 1857 it had 26,672 in the city and 4,045 in the suburbs), and the state does not contain in its entire extent (about 127 square miles) but 63,448 inhabitants. — Lübeck is known as a seaport, and commerce and navigation form its chief industry. This commerce may be estimated at about $50,000,000 a year, imports and exports combined, and over 2,200 vessels enter and sail from its port; in this number are included the arrival and departure of two steamboats daily during the summer months. Fifty ships constitute the force of its merchant marine, thirty of which are steamships. — The political constitution of Lübeck was relatively aristocratic down to the year 1848. While many of the fundamental laws of Germany were being modified through the influence of the French revolution, those of Lübeck also were amended. Since Dec. 23, 1851, a new constitution has been in force in the old Hanseatic capital, the essential provisions of which we give herewith. — The governing power is vested in a senate composed of fourteen members chosen from the citizens of Lübeck, but in such manner that six of the number shall be lawyers and five merchants. The president of this body is styled the burgomaster. During the two years of their term of office, the senators in turn fill the different public offices. The burgesses, one hundred and twenty in number, are elected for six years by their fellow citizens, who are all voters and all eligible to office. The consent of the burgesses is necessary to validate changes in the constitution, to pass or abrogate a law, to impose taxes, to allow the public exercise of an unrecognized form of worship, etc. Finally, the burgesses have a right to share in the management of the public revenue, in that of the churches and of charitable institutions. The burgesses assemble six times a year, and in addition as often as the senate or one-fourth of the deputies (burgesses) require it. A committee of thirty members, chosen from among its own members and elected for two years, meets every fifteen days, and to this committee the senate refers all matters to be discussed by the burgesses; the committee is authorized to decide questions of administration, and other matters of little importance. When the senate and the burgesses can not agree upon the interpretation of a law, they submit the matter to the arbitration of a higher court of appeal, of which there is one in common for the four free cities of Germany, or, in case of urgent necessity, to the decision of a mixed commission, composed of senators and deputies. — The administration of this little state is, for the most part, intrusted to senators or deputies, and the different branches of the service are organized on a footing of rational economy. Lutheranism is the religion of the greater part of the population, but it enjoys no special privileges; liberty of conscience is guaranteed to every citizen. — The revenues of the free city amounted, in 1880, to 2,739,381 marks. The public or state debt amounted, in 1879, to 23,486,045 marks. — BIBLIOGRAPHY. Becker, *Geschichte der Stadt Lübeck*, 3 vols., Lübeck, 1782–1805; Behrens, *Topographie und Statistik von Lübeck und dem Amte Bergedorf*, 2 vols., Lübeck, 1829–39, 2d ed., 1856; Deecke, *Geschichte der Stadt Lübeck*, Lübeck, 1844, and *Die freie und Hansestadt Lübeck*, 2d ed., Lübeck, 1854; Waitz, *Lübeck unter Jürgen Wullenweber*, 3 vols., Berlin, 1855–9; Klug, *Geschichte Lübecks während der Vereinigung mit dem franz. Kaiserreiche*, Lübeck, 1857; Pauli, *Lübeckische zustände im Mittelalter*, 2 vols., Lübeck, 1847–72; *Urkundenbuch der Stadt Lübeck*, vols. 1–5, Lübeck, 1843–76.

L. SCHWARTZ.

LUXEMBURG. The grand duchy of this name, whose capital of the same name was formerly celebrated as a fortress, is subject to the

king of Holland as its sovereign; but, beyond this, the grand duchy has nothing in common with the Batavian kingdom. The state of Luxemburg has an area of about 2,587 square kilometres, with a population numbering a little more than 200,000, nearly nine-tenths of whom speak German. With the exception of 580 Protestants and about as many Jews, the people profess the Catholic faith. The government is representative. According to the constitution of Oct. 11, 1868, and the electoral law of November 30 of the same year, the legislative body is composed of only one chamber of forty deputies, elected directly by the people in as many election districts, twenty members being elected every third year. The sovereign is represented by a prince of his family, who is styled the lieutenant of the king grand duke. The government is composed of a minister and several directors general. The revenue amounts to about 7,200,000 francs, and is slightly in excess of the expenditure. The grand duchy would therefore have no debt had it not borrowed $240,000 to build railroads. A portion of this debt has been repaid. — Luxemburg has not been favored by nature, and it is not very rich in agricultural wealth, but certain other interests are flourishing, especially the production of iron, which, in 1869, exceeded 924,000 tons (911,165 in 1870), worth about $700,000. The Franco-German war of 1870–71 naturally retarded commerce; but in 1869 the railroad transported 1,624,457 tons of merchandise, 381,030 of which were carried from place to place in the interior of the country, 259,000 were received into the country from abroad, 732,000 were sent out of the country, and the rest was transient freight. The same year the postal service distributed about 700,000 letters, 425,000 copies of newspapers, and 12,000 postal orders, without considering letters containing valuables. There were received into and sent out of the country about 27,000 to 28,000 telegrams. — These figures show that this country is not very important, but its geographical situation and the walls which surrounded its capital gave it for a time an exceptional importance. Entering the Germanic confederation in 1815, the grand duchy remained in it until its dissolution in 1866. After the war between Prussia and Austria, the independence of Luxemburg seemed threatened, and it was feared for a moment that it would become a cause of war between France and Germany. But this difficulty was settled by a treaty, signed in London March 11, 1867, between the six great powers and the king grand duke. We give herewith the articles of this treaty, according to the *Bulletin des Lois*. — Art. I. His majesty, the king of Holland, grand duke of Luxemburg, retains the rights which attach the said grand duchy to the house of Orange-Nassau, in virtue of the treaties which have placed this state under the sovereignty of his majesty the grand duke, his descendants and successors. The rights which the direct line of the house of Nassau has to the succession to the grand duchy, in virtue of these same treaties, are maintained. The high contracting parties accept and take cognizance of the present declaration. — Art. II. The grand duchy of Luxemburg, with the limits determined by the act annexed to the treaty of April 19, 1839, under the guarantee of the courts of France, Austria, Great Britain, Prussia and Russia, shall henceforth constitute a perpetually neutral state. It shall be obliged to observe this same neutrality toward all other states. The high contracting parties pledge themselves to respect the principle of neutrality stipulated by the present article. This principle is and shall continue under the sanction of the collective guarantee of the powers signing the present treaty, with the exception of Belgium, which is itself a neutral state. — Art. III. The grand duchy of Luxemburg, having been made neutral by the terms of the preceding article, the maintenance or establishment of fortified places upon its frontiers becomes unnecessary and aimless. Wherefore it is agreed, with common consent, that the city of Luxemburg, which in the past was considered as a federal fortress, shall no longer be a fortified city. His majesty the grand duke reserves the right to maintain in this city sufficient troops to assure the maintenance of good order. — Art. IV. Conformably to the stipulations contained in articles II. and III., his majesty the king of Prussia declares that his troops now in garrison in the fortress of Luxemburg shall be ordered to evacuate that place immediately after the ratification of this present treaty. He will begin to remove simultaneously the artillery, the munitions and everything which forms part of the equipment of the said fortified place. During this removal there shall remain there only the number of troops necessary to insure the safety of the materials of war and to effect their removal, which shall be completed in the shortest possible space. — Art. V. His majesty, the king grand duke, in virtue of the rights of sovereignty which he exercises over the city and fortress of Luxemburg, pledges himself, on his part, to take the measures necessary to convert the said fortified place into a free city, by destroying what his majesty shall judge sufficient to fulfill the intentions of the high contracting parties expressed in article III. of the present treaty. The work necessary for this purpose shall commence immediately after the withdrawal of the garrison. It shall be effected with all due regard for the interests of the city's inhabitants. His majesty the king grand duke promises, moreover, that the fortifications of the city of Luxemburg shall not be rebuilt in the future, and that no military force shall be maintained or established there. — Art. VI. The powers who sign the present treaty agree that the dissolution of the Germanic confederation having likewise brought about the dissolution of the ties which united the duchy of Limburg, collectively with the grand duchy of Luxemburg, to the said confederation, it follows that the agreements mentioned in articles

III., IV. and V. of the treaty of April 19, 1839, between the grand duchy and certain territories belonging to the duchy of Limburg, have ceased to exist, the said territories continuing an integral part of the kingdom of Holland. — Although separated from Germany as a state, Luxemburg remains united to the revenue system of that country in accordance with the combination agreed upon in the treaty of Oct. 20–25, 1865, according to which the grand duchy formed part of the *Prussian* group as a member of the zollverein. This treaty was confirmed in the convention of June 11, 1872, by which the grand duchy contracted with those managing the railroads of Alsace-Lorraine to manage the Luxemburg lines in place of the French eastern company, and upon the same conditions, to Dec. 31, 1912. And it was expressly agreed by article XIV., that the royal contracting parties should not use their right to denounce the treaty of the customs union (Oct. 20–25, 1865), so long as the Luxemburg railroads should continue under the same management as those of Alsace-Lorraine. We must add that, after it had been declared neutral by the treaty of 1867, the grand duchy was obliged to introduce the restrictions indicated in article II., which read as follows: "The German government pledges itself never to use the Guillaume-Luxemburg railway for the transportation of troops, arms, munitions or stores of war, and not to use it in any war in which Germany shall be engaged, for provisioning troops, in a manner incompatible with the neutrality of the grand duchy, and in general not to allow by means of the management of these railroads, any act that would not be in perfect accord with the duties incumbent on the grand duchy as a neutral state."—BIBLIOGRAPHY. König, *Das Luxemburger Land*, Diekirch, 1850; Livering, *Statistique du Grand-Duché de Luxembourg*, Luxemburg, 1865; Reuter, *De l'industrie agricole dans la province de Luxembourg*, Luxemburg, 1875. M. B.

M

MACE. (See PARLIAMENTARY LAW.)

MACHIAVELISM. If there can be two opinions with regard to Machiaveli, there can be but one with regard to machiavelism. Whether or not this political system was that of the man whose name it bears and tarnishes, no one can be found so audacious or so cynical as to defend it openly. There will always be those depraved enough to practice it deliberately and those weak enough to let themselves be drawn into it by self-interest; but the force of public opinion has at least achieved this much, that machiavelism can not be spoken of except to be contemned and repudiated. Kings, even the least scrupulous, have seen fit to oppose it, and have in their public utterances called in question its odious tenets when proposed for their acceptance. Frederick the Great and Voltaire, in the earlier days of their friendship, united in emphatically condemning Machiaveli's "Prince"; and it may not be out of place to give an example of the way in which it was spoken of by them. "How deplorable," writes Frederick, then prince royal (November, 1740), is the situation of a people which has everything to fear from the abuse of sovereign power, whose possessions fall a prey to a prince's rapacity, whose liberty is at the mercy of his caprice, whose peace depends on his ambition, whose safety rests on his falseheartedness, and whose life is the plaything of his tyrannical temper. Such is a tragical sketch of what a state, ruled by such a prince as Machiaveli's, might be." Voltaire, to whom the young man had long previously confided his praiseworthy aims, encouraged him in them, and said (May 20, 1738): "It was for the Borgias, father and son, and for all those petty princes who could only hope to obtain notoriety through crime, to make a study of that diabolical policy; it becomes a prince like you to despise it. Such scheming, fitly classed with that of a Locusta or a Brinvilliers, may have given a passing power to a few tyrants, as poison may procure an inheritance, but it has never made a man either great or happy; that is certain. The only possible result of this horrible policy is misery, both to one's self and to others." — To define machiavelism is easy: it is the surrender of all principles to one, namely interest; the violation, and sacrifice to success, of every law of morality. This simple definition might seem, at the first glance, altogether inadequate, and the awful series of consequences which it embraces might for a moment escape notice, but, pondered carefully, the conviction will be arrived at, that this seemingly simple maxim once adopted as the supreme guide to conduct, there is no crime, however heinous, which might not result from it. Once let the confines of justice and duty be passed, and there remains nothing to hinder the taking of whatever steps may be deemed necessary to attain the object desired; the only real obstacle to the upsetting of all laws, divine or human, being lack of power, whether resulting from the weakness of individual faculties or from external opposition. He is no criminal who confines himself to wishing, and crime carried only to a certain pitch is perhaps even rarer than virtue. Let, however, one false step be taken and others must follow, and, as advance is made, criminality increases, till it equals that of a Cæsar Borgia, Machiaveli's paragon, and the model of his "Prince." Machiavelism begins in falsehood, which it uses as other men use truth. If ordi-

nary falsehood is insufficient for its purpose, it then makes use of the solemn form of lying called perjury to reassure its victims and entrap them the more readily. These are its most innocent means. But as a lie quickly begets distrust and puts men on their guard, recourse must be had to more efficacious means, in short, to violence in all its forms, from the spoliation which weakens, to the assassination, open or secret, which removes them altogether. Here, briefly, is the career of machiavelism, but there are few even among the most hardened who are capable of carrying it out in its entirety; to do that, their conscience must be utterly devoid of every idea of good and evil, and blinded by an unbridled lust for possession and power. In its worst form, when united to the necessary power, no villainy is too great to be dreamt of and accomplished by it. To a first crime committed with impunity are quickly added all the others which passion begets, and which hearts, insensible to the horror of their deeds and no longer in dread of punishment, can execute. As Voltaire has well said, nothing is established by machiavelism, and all success gained by it, when success is gained, is temporary, rarely lasting even the brief lifetime of him who buys it at so high a price. But this remark of Voltaire's is almost as old as machiavelism itself, dating from long ages before Machiaveli was to give to that policy the name which at once describes it and dishonors him. We need but to open Plato's "Dialogues" to find in the "Republic" and the "Gorgias" stray features of the machiavelism of the ancients, treating it with the just scorn which it merits. The admirable passages, so applicable to the despots of every age, and in which they are described in language the truth of which is unalterable, should be read. It is not here that those protests of humanity against oppressors and wrong-doers who are in power ought to be repeated, protests as old as the indignation of honest men against the abominations of crime, but we may quote these last words in which Aristotle sums up his incomparable description of a tyrant: "All those schemes, with so many others of a like nature by means of which tyranny tries to maintain its dominion, are profoundly perverse"; and a little farther on, appealing to the testimony of history, he adds, "and yet in spite of all these precautions, the least stable of governments are oligarchy and tyranny; everything considered, most tyrannies have had but a very brief existence." Machiaveli himself might have seen in his own lifetime to what the duke of Valentinois was brought by so much craft united to so much power: having languished in prison after prison he met his death under the walls of an obscure village in Spain which he had besieged; an end, after all, too good for such as he. But from this example Machiaveli learned nothing, and the "Prince" appeared some time after Cæsar Borgia had expiated his crimes by his downfall and exile. Machiavelism will never perish; changing to suit times, places and peoples, it will live as long as men are vicious, or there is power in the hands of the evil-minded which it is possible for them to misuse. — There have been long and disastrous periods during which all policy, home or foreign, was but a series of machiavelian manœuvres, and during which men considered anything justifiable when used against a foe, either foreign or domestic. The middle ages present an unbroken record of these hateful practices, which all accepted, each endeavoring to turn them to his own advantage. This infernal statecraft, to borrow again Voltaire's expression, reached its climax in the Italy of the fifteenth and sixteenth centuries, and Machiaveli did but frame its code. It was adopted by such men as Louis XI. and Philip II.; it still sullied France under the Valois, and sometimes even under Richelieu. In our own days it remains the only political system known to a number of petty states, but half civilized, given up to an anarchy almost barbarous and wholly corrupt. In the larger states it has had to disappear, or at least to a certain extent to disguise itself in presence of the law of nations and public honesty; notwithstanding which, there have been occasional disgraceful outbreaks, and our own times furnish a notable example which history stigmatizes by the name of the *attentat* (attempt) of Bayonne (see Adolphe Thiers' "History of the Consulate and the Empire," books xxix., xxx, xxxi., Aranjuez, Bayonne and Baylin). The way in which Napoleon I. obtained possession of the Spanish crown is a chain of acts of perfidy unworthy of so great a man, planned against unfortunates without a defense against it, and forged with a skill and a cunning vigor which has never been surpassed by the cleverest adepts of machiavelism. With the murder of the Duc d'Enghien it is, as Thiers justly says, "the second of the two stains which tarnish his glory." (Vol. viii, p. 658.) But, a moralist as well as an historian, Thiers does not fail to point out the punishment which followed the crime, and instances Baylin as the first expiation for Bayonne. The Spanish war gave occasion for, if it was not the sole cause of, Napoleon's reverses and those of France. But such legitimate retribution the outcome of events, like to avenging justice and a warning of Providence, never discourages crime; led away by force of circumstances, and hoping by redoubled adroitness to escape punishment, it is ever ready to renew its dark plotting. Only where there is such refinement of manners as we find in Europe to day, machiavelism must remain within certain limits, and that it may exist at all it is obliged to be less open and less cruel than it was in a coarser and more barbarous age. The best means of suppressing machiavelism altogether is to give it publicity, to let free discussion unveil the real nature of the equivocal acts through the agency of which it hopes to escape the tribunal of public opinion. The first care of a machiavelian policy is to stifle such voices as might complain, and still more such as might judge. Concealment is an evidence of guilt, if not

in fact at least in intention; and honesty, especially when armed with the power to do right, may brave all criticism, for it is little likely to be disregarded, and when it is, it is always easy for it to cause erring minds to retrace their steps. Silence, then, is the necessary condition of all machiavelian power, and one of the safeguards, feeble though it be, which it always aims at securing. Had public opinion been able to discuss in 1808 what was going to take place at the château de Marac between Napoleon and the Spanish Bourbons, there is every reason to suppose that the great emperor would have spared himself and France many a misfortune, and not have sullied his reputation by such base disloyalty. The public conscience would have enlightened and regulated that of the conqueror, and prevented him degrading himself to play the part of a despoiler. It is to be presumed, besides, that he himself saw his error and felt the unworthiness of his conduct. But the Spanish crown was at stake, and the irresistible *omnia pro dominatione* made him believe that in robbing that weak old king he was putting the coping stone of the French empire and of his own policy in place. A great lesson this, but one that will not be very profitable so long as men have more cupidity than virtue, and more passion than wisdom. BARTHÉLEMY SAINT-HILAIRE.

MACHINERY, Its Social and Economical Effects. I. *Economical Superiority, Motive Powers and Limitations of Machinery.* The distinction between a tool and a machine consists principally in the fact that in the case of the latter the motive power does not proceed immediately from the human body, while the former is only an equipment of, or a substitute for, particular human organs. A machine is more complex than a tool. Many machines can be properly compared to a complete laborer. Tools are in their origin more ancient than machines, and as motive powers of the latter, the larger domestic animals were earliest used, then water, next wind, and, last of all, steam was applied. — The indisputable superiority of machines where they compete on an otherwise equal footing with the human hand supplied with mere tools, arises from the fact that they can perform services which would be now too heavy and now too fine for the human hand. An important saving in raw material is also often connected with the greater power of machines. Since machines do not tire, they can work with uninterrupted persistence, and therefore with a superhuman uniformity; and since they never cheat or deceive, they are perfectly trustworthy. As they make the various copies of the same model with the utmost exactness, they permit a greater expenditure of labor and attention upon the original. Besides this, machines work more cheaply than human hands. If this were not so, undertakers would prefer the latter in their enterprises, because, if worst comes to worst, the laborers may be dismissed, but the capital invested in machines is for the most part irrevocably fixed. The same thing is also true of machines as of factories, that within certain limits the relative costs decrease with their increasing size. Even the labor of animals has the advantage over human labor that it is more powerful and cheaper. Their sustenance and dwellings may be ruder than even the rudest which would do for men. Their clothing is the free gift of nature. The portion of their lives which is unfitted for labor is relatively short. Even their dead bodies can be economically utilized. Of the so-called "blind motive powers," water and wind are not only stronger than animals, but absolutely indispensable to the national economy as a whole. Steam, however, where there is an abundance of combustible material, is of all machine powers the most complete, the most obedient to man and the freest from external interruption. Water power is but seldom found concentrated in one place to any great extent, and still more seldom in seaboard localities which are favorably situated for commerce. Consequently the most effective form of large industry—the formation of great metropolises of industry—is possible only with the aid of steam. To what degree the power of man over nature is increased by the various machine powers can be most clearly shown by a comparison of the oar-driven galleys with horse-drawn canal boats, with sail ships and steamships. — The more the production of a commodity depends upon the constant repetition of one and the same operation, the greater is the advantage of the machine. Very different is it, however, where the production demands a series of manifold movements, particularly if the latter must vary with the individual constitution of the object worked upon. Machines are especially adapted for making cloths, because their quality depends chiefly upon having the thread uniformly and evenly woven. If the stuff is well prepared, the machine can work it up much more evenly than the hand. On the railroad, which is smooth, level and straight, a steam engine is used; in the city, where the crookedness of the streets, the crowd of men, the different purposes of travel, compel a thousand irregularities, horses are employed; and in the house everybody goes on foot. Since machines require, as a rule, larger amounts of capital than laborers, and as they fix it more permanently, their use is advantageous only where the products can reckon upon a large market. The more costly the machinery the greater the market by which it is conditioned. Machinery is but illy adapted to the manufacture of costly articles of luxury. As a rule, machinery not only increases the economical superiority of him who applies it, but it also presupposes such superiority—superiority in raw material, natural power, and education in general. In the case of commodities whose price depends mainly upon the cost of raw material, and only to a small extent upon that of manufacture, even a very considerable reduction of the latter will not be able to enlarge the market to such an extent as to

justify the necessary machinery. — Finally, it goes without the saying that where thought or invention is required, a machine can never compete with the laborer. The shortest way out, therefore, for a branch of hand industry which is threatened by the introduction of machinery, is for the laborers to pass over to that artistic branch of industry which is most nearly related to it. It can not be denied, however, that the sphere of machines has been recently very much enlarged and that it is relatively constantly increasing. — II. *The Economical and Social Advantages and Disadvantages of Machinery.* 1. It can scarcely be doubted that for the great public of consumers, or, in other words, for the national wealth as a whole, the advantages of machinery completely outweigh all disadvantages connected with it. The value in use of the national wealth is increased by every successful introduction or improvement of a machine. For the previous quantity of production fewer laborers are needed; since machines, as Ricardo says, are of value only in so far as they save more labor than they themselves have cost. It is, of course, possible that the laborers who have been thus rendered unnecessary should remain idle for the future, but it is not at all probable. Civil society is not ready, as a rule, to pension off the laborers rendered unnecessary by machines with their full previous wages, and so the laborers are impelled, either by necessity or pride, to seek out new spheres of work. Whatever they produce in these is, for the national economy as a whole, a pure gain. Fortunately the new field of labor ordinarily lies very near to the former, as active enterprisers like to apply the capital so saved in the extension of their business. We may say with Hermann, that nature proceeds with economical inventions in the same way as human legislation with patent rights. At first the inventor succeeds in enjoying the sole use of his invention. The public pays him the former prices while his costs of production have become smaller, and so he receives a higher rate of profit than is usual. Competition soon begins to make itself felt, his fellow enterprisers imitate him, and he finds it to his advantage to extend his business and take small profits on large sales rather than large profits on small sales. Thus the price finally falls to the amount of the present costs of production, and the consumers get the ultimate permanent advantage, since they are now able to secure with the same sacrifice far greater enjoyment than before. The cotton industry affords an excellent example of this. As one improvement after another has been introduced, the price of cotton fabrics has steadily declined and their use become more general. Thus, in 1849 one could buy more than eight times as much cotton cloth for a given sum of money as in 1810. The population of Europe increased about 11 per cent. in the years 1836–50, while the use of cotton cloths increased about 85 per cent. — If the consumption of the cheapened commodities increases in exactly the same ratio as their prices fall, the value in exchange of the national wealth remains unchanged; if it increases in a larger ratio, not only does the value in use but also the value in exchange increase. The cotton industry is again a case in point. The average value of English cotton fabrics in 1766 was estimated at £600,000; in 1875, at £95,400,000. Of course, such a development will not always take place. If needles should fall one half in price, their consumption need not increase proportionately or even at all, because sewing is no amusement, and the products of sewing would not become appreciably cheaper on account of the cheapening of needles. The case would become different if the cheapening of the needles enabled us to conquer a foreign market which up to this time had been closed to us. A diminution in the costs of production of decencies or luxuries often increases the number of customers not only in arithmetical but also in geometrical ratio, because in a classification of wealth the number of persons belonging to any class increases as the amount of wealth taken as a basis decreases. The assertion is often made, that products of machinery, though of better appearance than hand-made products, are not so durable. Even if this be so, there is certainly no technological reason why the work of machinery should be less durable than that of hands. On the contrary, the undoubtedly greater uniformity of machines must, in itself considered, be favorable to durability. It is probable, however, that, owing to the greatly increased facility of manufacture by machines, the production of raw material has not kept equal pace. Poorer material has, therefore, been taken, material which could not be worked at all by hand, and consequently even the better work of machines has not been able to make good products out of them. But the fault in such cases ought not to be ascribed to the machines. We can not deny, then, that not only individuals, so far as they are consumers, but also nations in their entirety, have been made richer by the introduction of machinery. — 2. But when we come to consider the distribution of this additional wealth, the advantages of machinery, particularly for the lower classes of wage laborers, are much more questionable. They gain, of course, in their capacity as consumers, and those political economists go too far who overlook the advantage of cheaper clothing and of similar articles of necessity. And yet in highly cultivated lands, where a well-developed division of labor compels the choice of a calling for life, no important machine can be introduced without driving some laborers out of their accustomed field of action. We must remember, however, that machines do not necessarily diminish the demand for laborers, taking the country as a whole. As a rule they open a new demand in one place while they close the old demand in another. The manufacture of the machines themselves requires a large number of laborers. If the demand for the products increases largely, more laborers are

needed in preparing the raw material, in the work of transportation, etc., etc. The actual expansion of any branch of industry which is owing to machines occasions the expansion of other branches which can employ the surplus laborers. If cotton fabrics sink one-half in price, all consumers have one-half the sum of their former expenditures on these commodities available for some other purpose. Different consumers will use it in different ways. One will employ it in purchasing other satisfactions, another in enlarging his business, still another in increasing his income-yielding investments, *i. e.*, as a rule in increasing his loans for productive purposes. In each case a new demand for laborers will ensue, though in very different degrees according to circumstances—to a greater degree, for instance, if the capital saved is applied in building a railroad than if employed in the purchase of foreign wines. Only in case of wanton destruction or idle hoarding of the sums saved would it be possible for no new demand to arise—cases of rare occurrence in machine-using countries. This removal of the laborers to new fields is made much easier for them by the fact that the most effective machines are generally the most costly, and gain ground, therefore, but slowly. The effectiveness of a machine has often caused such an expansion of certain industries that the demand for laborers even in those industries has been actually increased. If for a given quantity of commodities three-fourths of the laborers become superfluous, but the market increases more than fourfold, the demand for laborers in that very industry will become greater. The simple fact of the enormous increase of laborers in all branches of modern industry proves that the use of machinery may increase the demand for laborers. Nor is it true that machinery has lowered the wages of laborers. The English cotton spinner in 1804 could buy with a certain number of hours' labor 117 pounds of flour or 62 pounds of meat; a spinner of the same grade could buy in 1850 with the same number of hours' work 320 pounds of flour or 85 pounds of meat. And it is still true that the English agricultural laborer is more poorly paid than his brother, the factory operative. — We can not always expect such a development. If those who are most immediately benefited by the invention of a machine consume their advantage, reckoned as capital, unproductively, the machine might permanently diminish the demand for labor. On account of the cost of raw material the price of manufactures can not fall in the same ratio as labor is saved by the machine. Whether, therefore, the market can be enlarged to the same or a greater extent depends upon the ability of the remaining branches of the national industry to furnish an increased supply of equivalents; for it is only such a supply of equivalents that constitutes an effective demand. This presupposes also a nation which makes use of the possibility of saving for the actual increase of its capital, and can be spurred on to greater activity by the prospect of more enjoyment. It depends, indeed, ultimately upon the supply of raw material and of the provisions of the laborers. Every industry contains within itself the guarantee of its further progress only in so far as it can exchange its increased production for an increased quantity of raw material and provisions. It is, therefore, the expansive abilities of internal agriculture or of foreign commerce in raw material which determines the answer to this question. The rate of wages depends on the relation between the supply of labor and the demand for it. The supply is, of course, not immediately affected by the introduction of machinery. So far as the demand is concerned, the possibility of its becoming greater is assured by the fact that every economically successful machine increases the national wealth. On the other hand, we must not close our eyes to the fact that the actual demand for labor within the limits of possibilities depends on the will of the enterprisers and the consumers. And indeed the immediate effect of a labor-saving machine is to make capitalists less eager for labor, and laborers more eager for capital. The demand for labor is conditioned not so much by the amount of fixed capital as of that which is circulating. But the construction of a machine means the conversion of circulating into fixed capital. In all such cases, therefore, there are very different and often opposite forces at work, of which now one and now another prevails. The more the middle class, with its modest but extensive consumption, prevails in a people, and the more the newly discovered machines further the production of objects of necessity used by the laboring classes, the more reasonable becomes the hope that wages generally need not sink in consequence of the introduction of machinery. — But even under the most favorable circumstances it will be impossible to introduce any important machine without doing some injury. How many laboriously-acquired arts become in such cases superfluous! Rude clod-hoppers, or even children, can take the place of the strong and skillful laborer. The previous advantage of the latter, forming the main part of his capital, is thereby destroyed. Elderly persons rarely have the necessary elasticity of body and mind to pass from their former business into a new one, even if the latter, considered in itself, is just as easy and pleasant as the former. Perhaps hand laborers do not recognize soon enough how irresistible the revolution is; they hope for a long time to be able to maintain themselves by the side of the machine; they expend the best years of their life and all their savings in endeavoring to do so, and in this way miss every opportunity of getting into some other field. The more rapidly the inventions follow one another, the more frequently do these evils recur; and even the manufacturers themselves are often injured by their old machines, losing a large part of their value through the

invention of new and better ones. This dark side of machinery is not seen in cases where the branch of industry which is to be furthered by it has not hitherto existed in the country; for no laborers are interested in the continuance of the incomplete method. On a Robinson Crusoe's island even the most effective machine would do no damage. We see an illustration of this in the colonies of the European countries. For the same reason, because the laborers could easily change their occupation, because the division of labor was neither so detailed nor so firmly established, the many and exceedingly important inventions at the close of the middle ages made but few men unfortunate or unhappy. — 3. The most injurious influence of machines upon the laborers, and through them upon the national economy as a whole, arises from the fact that they increase the proletary, extensively as well as intensively. They sharpen very greatly the contrast between the rich and the poor in industrial life. Population, as a whole, is generally increased by the introduction of machinery. But this increase occurs mainly in the proletarian population. Every class of men has the tendency to increase the more rapidly, the less the amount considered necessary to the support of a family according to their standard of life. The factory laborer, whose tool is the machine, whose workshop is the factory, who receives his raw material from his employer, and his fixed daily or weekly wages from the same person, does not need any capital to commence business. He contributes nothing to production but his own personal labor, and, indeed, the more complete the machine, the more highly developed the division of labor, the earlier and the easier does he become ready for labor. Most factory laborers are almost as far along at twenty as they can ever hope to get. Why and how long shall they postpone the enjoyment of connubial pleasures? If the brides are also employed in the factories, which tends more and more to become true, then no increase of expenses immediately follows marriage. They hardly need dwellings; they need mere sleeping places, for during the day they live in the factories. Children, in their early years, increase the family burdens, but they soon become able to work in the factories, and are then sources of income. In this way it is not much more trouble to rear a large family than a small one—a circumstance which must increase the number of children the more rapidly, from the fact that those children who once enter the factories rarely ever leave them. — In the idea, which we nowadays connect with the word "proletary," the lack of any prospect of improvement in the future forms one of the most important and disheartening elements. Most factory laborers receive wages enough to enable them to save if they would. But experience proves that they are but seldom inclined to do so. Men will not save to any great extent unless they can employ their savings profitably. Factory laborers find great difficulty in doing this, as they are not much inclined to trust the administration of their savings to others. One would think that the repeated interruptions to factory labor from panics, crises, etc., would impress upon the laborer the necessity of laying by a penny against a rainy day. But crises are irregular. Years may pass without a single day being lost, then come years of depression where the machines are run on half time. The ordinary man is not capable of providing against such emergencies. He yields rather to what he regards as the inevitable; he feeds himself fat in good times, and starves in bad times. Such uncertainty, so far from being a discouragement to population, is very favorable to it. A laborer who needs only a healthy body to support a household easily thinks that his posterity, however numerous, can not be any worse off than he himself — 4. With every step of progress of the factory system the dependence of the laborer upon his employer increases. Pure theory must indeed grant that the factory owner needs in the course of his industry skillful and industrious laborers as much as the laborers need a wealthy and prudent employer. But as a matter of fact this mutual dependence has been thus far a very different one when looked at from different sides. On the one hand the demand for labor on the part of a very few capitalists, on the other the supply offered by great droves of laborers; the employers enabled by their capital to wait their opportunity, for months or even years, the laborers needing employment from week to week. The former need labor in order to make profits; the latter, capital in order to live: the former prudent enough to command a view of all the facts and circumstances of the case, to make their plans accordingly, and to hold to them firmly; the majority of the latter absolutely incapable of any real calculation or planning. And even if there are any wise individuals among the hordes of laborers it is exceedingly difficult to convince the great mass, and still more difficult to execute a plan in the face of hope and fear. How easy it has been for masters to make their resisting laborers unpopular with the public, how very difficult for laborers to do the same for their hard masters! The resolutions of laborers assume almost necessarily a tumultuous or revolutionary character by which even an impartial government is forced to take sides against them, while those of the masters can be taken in the greatest secrecy and are on that account more effectual. Great political and social changes have been necessary in order to make even a few of these relations more favorable to the laborers; such as a far-reaching liberalizing of the state by the extension of the suffrage, freedom of the press, and right of association even in the lowest classes, and consequently a very much greater sympathy not only on the part of the government but also that of educated public opinion with the lot of the laborer, and an increased self-respect on the part of the latter. But even under new conditions the constantly increasing division of labor in the factory

must continually increase the superiority of the directing person, who holds the whole together, as compared with the laborer who forms, as it were, only a small wheel in the great assemblage of machinery. The latter as an individual can be more easily spared than the former. In a word, if every determination of price is to be fixed by a struggle between opposing interests, the contest is, in this case, a very unequal one.—The darkest side of the modern factory system consists in its tendency to loosen the family ties. Many machines require so little human power for their operation that they can be worked by women or half-grown children quite as well as by men. In many cases, indeed, the weak, fine hand is more desirable than the strong and rude one. Now, wherever the labor of women and children is technically as productive as that of men, it is more economical to the capitalist, owing to its much greater cheapness. Even to the families of the laborers themselves the factory work of mother and children is a temporary advantage, if we regard only economical or rather mammonistic considerations. But it is not so in the long run. It is well known that the living expenses, not only of the actual laborers but also of the rising generation, form the minimum below which the rate of wages can not permanently sink. If it falls below this level, laborers fail to keep their ranks full; and if the demand for labor remains the same, wages must rise. Now, the labor of wife and child lowers this minimum below which the wages can not permanently fall. The father can now earn less and still maintain his family. If all laborers would use this opportunity to raise their standard of life, this condition might be maintained. But if they employ it, as experience proves they probably will, to marry earlier and to produce children still more recklessly, they increase the competition in their own field, and the rate of wages will fall to this new and lower minimum. We have already seen that the labor of wife and children is one of the most important incentives to a thoughtless and proletarian increase of population. When this influence has had its full effect, instead of better fed, better clothed and better trained laborers, we simply have more human beings who have sacrificed their childhood and their domestic happiness without obtaining anything more than they had before. And what have they lost withal? If the father ceases to be the supporter of the family, the most natural and undoubted basis of his parental and marital authority is threatened. Here are realized the diseased utopias of the friends of woman's rights —the woman devoted to the same pursuits as the man, independent as he—as a consequence, an enormous number of "wild marriages." No less ruinous is the early economical independence of children who are neither intellectually nor bodily ripe for it. The monstrous and growing importance of saloons and grogshops stands in connection with this loosening of the family ties, in the relation not only of consequence but also of cause. How can the laborer love his home, when in the evening he finds no warm and pleasant sitting room, and at noon no dinner because the housewife must be in the factory all day long? But where love does not bind the family together, it too often happens that the weaker members are abused by the stronger. For selfish parents the most convenient course is to neglect the younger children and exploit the labor of the older ones to the utmost—certainly not a highly developed but a thoroughly diseased division of labor. — The hygienic evils of machinery have often been exaggerated And yet apart from the disadvantages of the extremely one-sided bodily activity necessary for most factory operations, the tendency to the overworking of children is very injurious, and the great number of wounds to which laborers are exposed when working about machines constitutes a serious evil. The general question as to the morality or immorality of factory laborers as compared with other classes has been often discussed, but without any valuable results. The statistics of crime have not been collected with sufficient care and in sufficient detail to make any conclusion based upon them of any value. The crimes of cities are of a different kind from those of the country, but we can not prove from present facts that they are greater or more numerous. — 5. With such evils incident to machinery we need not be surprised that voices have been loudly heard among hand laborers calling for the repression of machines, particularly of new machines. So long as labor was of infinitely more importance in the national economy than capital, so long as the chief industrial cities were ruled by the guilds, even the government used to proceed against new machines under certain circumstances. At a later period, however, when capital and higher intelligence had become more important and more indispensable, the authorities ceased to lend their aid to the jealousy of the laborers. During the eighteenth century the English government often made restitution when the so-called Luddites had destroyed new machines. That envy, however, continued to show itself in private persecution and even in public disturbance for a much longer time. How short-sighted such an opposition to machinery is, becomes evident from its logical consequences. Whoever opposes every device which makes it possible to reach a given end with less human labor, ought to have all transportation carried on by human beings on natural roads, and to condemn all agriculture to be mere scratching of the earth with the finger nails. The widest limits between which the wages of labor may rise and fall, but which they can never permanently pass, and which are determined by the efficiency of labor itself, are enlarged by every new application of machinery. Only in this way is it explainable that English capitalists can afford to pay higher wages and yet sell their products more cheaply than their brothers on the continent. Again, it is wrong to suppose that the many dark sides of

modern industry could not exist without machines. The very uniformity of machines forms a strong barrier to all merely capricious abuse of the weaker. Machines have made the relation between master and laborer less changeable and arbitrary, and therefore, as a rule, morally better, in that they form, on the one hand, a means of bringing troublesome laborers to terms, and, on the other, compel the capitalists to keep their factories running even in dull times, if they do not wish to see their capital invested in machines completely idle, or indeed perish by rust. Besides, the large capitalist (and only he can employ machines to any great extent) can better afford to be generous than the man of small means; and the more prominent a man is, the more he is exposed to the influence of public opinion. Further, we can not deny that machines have relieved men of many mechanical and unhealthful kinds of labor. It is sufficient to compare in this connection the attendance of a water, wind or steam mill with the labor of an ancient corn-grinding slave, or the sailor of a modern sail or steam ship with the oarsman of a galley. If machines, then, up to the present time have diminished the toil of the human race but little or not at all, the reason does not lie in any necessity of nature, but in the social imperfection of man. And the lack of forethought of the lower classes is certainly as much to blame for this as the hardheartedness of the higher classes. It is undoubtedly owing also in part to the fact that modern governments have until very recently unduly favored large industries at the expense of smaller.—6. Many of the plans for improvement amount to nothing more than a proposal that the state shall make a deduction from the profits of the capitalist and add it to the wages of the laborer. This means communism. We may mention three objections to any such plans, without going further into the discussion of communistic theories. Such measures could be helpful only on three conditions: 1, that they should be universal. For if one country alone tried them, capital and brains would emigrate to more favorable localities, and thus leave the laborers worse off than before. 2, that the capitalists should be very numerous and all very wealthy. Neither the one nor the other is the case. Of a hundred manufacturing enterprises which are set on foot, only ten ever amount to anything. Diminishing profits largely would simply send them to destruction faster than ever, and thus increase the power and influence of the few successful ones. 3, that the increase of population should be relatively slower than the accumulation of capital. Compulsory deductions in favor of the laborers would tend to make it increase more rapidly, and the greater the deductions the more unfavorable the result.—Other plans have been proposed which smell too much of the study-lamp to have much prospect of success in practical life. The idea of Sismondi that the capitalists should be bound to take care of their sick and aged laborers, is one of these. The logical outcome of such a plan would be a return to the institutions of the middle ages, which, however beneficent they may have been in their time, have showed themselves unable to exist under modern conditions. The fact that they have fallen away of themselves, decayed internally, not battered down from the outside, proves the impossibility of their resurrection. Some have thought that if the laborers were made participants in the profits and loss of the industry they would be great gainers. Aside from the difficulty of devising any plan of realizing such participation, the fact above mentioned, in reference to the large percentage of failures and bankruptcies in manufacturing enterprises, shows clearly that the laborer would not be much, if any, better off. Co-operative association is, according to some, the panacea for all industrial evils. But the history of co-operation can not be said to be very encouraging. The conditions of modern industry are such that a large business can be successfully carried on under ordinary circumstances only by a close and systematic organization such as associations of laborers are hardly capable of realizing, let alone establishing and maintaining. Whatever effectual remedy may finally be found, certain measures can be undertaken and successfully carried out which may alleviate much of the misery and remove some of the abuses of modern industry. The state can interfere to protect the most helpless classes—children and women—and compel capitalists to observe provisions in reference to the situation, arrangement and ventilation of factories, etc. Nearly all civilized nations have commenced this work, and some have carried it on to a great extent —If a nation is in process of transition to a higher stage of civilization, all the elements of that civilization, looked at from below, appear in the most rosy light. After a nation has once reached that stage it becomes aware that on earth at least there is no unclouded happiness. Men soon forget the pressure of old conditions and exaggerate that of the new. The short-sighted and despairing advise the throwing overboard of all civilization in order to destroy forever its evils—an advice whose ruinousness is only exceeded by its impracticability. The only true remedy consists in developing to their fullest extent the good elements of a higher civilization, with the hope that in a thoroughly healthy society they will so far outweigh the bad elements as to reduce them to comparative insignificance. (See INVENTIONS.) WILHELM ROSCHER.

E J. JAMES, *Tr.*

MADAGASCAR, a large island in the Indian ocean, separated from eastern Africa, by the Mozambique channel, in which are situated the four islands of the Comoren group (Angarija, Mo'ly, Anjouan and Mayotte). Its axis, directed from north-northeast to south-southwest, is about 300 French leagues in length, while its average, but very variable, width is only eighty leagues.

The coast is greatly subject to marsh fevers, during a part of the year; the country rises by a succession of mountains and table lands to the central plateau, which is perfectly healthy. The height of this region does not appear to be less than 2,000 metres, and commands the city of Tananarivoo, capital of the tribe of the Hovas. The coast, winding and irregular, presents a multitude of bays, roadsteads and harbors; the greatest of these indentations is that of Diégo-Souarez, at the north, near Cape Amber. Madagascar by its position commands both routes to India, that by the Red sea, and that by the cape, and owing to the trade winds has easy communication with the islands Reunion and Mauritius, situated 150 French leagues to the east, in the middle of the Indian ocean. Hence its political importance, well understood to-day, one which increases the economic value which it receives from its mineral, vegetable and animal resources. Rice and cattle are the principal articles of commerce. — Madagascar is estimated to contain three or four millions of inhabitants, divided into a multitude of tribes, among which only two have acquired an historical name: the Sakalaves, extended over the whole western coast, and the Hovas, settled on the central plateau, in the district of Emyrne; the first of African origin, the second of the Malay race. The latter, either through their own genius, or the topographical conditions which have excited their activity, acquired, at the beginning of the nineteenth century, a marked preponderance, under the reign of Radama I., who was favored in his projects by the French and the English who appeared at his court. Owing to their counsel and their assistance, he not only subjected to his power the numerous tribes which had been independent up to that time, but he made his people acquainted with the elements of civilization: schools, manufactures, etc. Under the reign of his widow, Ranavalo, who succeeded him in 1828, all moral and religious progress was nearly suspended, but commercial relations kept up the unbroken interchange of ideas, as well as products, which seem to justify the recognition made by France and England, in 1861, of Radama II., son of Ranavalo, as king, not only of the Hovas, but of Madagascar, although a great number of tribes were free from his authority. — The island of Madagascar, after having been visited by the Portuguese, the English and the Dutch, who did not remain there, was approached with plans of final settlement, by the French, in the course of the seventeenth century. A company, to develop its wealth, was formed as early as 1637, and received from Louis XIII., in 1642, the privilege of trading. The numerous trading stores and forts became the instruments of development, and the island even received the name of *Oriental France*. During two centuries, the French flag was maintained alone, with vicissitudes of checks and reverses; and if it was necessary to abandon the French posts, in 1831, the establishment of Sainte-Marie remained in the hands of France, as a permanent declaration of French rights and intentions, that is, rights of sovereignty, not in the sense that France laid claim to the ownership of all the island with reference to the natives, and as mistress of their fortune, but sovereign with reference to foreign powers, which were not to found establishments there without the permission of France. As to her relations with the natives, the treaties which she concluded at different times with the Sakalaves of the western coast, for the opening of ports and the freedom of trade, testify clearly that France never intended to impose her authority by force on all the inhabitants. It does not even appear that the recognition of the chief of the Hovas, as king of Madagascar, implied an express renunciation of the historic rights of France. In the absence of the official version, the most authentic accounts assure us that the representative of the emperor accompanied his recognition with this declaration, "that the emperor, Napoleon III., in recognizing Radama as sovereign of the island, hoped never to be forced again to vindicate the rights of France." — Be this as it may, the elevation of this prince to power, in the month of August, 1861, was followed, as we have said, with two treaties of friendship and commerce, concluded the one with France, the other with England, whose delegates assisted at his coronation. The treaty with France was dated Sept. 12, 1862, concluded at Tananarivoo, between Capt. Dupré in the name of the emperor, and three personages of the Hova court in the name of the king (the commander-in-chief, the minister of foreign affairs, the minister of justice). It comprises twenty-four articles, then an additional article, abolishing import as well as export duties, and was promulgated by imperial decree of April 11, 1863. (*Bulletin des Lois*, 1102, No. 11,089.) The treaty with England is dated at Tananarivoo, Dec. 5, 1862; the negotiator on the side of England was Thomas Conolly Packenham, consul of her Britannic majesty; the representatives of Radama were the commander-in-chief (Rainilaiarivony), the minister of justice (Rainiketaka) and three secretaries of state in the ministry of foreign affairs (Ramarinako, Razanakembana and Clement Laborde, Jr.). The principal clauses of these treaties, which are almost alike, are as follows: Continual peace and perpetual friendship; reciprocal liberty of entering, residing, traveling and trading in the country; a guarantee of privileges, immunities and advantages granted to the most favored nation; freedom of worship recognized to the Malgaches; reciprocal duties on tonnage and importation; abolition of all prohibition of importation and exportation; jurisdiction over foreigners reserved to foreign consuls; inheritances, goods of shipwrecked persons given to those having rights of foreigners. — At the same time that King Radama signed the treaty with France, he ratified and signed a great concession of lands and industries which, some years before, when he was only heir apparent, he had

accorded to Lambert, his representative in France. For the development of this wealth a joint stock company was formed in Paris under the name of *Le compagnie de Madagascar financière, industrielle et commerciale*, and authorized by imperial decree of May 2, 1863. Baron de Richemont, senator, was appointed governor. An exploring expedition was immediately organized, which departed about the end of May, 1863, with Lambert and Dupré, bearers of the ratification of the treaty by the emperor. On arriving in the Indian ocean, the plenipotentiary of France heard of the terrible revolution of the palace which had been accomplished at Tananarivoo during his absence. May 12, King Radama, with thirty of his favorites, were strangled by the party of the former officers and Hova aristocracy, who wished to regain the power and prestige they enjoyed under Queen Ranavalo. His wife, Rabodo, had been proclaimed queen of Madagascar under the name of Rasoherina, and had sworn to a species of constitution. Dupré arrived in the waters of Tamatave during the month of July, and announced to the court of Emyrne that he was the bearer of a ratified treaty, the execution of which he required, as well as the Lambert charter, which a company had acquired. The Hova government refused, unless important modifications were made. After useless negotiations, Commander Dupré was obliged to leave the harbor of Tamatave, convinced of the definite check of his pacific and diplomatic policy, through the persistent opposition of the Hovas. The French consul withdrew. Political relations were interrupted and commercial relations were again restricted by the establishment of customs duties. The influence of the French, grown weak since the death of Queen Ranavalo, and which the treaty of 1862 had re-established only on paper, was henceforth reduced to nothing. The Malgaches went so far as to destroy the manufactory of arms established by a Frenchman, which was called by the queen "the indestructible beauty." The French government still thought of recovering some credit at the court of Tananarivoo. We find in the yellow book, of 1867, that the revision of the treaty of 1862 had been resumed under conditions which justified the hope that the queen would cease to guard the unexplored wealth of her kingdom from the pacific conquests of commerce and industry. The queen, in fact, seemed to consent to a resumption of negotiations; she had brought out from the sanctuary the statue of Kelimalaga, the goddess of international relations, when she died suddenly (1868), and the project was not carried out. Her cousin, Rauroma, succeeded her under the name of Ranavalo II., and the credit of Europeans was strengthened only in one case, which was moreover creditable to their humanity. They succeeded in saving the lives of the authors of a conspiracy formed under the direction of the former ministers of Radama. But these unfortunates were nevertheless confined in a cave where several of them died of hunger. Their wives and children were reduced to slavery; and their goods confiscated. Such was the custom of the country. We mention this fact to show the state of civilization of the Hovas, under one of its aspects. Their religion, their social hierarchy, their penal laws, date from what might be called organic paganism; and in considering the Hovas we might cite as a corresponding example the kingdoms of Italy in the time of Romulus, or those of India at the beginning of Brahmanism, if we had not to take account of their race, which is much less elegant, less artistic and less philosophic than the nations of classic paganism, and much less progressive also. Hence the Hovas would require a number of years, impossible to be determined, to arrive at western civilization, if the latter did not come to them from abroad, and come with as few chances of being accepted as possible, which may be understood from their inferiority. — The Hovas are of the Malay race similar to the population of southern India, Malacca, the Moluccas and the northern islands of Oceanica. This race was transplanted to Madagascar, but the time and circumstances of this transplanting are not known. It is more or less mixed with Caffre, Arab and Malgache elements. A people arrived at this degree of complicated civilization, is perhaps less accessible to a superior civilization than an altogether barbarous one. The Hovas, imbued with the feeling of their own superiority, hostile to strangers, form an aristocracy of a very positive turn of mind, full of resources in politics: generally some noble family has control of the king or the queen, and its influence is the better received by the rest of the nation, the more it succeeds in excluding foreigners. — Slavery was abolished in Madagascar by a proclamation dated June 20, 1877.

— BIBLIOGRAPHY. Ellis, *History of Madagascar*, London, 1838, and *Three Visits to Madagascar*, London, 1858; Bocage, *Madagascar, possession française depuis* 1642, Paris, 1859, Pfeiffer, *Reise nach Madagascar*, 2 vols., Vienna, 1861; MacLeod, *Madagascar and its People*, London, 1865; Mears, *The Story of Madagascar*, Philadelphia, 1873; Mullens, *Twelve Months in Madagascar*, London, 1875; Grandidier, *Histoire physique, naturelle et politique de Madagascar*, Paris, 1876; Oliver, *Madagascar and the Malagasy*, London, 1866; Sibree, *Madagascar and its People*, London, 1870; *Südafrika und Madagascar*, 3d ed., Leipzig, 1874. JULES DUVAL.

MADISON, James, president of the United States 1809–17, was born at Port Conway, Va., March 16, 1751, and died at Montpelier, Va., June 28, 1836. He was graduated at Princeton in 1771, was admitted to the bar, was a delegate to the continental congress from Virginia 1780–83 and 1786–8, and to the convention of 1787 (see CONSTITUTION), and was a democratic congressman 1789–97. He was secretary of state throughout Jefferson's two terms of office, and on his retirement was elected president. (See FEDER-

ALIST; KENTUCKY RESOLUTIONS; CONSTRUCTION; ADMINISTRATIONS; EMBARGO; CAUCUS, CONGRESSIONAL; CONVENTION, HARTFORD; HENRY DOCUMENTS; DRAFTS, I.; SECESSION, I.; DEMOCRATIC-REPUBLICAN PARTY, I.–III.; UNITED STATES.) — Madison's part in the adoption and ratification of the constitution, and in the organization of government under it, was very large and indeed essential. As soon as the government was fairly organized he took place as Jefferson's most confidential lieutenant in the formation of the republican (democratic) party, and from that time until 1817 his history is closely identified with that of his party. — Madison's ability as a political writer will not be questioned by any one who has read his writings; but his ability was rather judicial than polemical. He never fairly entered the lists against Hamilton but once, in 1793, when Jefferson had written to him thus urgently: "Hamilton is really a colossus to the anti-republican party. When he comes forward there is nobody but yourself who can meet him. For God's sake, take up your pen, and give a fundamental reply to Curtius and Camillus." It must be admitted that in this encounter Madison was very decidedly worsted. Outside of polemics, however, his style is always plain, strong, frank and convincing; and his state papers are of the first rank. — As president, Madison held a different position from any of his three predecessors, "Washington, who ruled superior to party; Adams, who ruled in spite of a party; and Jefferson, who ruled at the head of a party." Madison may be considered the first of the presidents who have been the exponents of a party. It is very certain, for example, that "Mr. Madison's war," as the federalists often called the war of 1812, did not draw its inspiration from Madison at all, even if doubt be cast upon the story that he was forced into it by the democratic leaders in congress. In this, as in many other similar instances, he was the first president to yield in practice to the Jeffersonian theory, as applied to the executive. — See Adams' *Life of Madison;* Rives' *Life of Madison;* Madison's *Writings;* McGuire's *Private Correspondence of Madison;* 5 Elliot's *Debates;* 2 Schouler's *United States*, 279; Madison's messages in the *Statesman's Manual;* and authorities under DEMOCRATIC-REPUBLICAN PARTY, I.–III. ALEXANDER JOHNSTON.

MAGNA CHARTA, the great charter which was granted by King John to the barons of England at Runnymede, A. D. 1215. — With this great charter of personal liberty begins the true history of the English nation, for, as Lord Macaulay relates, the history of the preceding events is the history of wrongs inflicted and sustained by various tribes, which indeed dwelt on English soil, but which regarded each other with aversion such as has scarcely ever existed between communities separated by physical barriers. John having been defeated by Philip of France and driven from Normandy, the Norman nobles were compelled to make England their home. Confined by the sea with the people whom hitherto they had despised and oppressed, they at length began to regard England as their country and the English as their countrymen, and the two races so long hostile found they had common interests to unite them and common enemies to overcome. Both were oppressed by the tyranny of a wicked and despotic king, and the descendants of those who had fought under the Norman William and the Saxon Harold began to intermarry and form closer bonds of union, until the final pledge of their perfect reconciliation was the great charter framed for their common benefit and wrung from their perfidious king by their united and determined exertions. — However circumscribed had been the liberty of the Anglo-Saxons under their ancient form of government, by the introduction of the feudal law into England by William the Conqueror, the whole people had been reduced to a state of vassalage, and their freedom so effectually suppressed, that a great part of them had been cast into a state of abject slavery. At the same time, under John, the Norman barons were compelled to submit to such absolute prerogatives of the sovereign as virtually divested them of that rank and those privileges which men of their class had always enjoyed, and which with bloody valor they had always defended. The power of the crown, long wielded with relentless force, was not easily reduced. Henry I., to aid in excluding his elder brother from the throne, had granted the people a charter in many respects favorable to the personal liberty of the subject. Stephen had renewed and Henry II. confirmed this charter. The king, however, had always ignored its provisions, and exerted the same unlimited authority over the lives and liberty of his subjects. There was a single exception to this stern authority of the sovereign. Arms still remained in the hands of the barons and people, and by combining their power in a settled and united purpose, their liberties might still be vindicated. The oppressions and insults of their rapacious king becoming no less odious to the barons than to the people, and finally enraged at his licentious exactions upon their families as well as his despotic demands upon themselves, they resolved to strike a bold and determined blow for the restoration of their privileges. — Accordingly, immediately after the Christmas holidays in the year 1215, the barons assembled in London, and taking a copy of the charter granted by Henry I., which Langton, the archbishop of Canterbury (who favored their cause), had found in a monastery, they presented it to the king and demanded that he should grant them a renewal of Henry's charter and a confirmation of the laws of St. Edward. To gain delay, the king promised a reply to the barons' demand at the following Easter. The barons assented to this proposition and peaceably retired to their castles, which they provisioned and garrisoned. On the approach of the Easter

festival they assembled a force of two thousand knights, besides innumerable retainers, and advanced to Brockley, near Oxford, the king's residence. At this point they received a message from the king, through the archbishop of Canterbury and the earl of Pembroke, demanding to be informed what those liberties were that they so zealously exacted. Through the king's messengers they presented to him a schedule of articles containing their demands. The king indignantly and imperiously rejected this petition from the barons and people. Immediately thereupon the barons elected Robert Fitz-Walter their general-in-chief, and declared war upon the king. They besieged the castle of Northampton for fifteen days; marched through the gates of Bedford castle, willingly opened by William Beauchamp, its owner; advanced to Ware and held a consultation with the chief citizens of London; and thence to London, where they received a welcome from all the people. From London they made incursions upon the king's domains, and laid waste his parks and palaces. Upon issuing their proclamation to the barons, those who had hitherto preserved a semblance of sustaining the king deserted the royal arms and openly espoused the cause they had in secret always favored. Stripped of his military strength and support, the king was finally obliged to submit to the demands of the barons whom so recently he had spurned from his presence. A conference between the king and barons was appointed at Runnymede, between Windsor and Staines, a place which from this fact has become noted in history. The two parties with their retinues encamped opposite each other, as if in hostile array. After several days' discussion, the king finally signed the charter on the twelfth day of June, A. D. 1215, with great ceremony and solemnity. — The instrument as first drawn by the barons did not contain all of the provisions which were finally embraced in the great charter. It was at first drawn in the interest of the clergy and nobility alone, and did not comprehend that of the people. By this instrument the freedom of the clergy was assured in elections, and the former charter of the king was confirmed by which the royal assent for *leave to elect* and confirmation of such election, was rendered unnecessary. All restraints upon appeals to Rome were removed; no one was to be prevented from leaving the kingdom at his will; and all fines imposed on the clergy, from any cause whatever, were to be in proportion to the amount of their estates and not to benefices attached to their ecclesiastical positions. — To the barons this instrument guaranteed abatements in the rigor of the feudal law. The fine or composition known to the feudal law as a *relief*, which the heir of a deceased tenant paid to the lord at the death of the ancestor, for the privilege of taking up the estate which on strict feudal principles had lapsed or fallen to the lord on the death of the tenant, was established at fixed rates—a knight's at a hundred shillings; an earl's and baron's at a hundred marks, and if the heir to an estate be a minor, he should enter upon it without paying any *relief*, immediately upon attaining his majority. It was ordained that the king should not sell his wardship; that he should only levy reasonable profits upon the estate, without committing waste or injuring the property, and that he should uphold the castles, houses, mills, parks and ponds; and should he commit the guardianship of the estate to the sheriff or any other, he should first oblige him to find proper surety for the protection of the property. While the lands of a minor were in wardship, and not in his own possession, he was not to be obliged to pay any interest on any debt contracted with a Jew. Heirs should be married without disparagement, and before the contraction of the same the nearest relations of the person should be notified of it. A widow should enter upon her dower (a third part of her husband's rents) without paying any relief. She should not be obliged to marry as long as she chose to remain single, and should only give security not to marry without her lord's consent. It was further ordained that the king should not claim the wardship of any minor who holds lands by military tenure of a baron, on the assumption that he also holds lands of the crown by socage or any other tenure. Scutages should be estimated at a rate the same as in the reign of Henry I., and that no scutage should be imposed except by the great council of the kingdom, save in three general feudal cases, to wit: the king's captivity, the knighting of the king's eldest son, and the marriage of his eldest daughter. (A scutage was a tax or contribution levied upon those who held lands by knights' service, originally, a composition for personal service which the tenant owed to his lord, but afterward levied as an assessment. *Blackstone.*) On summoning the great council of the kingdom, prelates, earls and great barons should be called to its session by a particular writ, and the lesser barons by a general summons of the sheriff. The land of a baron should not be seized by the king to satisfy a debt to the crown, if the goods and chattels of the baron were sufficient to discharge the debt. No man should be compelled to perform more service for his fee than he is bound to by his tenure. No knight should be forced to give money for castle guard to a governor or constable of a castle if he be willing to perform the service in person or provide another able-bodied man in his place; and should the knight be in the field himself by order of the king, he should be exempt from all other service of this character. No vassal should be permitted to sell so much of his land as would incapacitate him from performing his service to his lord. — The foregoing were the principal articles of the charter as first drawn by the barons. They were prepared entirely, it would appear, in the interest of themselves and the clergy. Had the charter contained nothing further, in the interest of the people, it would not have promoted the national happiness and freedom, as it would

have resulted alone in augmenting the power and independence of a class already in authority, whose rule might thereby become more absolute and burdensome than that of the monarch. In fact, it would have been merely granting liberal powers and privileges to the kings, clergy and barons by royal charter, while the rigor of Norman feudal law remained in all its repugnancy toward the people, and not the restoration of the laws of Henry 1. to the nation, and the adoption of those other great principles of liberty forming the groundwork of English constitutional law, which have been characterized as an engrafting of Norman feudalism on the "ancient customs of England," such as previously existed under Saxon and Danish free institutions, and in which "ancient customs" were embraced the liberal laws of Edward the Confessor. — The people, however, perceived this weakness of the charter and demanded that other articles, relating particularly to their personal freedom, should be inserted, without which it would have proven of little benefit to themselves and could not have obtained their support. The barons, who relied upon the concurrence of the people to enforce their own demands upon the king, and without which aid they were in a great measure powerless, were thus compelled to insert other clauses of a more extensive and beneficent nature, comprehending the interests and benefits of inferior ranks of men. It was therefore ordained by the charter that all rights and immunities granted to the barons by the king should in like manner be extended by the barons to their inferiors, vassals and dependents. That the king should bind himself not to grant any writ authorizing a baron to levy aids from his vassals, save in the three enumerated feudal cases. That one weight and one measure should be established throughout the kingdom. That merchants should be permitted to transact all business without the infliction of arbitrary tolls and impositions, and that they and all free men should not be debarred from departing from and returning to the kingdom at pleasure. That the ancient liberties, privileges and free customs of London and all cities and burghs should be preserved. That tributes should not be imposed upon them except by the great council of the kingdom. That no town or individual should be obliged to build or support bridges but by ancient customs. That every freeman should be permitted to dispose of his goods according to his own will, and if he die intestate his heirs succeed to them. That no horses, carts or wood should be taken by any officer of the crown without the consent of the owner. That the king's courts of justice should no longer follow him about the kingdom, but should be permanently located; that they should be open to all, and that justice should be no longer refused, delayed or be sold by them. That circuits should be held regularly every year; and that inferior courts of justice—the county court, sheriff's term and court-leet—should meet at their appointed time and places. (A court-leet in English law is a court of record held once a year, in a particular hundred, lordship or manor, before the steward of the leet. *Blackstone.*) That sheriffs should be deprived of the power to hold pleas of the crown, and should not put any one upon trial from rumor or suspicion, but upon the evidence of lawful witnesses. (The office of sheriff in England is judicial and ministerial. His judicial authority was formerly of considerable extent. It is now, however, generally confined to ascertaining damages on writs of inquiry and the like. *Wharton.*) That no freeman should be taken or imprisoned or be disseized of his freehold or liberties or free customs, or be otherwise damaged, nor should the king "pass upon him, nor send upon him, but by the lawful judgment of his peers, or by the law of the land." (In this provision of magna charta was laid the foundation of the writ of *habeas corpus.*) That all who had suffered otherwise in this or the two preceding reigns should be restored to their rights and possessions. That a fine imposed upon a freeman should be in proportion to his offense, and that no fine should be imposed upon him that would prove his utter ruin. That even a villain or rustic should not by any fine be bereaved of his carts, plows and implements of husbandry. This latter clause was the only one inserted for the especial benefit of a class which probably at that time was the most numerous in the kingdom. (Hume's Hist. Eng.) — The incorporation by the people of these latter articles in the charter, not only mitigated the severity of the feudal law toward themselves as well as the nobility, but likewise established justice and equality before the law, confirmed the personal freedom of the subject, and formed the perfect outlines of a strictly legal government. By some historians they are believed to have been those liberal Saxon laws framed by Edward the Confessor. — The king having acceded to these demands of the barons and people, other guarantees were required as a safeguard of the great charter. The king was obliged to agree that London should remain in possession of the barons, and the tower be given into the custody of the primate, until the fifteenth day of the following August, or until the execution of the articles of the great charter To insure that the provisions of this charter should be carried into effect, twenty-five members of a council were to be appointed from their own numbers, as guardians of the public liberties, and their authority was not to be limited in either extent or duration. And it was further ordained that if an attempt should be made to violate the charter, either by the king, justiciaries, sheriffs or foresters, four of these conservators should demand of the king a redress of the grievance. If proper satisfaction was not duly made, the council of twenty-five should then be called together, who, with the great council, were granted the power to compel him to observe the provisions of the charter; and in case of resistance on the part of the king, war should at once be levied against

him, his castles attacked and every kind of violence employed save that of personal injury to himself and his family. All subjects without distinction were obliged, under the penalty of confiscation, to swear obedience to the twenty-five barons; and twelve knights in each county were to be chosen by its freeholders, who were to report such violations of the charter as might require redress. — The twenty-five conservators first appointed, and whose names have been preserved in the historical records of the great charter, were the earls of Clare, Albemarle, Gloucester, Winchester, Hereford, Roger Bigod earl of Norfolk, Robert Vere earl of Oxford, William Mareschal the younger, Robert Fitz-Walter, Gilbert de Clare, Eastuce de Vescey, Gilbert Delaval, William de Moubray, Geoffray de Say, Roger de Mombezon, William de Huntingfield, Robert de Ros, the constable of Chester, William de Aubenie, Richard de Perci, William Malet, John Fitz-Robert, William de Lanvelay, Hugh de Bigod, and Roger de Montfichet. In their hands the sovereignty of the kingdom was virtually invested, and in the exercise of executive authority they were by the act placed superior to the king, as in the affairs of government there was hardly anything happening relating to the observance of the great charter that might not under its provisions fall under their authority. (Hume's Hist. Eng.) — At first the king adhered strictly to all of these regulations, however humiliating to his sense of personal sovereignty, and in a spirit of perfect obedience himself sent writs to all his sheriffs directing them to compel every one to swear obedience to the commands of the twenty-five barons. In these acts, however, the perfidious king strove to disguise his ultimate design. To lull the suspicions of those of his subjects who might still doubt his fealty of purpose, he discharged from his service all foreign levies and affirmed that his government should thenceforth be administered in a liberal and lawful manner, conducive to the happiness and independence of his people. His well-formed purpose was, while outwardly observing these forms, to await a propitious moment and by force of arms overcome the barons, and again enslave the people. He secretly dispatched emissaries abroad to gather a foreign army, promising as a reward of their victory over his own people the spoils of his kingdom. To Rome he sent a messenger and placed before the pope a copy of the great charter which his subjects had compelled him to sign. As his feudal lord of the kingdom, he demanded of the pontiff his papal aid and protection. In response to the king's appeals the pope issued a bull abrogating and annulling the whole charter, prohibiting the barons from exacting observance of it and the king from paying any regard to it; absolving the king and his subjects from all oaths imposed for its observance, and excommunicating every one who should persist in maintaining such disloyal and treasonable demands. — Under the sanction of this decree from the Roman pontiff, upon the arrival of his foreign forces, the king endeavored by proclamation to recall the liberties which he had solemnly granted to the people. The primate, however, refused to publish the sentence of excommunication against the king's subjects, and the clergy, the barons and the people all conspired to defend their chartered liberties. The king was therefore compelled to rely solely upon his foreign levies to restore his ancient powers. With remorseless vengeance he ordered these mercenaries to make war upon his subjects and lay waste the estates, manors, houses and parks of the barons. Villages in ruins and castles in ashes followed the torch and marked the track of the barbarous soldiery. Horrible tortures were employed to make the people reveal the hiding place of their treasures. The king marched through the entire extent of his kingdom from Dover to Berwick, and laid waste the provinces on each side of him. The barons, on the other hand, incensed at the perpetration of such acts on the part of their king, made reprisals no less extreme. They rallied in force, devastated the king's demesnes, and with fire and sword laid in blackened ruins the king's castles, parks and palaces. The whole kingdom was ravaged, the people slaughtered, and society reduced to anarchy. (Hume's Hist. Eng.) In the midst of this desolating war the king died. While engaged in assembling a large army with a view of fighting a decisive battle for his crown, and passing from Lynne to Lincolnshire on the seacoast, purposely avoiding the main road, he lost by an inundation of the road all his treasure, carriages, baggage and regalia. This disaster, joined with the distracted condition of his affairs, increased the disease with which at that time he was suffering, and on reaching the castle of Newark he expired, in the forty-ninth year of his age. By his demise the nation was at once disenthralled. — Henry, the infant son of John, succeeded to the throne as Henry III., with the earl of Pembroke, then mareschal of England, at the head of the government as protector of the realm, he having been chosen to that responsible position by a general council of the barons, assembled at Bristol. — At the suggestion of Pembroke, who appears in history as a wise and far-sighted as well as a broad and liberal statesman, the young king granted a new charter of liberties, confirming all that his father had granted, and bestowing, in addition thereto, other and important concessions. This charter was again confirmed by the king the following year, with an additional *article* preventing oppression by sheriffs, and an additional *charter* known as the charter of forests, abrogating the peculiar and arbitrary laws which had for many years oppressed the people. All the forests which had been inclosed since the reign of Henry II. were disafforested and new rules and regulations adopted for passing through them. Capital punishment was no longer inflicted for forestry offenses, but such offenses became henceforth punishable only by fines and imprisonment. Under

this charter the proprietors of lands recovered the right to cut and use wood from their own estates. Thus through revolution was born these great principles of human freedom, and as the historian Hume remarks: "Thus these famous charters were brought nearly to the shape in which they have ever since stood; and they were during many generations the peculiar favorites of the English nation, and esteemed the most sacred ramparts to national liberty and independence. As they secured the rights of all orders of men, they were anxiously defended by all, and became the basis in a manner of the English monarchy, and a kind of original contract which both limited the authority of the king and secured the conditional allegiance of his subjects."

JOHN W. CLAMPITT.

MAINE, a state of the American Union. Its soil was claimed, in May, 1605, by Weymouth for Great Britain, and by De Monts for France. English colonization was unsuccessfully attempted at the mouth of the Kennebec, Aug. 18, 1607, and for thirty years French and English settlements were made mainly by individual enterprise. Aug. 10, 1622, Sir Ferdinando Gorges and others received from the Plymouth company a patent for "Laconia," or the "province of Maine," the territory between the Kennebec and the Merrimac, about one-sixth of the modern state, and the grant was confirmed by Charles II., April 3, 1639. The name of Maine was given either from that of the queen's French province, or as equivalent to the main land, as distinguished from the numerous islands off the coast; the latter derivation is much the more probable. Massachusetts (see that state) claimed this part of Maine under her charter, and, as Gorges was an Episcopalian and a royalist, the commonwealth period in England gave Massachusetts fair opportunity to enforce her claim. Commissioners were sent, who testified, Aug. 1, 1652, that they had found the headwaters of the Merrimac in latitude 43° 40′ 12″; other commissioners fixed the end of a line, due east of this point, in Casco bay; and other commissioners, late in 1652, were successful in inducing the people to "acknowledge themselves subject to the government of Massachusetts Bay." Jan. 11, 1664, Charles II. ordered Massachusetts to restore the Gorges grant to the heirs, or show cause why not, and for some years the authority of Massachusetts was interrupted. In 1668 it was re-established; and in 1678 Massachusetts purchased the title of the Gorges heirs for £1,250. — The duke of York's grant of March 12, 1664 (see NEW JERSEY), included also the territory between the St. Croix and the Kennebec; and this part of Maine was governed by his deputies until the Massachusetts charter of 1691 formally transferred both the Gorges' and the duke's grants to that colony. From the beginning of the colony's history the French in Acadia asserted claims indefinitely westward into Maine, which were the occasion of angry and sometimes bloody disputes, and were not disposed of until the treaty of Paris in 1763 ended the French dominion in Acadia. — After its formal incorporation in 1691, Maine remained a part of Massachusetts for 130 years. A party was formed in the district soon after the close of the revolution, with the object of obtaining a separation, but the movement made no headway until after 1800, when Maine was as steadily democratic as Massachusetts was federalist. The war of 1812 gave a great impetus to the party of separation, for Maine felt the evils of the war severely, and her territory was occupied by the British up to the Kennebec. An act passed by the Massachusetts legislature, June 19, 1819, submitted the question of separation to the people of Maine, who decided in its favor, July 19, by a vote of 17,091 to 7,132. A state constitution was formed by a convention at Portland, Oct. 11–29, 1819, and ratified by popular vote almost unanimously. The state was admitted by act of March 3, 1820 (see COMPROMISES, IV), to take effect March 15. Another act of April 7, 1820, divided the former congressional representation of Massachusetts, giving thirteen representatives to the old and seven to the new state. — BOUNDARIES. I. *Northeast Boundary.* The treaty of 1783, which recognized the United States as a nation, defined the northeast boundary substantially as follows: From the mouth of the river St. Croix, in the bay of Fundy, up the middle of that river to its source; thence due north to the highlands, or watershed, between the rivers of the St. Lawrence and Atlantic systems; thence along the highlands to the northwesternmost head of the Connecticut river; thence to latitude 45° north; and thence due west to the St. Lawrence. Almost every point named was doubtful, except the St. Lawrence river, and the designated parallel of latitude. Massachusetts had always claimed *over* the highlands to the St. Lawrence, and the claim had been supported by Great Britain as against France; but on the withdrawal of France from Canada the British government had made the highlands the boundary in all its proclamations and instructions to colonial governors After the treaty of peace a British claim grew up that the "highlands" were a line cutting across Maine from Mars hill to the Chaudiere The United States, by the evidence of contemporary maps, claimed as the highlands the watershed parallel to the St. Lawrence, and the claim was confirmed, after the final settlement, by the marking on the so-called "Jay map" (see Gallatin's memoir, cited below), which was used by the American negotiators in 1782–3, and apparently by the British negotiator also, since his (Oswald's) line was marked upon it and disproved the British claim. The only contemporary evidence for the British claim was an apocryphal map of Dr. Franklin in a Paris library. Commissioners named under the treaty of Nov. 19, 1794, (see JAY'S TREATY), fixed the true St. Croix and its source, as at present, though Oswald's line took the St. John, much further east, as the

St. Croix. Efforts were made in 1803, in 1814 (by the treaty of Ghent), in 1827 (by a convention to arbitrate), and through a long series of negotiations from 1830 until 1840, to settle the position of the "highlands" and the true source of the Connecticut river; but the only one which came to any hopeful result was the arbitration of the king of the Netherlands, Jan. 10, 1831, under the convention of 1827, and his award was rejected by both parties. In 1838–9 the territory between New Brunswick and Maine, claimed by both parties, became the scene of a small border war. Maine raised an armed posse, erected forts along the line which she claimed as the true one, and the legislature placed $800,000 at the governor's disposal for the defense of the state; an act of congress, March 3, 1839, authorized the president to resist any attempt of Great Britain to enforce exclusive jurisdiction over the disputed territory; and armed conflict was only averted by the mediation of Gen. Scott, who arranged a truce and a joint occupation by both parties. By this time Great Britain and the United States were both ready to abandon the idea of arbitration, and Lord Ashburton was sent to Washington to arrange a compromise line with Daniel Webster, secretary of state. Commissioners were present from Maine and Massachusetts, and the treaty was concluded Aug. 9, 1842. Besides providing for the suppression of the slave trade and for the extradition of fugitives from justice, it fixed the boundary line to the Rocky mountains; granted free navigation of the St. John river to both nations; confirmed grants of land in the disputed territory to those in possession; allowed to Maine and Massachusetts compensation for territory given up, to be paid by the United States; and altered the northern boundary to its position as understood in 1783, thus giving Rouse's Point to New York, and considerable doubtful territory to New Hampshire. — *β. Western Boundary.* The western boundary of Gorges' patent was to be the Salmon Falls river to its source, and thence by a "northwestwardly line" sixty miles. Massachusetts claimed that the line should run due northwest; New Hampshire, that it should only deviate slightly from a due north line. In August, 1737, a board of arbitrators from the counselors of New Jersey, New York, Rhode Island and Nova Scotia decided in favor of New Hampshire, whose eastern boundary was prolonged as at present to the headwaters of the Connecticut. — CONSTITUTION. Slavery had already been abolished while Maine was a part of Massachusetts. (See ABOLITION, I.) The constitution of 1820, which is still the organic law of the state, therefore made no reference to slavery. It gave the right of suffrage to "male citizens of the United States of the age of twenty-one years or upward"; made the election of governor, senators and representatives annual; fixed the number of the lower house at not more than 200 nor less than 100, to be chosen by towns according to population, no town to have more than seven representatives; fixed the number of the senate at not more than thirty-one nor less than twenty, to be chosen by senatorial districts; provided for a council of seven, and ordered them, with the governor, to examine the returns of legislative elections and summon "such persons as shall appear to be elected by a majority of the votes in each district." Twenty-one amendments have since been made, the following being the most important: fixing the number of the lower house at 151 (1841); forbidding the loaning of the state's credit (1848); granting the suffrage to the volunteer soldiers of the state (1865); authorizing the issue of bounty bonds (1868); directing the formation of corporations by general laws (1876); making the term of the governor and legislature two years, and making the governor eligible by a plurality, instead of a majority (1880–81). — GOVERNORS. William King, 1820; W. D. Williamson, 1821; Albion K. Parris, 1822–6; Enoch Lincoln, 1827–8; Nathan Cutler, 1829; Jonathan D. Hunton, 1830; Samuel E. Smith, 1831–3; Robert P. Dunlap, 1834–7; Edward Kent, 1838; John Fairfield, 1839; Edward Kent, 1840; John Fairfield, 1841–2, Edward Kavanagh, 1843; Hugh J. Anderson, 1844–6; John W. Dana, 1847–9; John Hubbard, 1850–52; W. G. Crosby, 1853–4; Anson P. Merrill, 1855, Samuel Wells, 1856; Hannibal Hamlin, 1857; Lot M. Morrill, 1858–60; Israel Washburn, Jr., 1861–2; Abner Coburn, 1863; Samuel Corry, 1864–6; J. L Chamberlain, 1867–70; Sydney Perham, 1871–3; Nelson Dingley, Jr., 1874–5; Seldon Connor, 1876–8; Alonzo Garcelon, 1879; Daniel F. Davis, 1880; Harris M. Plaisted, 1881–2. — POLITICAL HISTORY. The principal reason for the final separation of Maine from Massachusetts was that the district was as generally democratic as the state was federalist. Before the separation the congressmen and local officers of Maine were usually democratic, but the governors and legislatures of the state to which they belonged were federalist. After the separation Maine continued to be a very reliable democratic state until 1854, with the following exceptions. 1. In 1824 and 1828 the electoral vote of the state was given to John Quincy Adams. In 1840 it was cast for Harrison, the whig candidate, but only by a popular majority of 217 out of a total vote of 93,007. In all other presidential elections the democratic candidates had a clear popular majority. 2. In congressional elections the great majority of successful candidates were democratic. The whigs frequently elected two of the representatives, and in 1840 elected four of the eight, and one of the two United States senators. 3. The governors were as steadily democratic with the exception of Gov. Kent (1838 and 1840). — The only important contest of a purely local nature during this period was upon the enactment of a prohibitory liquor law. A law of this nature, commonly known as "the Maine liquor law," was passed in 1851, and signed by Gov. Hubbard. In 1853 a "search and seizure act" was passed, for the confiscation of

liquors. In 1856 this whole system of legislation was repealed, and a license law enacted; but in 1858 the Maine law, in all its parts, was re-enacted, and has since remained in force. An attempt to modify it, in 1879, was lost in the house by a vote of 127 to 17.—From 1850 there were many signs of party disintegration. The whig vote ceased to grow; the free-soil vote began to develop into larger proportions; and a coalition was gradually formed between the whigs, the free-soilers, and various classes of dissatisfied democrats. In 1852–8 there was no popular majority for governor, and the coalition elected Crosby governor, and William P. Fessenden United States senator. Fessenden was the second anti-democratic senator in the state's history, George Evans (1841–7) having been the first. The election of 1854 resulted in the first great overthrow of the democratic party of the state. The republican party elected the governor, the legislature, and five of the six congressmen, and contested the election of the solitary democratic representative. In the following year the whigs and democrats were reduced to the necessity of forming a coalition against the new republican party, and in this fashion succeeded in keeping control of the legislature and electing the governor, Wells (democrat), there being no popular majority for that office. In 1856 the republicans at last secured complete control of the state: they elected the governor, Hamlin, by a vote of 69,429 to 44,889 for Wells, and 6,659 for Patten (whig), all of the six congressmen, a heavy majority of both houses of the legislature, and the second of the two United States senators. — From 1856 until 1878 republican success was almost invariable, in all elections, presidential, congressional and state, the only exception being the election of a single democratic congressman in 1862 from the southwest corner of the state. The democrats had usually from one-fifth to one-fourth of the legislature, though in 1866 and 1867 they had but fifteen and thirteen members out of a total of 182. Even the "tidal wave" of 1874–5, which gave the democrats control of so many other states, had no greater effect in Maine than to increase the democratic proportion of the popular vote 5 per cent., and the democratic members of the legislature to 73; and at the succeeding election both these deceptive increases disappeared.—It was inevitable that such a prolonged and unbroken control by one party should give rise to discontents among its own members. These came to a head in 1878. In the congressional elections of that year the republicans failed to obtain a majority in any one of the five districts. In the three districts to the west of a north and south line through the middle of the state, the republican candidates were elected by a plurality, through the division of the opposition vote between the democratic and "greenback" candidates; in the two eastern districts the "greenback" and democratic voters formally or practically united, and elected their candidates. For governor there was no popular majority, Selden Connor (republican) having 56,554 votes, Garcelon (democrat) 28,218, and Joseph C. Smith (greenback) 41,871. In such case, by the constitution, the lower house of the legislature was to choose two out of the four highest candidates on the popular vote, and from these two the upper house was to select a governor: an arrangement excellently calculated to tempt the formation of a coalition. In this case the lower house, controlled by the democrats and greenbackers, chose Smith and Garcelon, and the republican majority in the upper house selected Garcelon to be governor. In the election of 1879 the three parties nominated the same candidates as in 1878, and the popular vote was substantially the same; but in the complexion of the legislature there was a very important difference. On the face of the returns the republicans had a majority in both branches of the legislature, and would therefore be able to choose a republican governor. By the constitution and laws the governor and council were a preliminary canvassing board, to give original certificates of election to members of the legislature, subject to revision by the two houses after their organization. In a multitude of town elections, irregularities of every description, changes of initials of candidates, and similar errors, were inevitable, and had occurred at every election. After examining carefully the arguments of both sides in 1879–80, one can only come to the conclusion that precedents in abundance for any desired system of canvassing can be found in the annals of the state. In 1879 Gov. Garcelon and his council certainly strained every possible republican precedent to the damage of the republican candidates, and succeeded in making out a "fusion" (democratic and greenback) majority in the lower house, the pivotal point of contest. Jan. 7 1880, Gov. Garcelon's term expired; two days before, he had authorized and directed ex-Gov. Chamberlain, major general of the state militia, to protect the public property until a new governor should qualify; and the state was thus left practically, though temporarily, under military government. The fusion majority of the legislature met and elected officers, Jan. 7, the republicans refusing to take part. Jan. 12 the republican majority, with and without certificates, took possession of the rooms of the two houses; the state supreme court pronounced in their favor; Jan 16 they elected Davis governor; Gen Chamberlain gave up his authority to him; the fusion legislature disbanded, and the Maine *imbroglio* was over. To avoid any such difficulty in future, the constitutional amendment heretofore given, making the governor eligible by a plurality, instead of a majority, was proposed by the legislature and ratified by the people. In 1880 the democrats and greenbackers formally united and nominated Harris M. Plaisted, who was elected in September over Gov. Davis by a plurality, as follows: Plaisted, 73,713; Davis, 73,544; scattering, 545. In November the republicans secured the electoral

vote of the state, three of the five congressmen, and a majority of both branches of the legislature. The popular vote for presidential electors was 74,039 republican, 65,171 fusion, and 4,408 greenback. The two congressional districts carried by the fusionists were the same districts which they had carried in 1878. The legislature in 1882 is as follows: senate, twenty-two republican, nine fusion; house, eighty-four republican, sixty-seven fusion. — Among the prominent leaders in state politics have been the following: James G. Blaine, Hannibal Hamlin (see those names); Jonathan Cilley, democratic congressman 1837–8, killed in the Graves-Cilley duel; Nathan Clifford, state attorney general 1834–8, democratic congressman 1839–43, attorney general under Polk 1846–8, and justice of the supreme court 1858–81; George Evans, whig congressman 1829–41, United States senator 1841–7; John Fairfield, democratic congressman 1835–9, governor 1839 and 1841–2, and United States senator 1843–7; William Pitt Fessenden, whig congressman 1841–3, whig and republican United States senator 1854–64 and 1865–9, and secretary of the treasury under Lincoln; Wm. P. Frye, state attorney general 1867–9, republican congressman 1871–7, and United States senator 1877–83, Eugene Hale, republican congressman 1869–79, and United States senator 1881–7; John Holmes, democratic congressman 1817–20, and United States senator 1820–27 and 1829–33; Lot M. Morrill, governor 1858–60, and republican United States senator 1861–77, Albion K. Parris, democratic congressman 1815–18, governor 1822–6, United States senator 1827–8, and state supreme court judge 1828–36; Sydney Perham, republican congressman 1863–9, and governor 1871–3; Thomas B. Reed, state attorney general 1870–72, and republican congressman 1877–85; Israel Washburn, whig and republican congressman 1851–61, and governor 1861–2; and Wm. D. Williamson, governor 1820, and democratic congressman 1821–3. — See 1 Poore's *Federal and State Constitutions;* Sewall's *Ancient Dominions of Maine* (1857); 1 Hazard's *Historical Collections*, 45, 442; 1 Coolidge and Mansfield's *History of New England;* Kohl's *East Coast of North America;* Willis' *Laws, Courts and Lawyers of Maine, History of Portland*, and *Documentary History of Maine;* Sullivan's *History of the District of Maine* (to 1795); Williamson's *History of Maine* (to 1820); Varney's *Young People's History of Maine;* Whitman and True's *Maine in the War;* Abbott's *History of Maine* (to 1875); 19 Appleton's *Annual Cyclopædia*, 743 (opinion of supreme court in 1880); (NORTHEAST BOUNDARY) *Documents relating to the Northeast Boundary* (1828); Vose's *Northeast Boundary* (from 75 *North American Review*); *Northeastern Boundary Arbitration;* 13 Benton's *Debates of Congress*, 679, 754; 14 *ib.*, 103, 143; 5 Webster's *Works*, 81; 6 *ib.*, 288, 350; Gallatin's *Memoir on the Northeastern Boundary*, before the N. Y. Hist. Soc., April 15, 1843 (with the Jay map); 8 *Stat. at Large*, 81 (treaty of Sept. 3, 1783, art. 2), 119 (treaty of Nov. 19, 1794, art. 5), 220 (treaty of Ghent, art. 5), 363 (convention of Sept. 29, 1827), and 572 (treaty of Aug. 9, 1842). ALEXANDER JOHNSTON.

MALTA, GOZO AND COMINO. In 1798 the fortunes of war gave these three islands to England, and the treaties of 1815 upheld her possession of them. Their area is 115 square miles; in 1871, when the last census was taken, the civil population was 149,084.—The civil legislation remains very nearly what it was when the English first took possession of the island; the changes are inconsiderable. In 1829 a very important innovation was made in criminal legislation by the introduction of trial by jury. During some years there was no great cause to rejoice over this, as from time to time the jury, through lack of firmness, allowed enormous crimes to go unpunished; but at length this method of dispensing justice succeeded in working properly. In 1838 the inhabitants, without receiving complete political liberty, were granted freedom of the press. So far, the English government and the Maltese population have only cause to congratulate themselves on this measure.—The management of local and municipal affairs is in the hands of a council, one-half of which is chosen by election. In order to give the inhabitants means of making known their desires, several consulting committees have been formed, the members of which are changed every year by rotation.— The revenue is composed mainly of customs duties. It continued to increase from 1838 to 1856, when it reached the sum of £144,795, the expenditures being only £129,776. From 1856 to 1866 the receipts continued to increase, and reached the sum of £196,459, to which corresponded £185,449 expenditures. In 1870 the equilibrium was disturbed, to the detriment of the receipts, which fell far below the expenditures, the former amounting to £158,631, and the expenditures to £171,788. Among the receipts, the customs duties exceeded £100,000; the second place was occupied by the land tax, which produced upward of £30,000. Almost all this revenue was devoted to the civil expenditures of the island; only £6,200 being applied to military outlay — Malta is considered by England less as a colony than as a military post, whose garrison should be kept as strong as possible at all times. (See GIBRALTAR.) In 1851 this garrison was composed of only 3,331 men. Since that time, by successive additions, these figures have doubled. In 1861 the garrison was composed as follows: 5,415 infantry of the line, 636 colonial militia, 782 artillerists, and 283 engineer sappers. The militia artillery of Malta (Royal Malta fencible artillery) is composed of 637 Maltese, 23 of whom are officers. — The commerce of these islands increases continually; still, there is more continuity and regularity in the movement of importations than in that of exportations. The greater part of imported merchandise comes from England. In 1867 the imports rose to £6,395,320; in 1868, to £7,222,760; in 1869, to £4,808,440. In the same

years the exports were £5,256,400, £7,221,320, and £4,187,160. The movement of shipping was, in 1869, 3,695 vessels arrived, with a capacity of 1,367,399 tons; 3,702 ships cleared, with a tonnage of 1,375,208. Since 1862 this movement remained within the following limits, arrivals and clearances combined:

YEARS	Ships.	Tonnage
1862	7,895	2,235,433
1863	6,976	2,119,880
1864	7,361	2,234,517
1865	6,126	2,871,182
1866	7,293	2,976,005
1867	7,543	2,052,593
1868	8,890	3,048,715
1869	7,397	2,742,807

Malta exports chalk, lime, olive oil, oranges, wine, wool, and small cattle; the imports are dry goods, beer, butter, coal, leather dressed and undressed, cotton both in tissue and in thread, iron, woolen and silk stuffs. — BIBLIOGRAPHY. Boisgelin, *Ancient and Modern Malta*, 2 vols., London, 1805; Bres, *Malta antica illustratra*, Rome, 1816; Avalos, *Tableau historique, politique, physique et morale de Malte*, Paris, 1830; Tullack, *Malta under the Phœnicians, Knights and English*, London, 1861. L. GOTTARD.

MALTHUS, Thomas Robert, was born at Rookery, near Dorking, in the county of Surrey, England, Feb. 14, 1766, and died at Bath, Dec. 29, 1834. His father, Daniel Malthus, was in comfortable circumstances, but as he was obliged to leave his fortune to his eldest son, he had Thomas Robert enter upon an ecclesiastical career. He first confided him to Richard Graves, author of "The Spiritual Don Quixote"; then he sent him to the Warrington academy, in Lancashire; but this institution not having been able to maintain itself, he had him complete his studies with Gilbert Wakefield, who enjoyed a great reputation in England. At eighteen years of age, young Malthus entered Jesus college, Cambridge; he took his degree there in 1788, and the following year entered holy orders. After remaining at home for some time, he received a curacy in the neighborhood. — This was a time when men's minds were in a state of fermentation in Europe, on account of the philosophic movement and the events of the French revolution. William Godwin, a publicist already well known, had just published his book on political justice, in which he claimed that moral evil and all the calamities of the human race were due solely to the defects of governments, and he proposed the establishment of an equality of conditions as a means to prevent the effects of bad political institutions. This work of Godwin had in England both adversaries and partisans. Among the latter was Daniel Malthus. Thomas Robert, his son, on the contrary, had learned from the study of history and of political economy (Adam Smith had published his book in 1776, and David Hume, who had been received into the family with J. J. Rousseau, had published his essays,) that, if defective governments contribute to make men vicious and miserable, the ignorance and degradation of the lower classes contribute powerfully either to form or to maintain bad governments. Malthus was therefore far from harboring any illusions as to the results which might be expected from public reforms. — Godwin published, in 1797, a collection of essays called "The Inquirer," upon education, morals and literature. One of these essays, upon prodigality and avarice, induced Malthus, then in the prime of youth, to take up his pen, and he answered by an "Essay on the Principle of Population," which he published anonymously, and which must be considered less as a first edition, than as an essay toward the celebrated work printed five years later. — Malthus opposed those writers in whose eyes the perfectibility of men and of political and social institutions was unlimited, and reduced almost to nothing the influence of bad governments; he defended property and opposed the various socialistic systems which had been already produced by utopians and others; he showed that society had never encountered but two obstacles to its progress, vice and misery; and he pointed out as the chief cause of these obstacles the too rapid increase of population relatively to the means of subsistence. — This book, which demolished the utopias and systems imagined for the happiness of the human race by popular writers, and which showed the various social phenomena in a new light, was attacked and defended with spirit, as Godwin's had been before it. This incited Malthus thoroughly to examine the subject once more. He first made use of the works of Hume, Wallace, Smith and Price. He examined what influence the principle of population, which he had brought to light, had exercised over nations in the different epochs of history; and desirous to add to the lessons of the past those of his own, he undertook a journey through a part of Europe. — In the spring of 1789 he departed from England with three other members of Jesus college, Cambridge, (among whom was Daniel Clark, known by his travels in different parts of Europe), and visited Denmark, Sweden and a part of Russia; he subsequently visited Switzerland and Savoy. The result of his travels was the publication of the second edition of the "Essay on the Principles of Population," in 1803, which excited attack even more than did the first. In this work, which was born of the first, but which was new in many respects, Malthus gave a fuller exposition of his ideas by their more complete development, and by the recital of numerous facts borrowed from history and from the situation of different countries; he applied his observations to institutions which had always been considered benevolent, and showed the dangers of an unintelligent philanthropy; he pointed out to the working classes that the best means of permanently raising the rate of wages was to exercise great circumspection in the matter of mar-

riage, etc. We give here only a very slight summary of his ideas, which will be more completely set forth in the article POPULATION. — A year after the publication of his work, Malthus was appointed professor of history and of political economy at the college of the East India company, at Ailesbury, near London; it was also about this time that he married. He fulfilled for thirty years his duties as professor and also as minister of the gospel; and it was during this period of his life that he three times revised his celebrated work, that he meditated upon the questions with which science concerns itself, and that he was led to publish his other writings: upon the corn laws (1814 and 1815), upon rent (1815), upon the principles of political economy (1819), upon definitions in political economy (1827), etc. — Despite its title, the book upon the principles of political economy is not a complete treatise, but only a collection of dissertations relative to the questions to which he had devoted the greatest share of attention, and which he discussed particularly with Ricardo and J. B. Say. He attempted to establish in this book how important it is not to hastily draw general principles from partial observations, and how essential it is to verify general laws by rigorous examination of the facts. He concluded, therefore, that what is absolutely true in principle is far from being always completely applicable in practice, and that, in the imperfect state of society, it is necessary to understand how to sacrifice, in a certain measure, the truth to the needs of prudence and order. This book is far from having had the same celebrity as that on population; this is due, in the first place, to the nature of the subject, and also, in our opinion, to the relative inferiority of the work. But it is enough glory for one man to have discovered a fundamental law, and to have elucidated it by such remarkable research and such profound observations. The dissertations of Malthus, however, have contributed much to the elucidation of many politico-economic principles, and notably to the theory of rent, to which Ricardo's name has been attached. The latter says, in the preface of his "Principles": "In 1815 the true doctrine of rent was published for the first time by Mr. Malthus, in a book entitled, 'An Inquiry into the Nature and Progress of Rent, etc.,' and by a fellow of the university of Oxford, in his 'Essay on the Employment of Capital in Agriculture,' (Dr. West)." M'Culloch had besides pointed out the same doctrine in a writing on the corn trade, published in 1777 by Anderson. This is not the place to examine into the relation of the theory of rent to these times; we only wish here to call attention to the value which Ricardo put upon this part of the works of Malthus, and also to the modesty with which he submitted his own ideas to the public. — What distinguishes Malthus is love of truth. "This love of truth," says Charles Comte, "which never contradicts itself, produced and developed in him the private virtues which distinguished him: justice, prudence, temperance and simplicity. He had a sweet character. He had such a great control over his passions, he was so indulgent to others, that people who lived near him for more than fifty years declared that they hardly ever saw him disturbed, never in anger, never excited, never cast down. No harsh word, no uncharitable expression, ever escaped his lips against a human being: and, although he was more the object of injustice and calumny than any writer of his age, perhaps of any age, he was rarely heard to complain of this kind of attack, and he never retaliated. He was very sensible to the approbation of enlightened and wise men; he placed a great value upon public esteem. But unmerited outrage affected him very little; he was as much convinced of the truth of his principles and the purity of his views, as he was prepared for contradictions and even for the repugnance which his doctrines could not fail to inspire in a certain class. His conversation naturally turned on those subjects which touch the well-being of society, and which he had made the special object of his studies; such conversation found him always attentive, serious, easy to move. He gave expression to his opinions so clearly and so intelligibly, that it was easy to see they were the result of profound reflection. Moreover, he was naturally gay and lively, and as ready to take part in the innocent pleasures of the young as to encourage them and direct them in their studies. He was among the most zealous partisans of parliamentary reform, and desired to see the government enter on the path of progress. Faithful to his political opinions at a time when they were far from leading to fortune, he did not make them a claim to favor when they triumphed; he had no thought of making science a stepping-stone to fortune. When his principles became the foundation of the law which reformed the poor laws, calumny and insult by the enemies of reform were not lacking for him. His adversaries tried to make the responsibility for the defects which they pointed out in the government's measure fall upon him; on the other hand, the partisans of that measure overloaded him with eulogy in the discussions which it gave rise to in parliament; but there the gratitude of his political friends and national munificence stopped. I must add that no one ever heard him complain either of the insults of the former or of the neglect of the latter."— Charles Comte speaks here of the reform of the poor laws. Despite the exaggerations of party spirit in favor of, and against it, Malthus' book vividly impressed all men endowed with a sense of justice, who sincerely desired to better the condition of the masses, and called the attention of men to the dangers of the poor laws. Propositions of reform were made at various times, and notably in 1817 by Mr. Samuel Withbread, and in 1821 by M. J. Scarlett, a learned lawyer; but it was not till 1834 that parliament decided to modify the legislation, after a celebrated inquiry, which confirmed most of the

truths Malthus had proclaimed. — It must have been a great joy to the illustrious economist to see the public action of his country inspired by that one of his opinions which had been most violently attacked. Malthus was then in his sixty-seventh year, and apparently in the enjoyment of very good health. But about the middle of December, 1834, on his arrival at Bath from London, to pass the Christmas holidays with his children at the house of his father-in-law, he became indisposed; a disease of the heart declared itself, and he died on the 29th of the same month. —Malthus is one of those writers whose ideas have been most misrepresented. We have only been able to indicate them here in a very summary manner; they will be more amply developed in the article POPULATION. JOSEPH GARNIER.

MALTHUSIANS. (See POPULATION.)

MANDARINS, magistrates and functionaries of the Chinese empire. This title was invented by the Portuguese established in the Indies, and derived from the Hindoo *mandri* (councilor). The true title is *khan* (chief); it was introduced by the Mantchu Tartars. — There are nearly 100,000 mandarins, classed in eighteen orders. They are councilors of the emperor, ministers, governors of provinces, military commanders, judges, inspectors of letters, etc.; they form various graduated, administrative and judicial tribunals which check each other, and the highest of which controls the acts of the emperor. — The mandarins acquire their hierarchic degrees only after having passed very difficult examinations. The candidates are confined in cells, and there are few examinations which do not last three days; it is not rare, on opening the cells to see the written examination, to find the candidates dead of brain fever. The Chinese profess that places should only be granted to merit. The intention is excellent; but how it is realized is not certain. J DE B.

MANGUM, Willie Person, was born in Orange county, N. C., in 1792, and died at Red Mountain, N. C., Sept. 14, 1861. He was a representative in congress from North Carolina 1823–6, and United States senator 1831–6 and 1840–53. In 1836 he received the electoral vote of South Carolina for the presidency. (See ELECTORAL VOTES, WHIG PARTY.)

MANIFESTO. Taken in its widest sense this word signifies a solemn statement, a public declaration, which one power makes to another of its rights, its grievances, its claims, either before taking arms, to oblige the second to render it justice, or, after having had recourse to arms, to conciliate other nations. It is a proceeding which modern nations seem to have borrowed from the Romans. According to the *fecial law*, the herald at arms, called *pater patratus*, went, protected by his sacred character of ambassador, to demand satisfaction of the people who had offended the republic, and if within the space of thirty-three days such people had not made a satisfactory answer, the herald called the gods to witness the injustice, and returned, saying that the Romans would see what was to be done. This was the preliminary act of the declaration of war. (The Romans doubtless were not its inventors; the use of declarations must be more ancient, or more general.) — There is also the manifesto of a sovereign, of the head of a state, of a government, to a people. But the word more generally employed is proclamation, as is shown by examples drawn from the later revolutions which took place in France. In this case the manifesto is frequently a kind of plea addressed to the tribunal whose decision is final, public opinion. — One of the most celebrated manifestoes of modern history is that which was published, dated Coblentz, July 25, 1792, by the duke of Brunswick-Luneburg, which roused the indignation of all France. In 1859, after the Italian campaign, the emperor, Francis Joseph, addressed under the title, *A manifesto to my peoples*, a document in which he explained, with a sadness which was not without grandeur, the causes which had conduced to end the war. — The manifestoes by which it is sought to lay before other nations or before the public, the rights, intentions, measures of a given state or government, require on the part of those who draw them up, propriety of terms and precision of ideas, without excluding the elevation and warmth of style which constitute eloquence. To prove, to convince, to speak to the mind and the heart, are the two great objects which it is proposed to attain, and in this instance the style is not confined to that austere brevity which is peculiar to other diplomatic documents.

EUGENE PAIGNON.

MANUFACTURES. (See INDUSTRY.)

MARKET. (See OUTLET.)

MARRIAGE. Marriage has been defined by a celebrated modern jurist: "The association of man and woman, who unite to perpetuate their species, to mutually help one another to bear the burdens of life, and to share a common destiny." — This great institution, the first foundation of civilization, may be considered from very different points of view. The continuation of the human species, the satisfaction of its most powerful passion, moral affinity consecrated by religion, the union of civil and family interests, sometimes even of political interests, when there is question of persons of elevated rank whose august and at the same time grave mission it is to unite in themselves part of the destinies of nations, such are some of the elements which belong to the institution of marriage and are developed by it in different degrees, according to times and circumstances. — "Philosophers," says Portalis, "consider in this act principally the union of the two

sexes; jurists see in it only the civil contract, and canonists only the sacrament, or what they call the ecclesiastical contract." Let us, in our turn, endeavor to show in a few words the no less important part that political economy should claim in the study of this contract, which forms in some sort the corner stone of human society, and in which it is easy to recognize, at the same time, the principle of population, the support of property, the stimulant of production, and the principal means of the preservation and transmission of wealth. — We can find no instance in history of a people who attained any considerable development that allowed a promiscuous intermingling of the sexes. Common and constant experience shows the relative sterility of libertinism, while at the same time it proves its wretched and abandoned fruits to be much more subject to early death than those of lawful unions. Distaste for marriage has even imperiled nations which had reached quite a high degree of civilization; and the history of Rome, at the fall of the republic, presents the sight of a city the mistress of the world, threatened by her own population with wars, proscriptions and contempt for the institution that was intended to recruit her families and support the state. — In our day a contrary danger has, undoubtedly, preoccupied the minds of a great many economists. In our society, formed under the influences of Christianity and rich in its traditions, the inconsiderate increase of population has been considered a source of dread: legislators no longer apply themselves, like those of Rome and ancient France, to encourage marriage; on the contrary, they have sometimes thought of restraining it; the number of marriages even seems to have decreased. But the very fears of some economists of our day who devote their attention especially to the restricted society of old Europe, themselves prove full well the beneficent power of an institution which, when applied to the whole world, is still so far from having achieved its work of extending and propagating the human species. — Marriage, which peoples the earth, also confers upon each of its parts that reign of individuality which constitutes *property*. Want and personal foresight, which are the generative principles of appropriation, in reality acquire their full intensity only in heredity, which extends the view of the possessor beyond the term of his present existence. Marriage alone, then, gives to the principle of appropriation the full latitude of its horizon. It is marriage which, by the urgent and tender incentive of heredity, develops man's individual property; it is marriage which transforms this property into *patrimony*, and furnishes the most salutary and efficacious stimulant to the production of wealth. Thus the accumulated work of generations, in the different branches of human activity, every day enlarges the majestic basis of civilization in the world. — History frequently confirms, by striking coincidences, this remarkable solidarity between the institution of marriage and that of property, of which theory affords us but a passing glimpse. Sparta, for example, wished to submit the union of the sexes to the direction of the state, and thus reduce this sacred union, so nobly styled by a Roman jurist the *communication of the divine and human law* * * *, to a mere pairing of animals. The Doric city at the same time included property in the agrarian distribution made by Lycurgus. Conjugal faith, the law of paternity, the sentiment of individual property, were destined to be confounded in Lacedemonia in one same sacrifice. — Mark the economy of these great institutions upon which humanity rests. Marriage, which founds property upon the family which it creates, is at the same time eminently fitted, by the fruitful union of the different faculties which it unites, to procure the preservation of the patrimony which it has acquired. The physical strength of man, the ingenious and assiduous care of his companion, present in the preservation of the goods of the family, not less than in the education of the children, a first application of that division of labor which is justly brought forward by political economy as one of the most powerful means of progress in human activity. — The intimate harmony which exists between the institution of marriage and the institution of property has been frequently manifested also by the comparison of the laws relative to inheritance with those which regulated, in such different manner, the conditions of conjugal union and the prohibitions with which different legislators have surrounded it. "When a legislator," says Portalis, "had established a certain order of succession the observance of which he considered important for the political constitution of the state, he so regulated marriage that it was never allowed between persons whose union could disturb or alter this order; we find examples of this solicitude in some of the republics of ancient Greece." A law of Athens, for example, allowed a man to marry his half-sister on his father's side, but not his half-sister on his mother's side, in order to prevent the union under one owner of two estates, and consequently of two inheritances. — Marriage, besides, has not attained everywhere the same economic and moral dignity which it possesses in our modern Christian society. This great institution may be found in the world under two entirely distinct forms, which mark one of the principal divisions in the history of civilization. — Monogamy, which is in our eyes the perfect type of marriage, puts man and woman on an equality, in so far as their moral and physical differences will permit. It was, however, but rarely met with in antiquity as a general and obligatory institution, although the appreciation of its perfection was from the earliest ages acknowledged by many legal enactments. In this respect, as in many others, Roman civilization justly lays claim to the honor of having in some sense prepared the way for the revolution which Christianity completed in the world, and of having powerfully contributed to

inaugurate, by the elevated morality of its laws, the true principles of reason and of social progress. It may be truly said, on the other hand, that the indissolubility of marriage was established by Christianity alone, and that pagan Rome created a sort of permanent exception thereto by the institution of divorce. — Polygamy, to consider it only under its most general form—that is, the form which allows a man several wives—by this very fact unwarrantably subjects the weaker sex to the caprice, fickleness and domination of the stronger. — All the salutary effects of marriage are in part perverted by polygamy, which, however, was the general law of antiquity, and one which is still obeyed by half the world. — The experience of Mohammedan countries proves that polygamy is unfavorable to population, and the Turkish historians themselves show that the Christian families in the Ottoman states are the most numerous. Moreover, the sole effect of polygamy is to concentrate and monopolize, to the advantage of a few, the union of the sexes, which are about equal in number. How can such an institution offer any advantages for the progress of population? If, after having invaded Europe, Mohammedanism has been driven back within the narrow limits of its first conquests, polygamy is one of the chief causes which must ever hold it bound and powerless. — Polygamy does not establish a real family; it places between the children of a common father the influence of maternal rivalry, as a dire germ of inevitable discord. Property itself does not seem to attain its perfect form by the side of this system of conjugal union. With the wife but an uninterested slave, and the family destroyed, individual property seems shaken to its very foundation, and is absorbed, as is ordinarily the case in Mohammedan countries, in the sovereign domain of the head of the state. Human liberty, property and the dignity of the family can exist only by mutually sustaining each other. From an economic point of view, therefore, as well as from a moral standpoint, polygamy is a debasement of marriage, of which monogamy is the only normal and faithful expression. Side by side with the contract which unites their lives there are different forms of agreement regulating the interests of the man and woman joined by the conjugal tie. — From universal community to absolute separation of goods there are numerous gradations admitted by law, which we do not propose to describe here in detail. The economist finds in the system of community of goods between husband and wife, marked advantages for commerce and the circulation of wealth; the moralist sees in it the wife elevated by a greater responsibility, and stimulated by an interest in the common prosperity of the household more positive than that resulting only from conjugal sympathy and maternal solicitude. The jurist, who is acquainted with the anxiety, the fitness, and sometimes with the sad experience of families, is less absolute in his preferences, and often refrains from applying to the circumstances and interests, which he would conciliate, the means necessary to secure the desired result for the sake of the end of marriage and the good of those interested in conjugal union. — Such is the power of this great institution of marriage, that by the morality of the domestic hearth which it consecrates, by the principles of labor and economy which it propagates, by the spirit of property which it nourishes, by its influence over the destiny of the family which it is called upon to regulate, it is of interest everywhere to the progress of the world and the development of civilization. E. DE PARIEU.

MARSHALL, John, was born at Germantown, Va., Sept. 24, 1755, and died at Philadelphia July 6, 1835. He was admitted to the bar in 1781, took high rank as a lawyer, and obtained the militia title of "General Marshall," by which he was commonly known until 1801. In 1797–8 he was an envoy to France (see X. Y. Z. MISSION); after his return he was a federalist congressman from Virginia 1799–1800, when he became secretary of state under Adams. (See ADMINISTRATIONS, III.) He was appointed chief justice of the United States Jan. 31, 1801, and served until his death. (See JUDICIARY; CONSTRUCTION, III.; FEDERAL PARTY.) His decisions are in Cranch's, Wheaton's and Peters' reports, in Peters' condensed reports (covering Cranch's and Wheaton's), and in Brockenbrough's "Marshall's Decisions" (circuit). See 2 Flanders' *Chief Justices;* Story's *Miscellaneous Writings* 639. A. J.

MARYLAND, a state of the American Union. The patent for its territory was first applied for by Sir George Calvert, "baron of Baltimore," and after his death was made out to his son and heir, Cecil, June 20, 1632. Calvert at first intended that it should be called "Crescentia"; but the patent gave it the name of "Terra Mariae, *Anglice* Maryland," by which latter name it has since been known. The name was given in honor of Henrietta Maria, Charles I.'s queen. The proprietorship remained in the Calvert family until its extinction, with the exception of the period 1691–1715, when the crown made Maryland a royal colony because of the asserted disloyalty of the proprietor. In 1771 the last Calvert died, leaving the province to his illegitimate son, Henry Harford; but the revolution which immediately followed put an end to his proprietorship. — BOUNDARIES. The charter gave the colony as a northern boundary the 40th parallel of north latitude; as an eastern boundary Delaware bay and the ocean; as a southern boundary a due east line from Watkin's point to the ocean; and as a western boundary the "Pattowmack" river to its "first fountain," and thence due north by a true meridian. The grant, therefore, evidently embraced the whole of the modern state of Delaware, and a wide strip of southern Pennsylvania, including the city of Philadelphia. Penn claimed the parallel of 39° as "the beginning of the

parallel of 40°," which was to be his southern boundary; and disputed Baltimore's claim to Delaware, since the Maryland patent was for "uncultivated lands," and Delaware was already settled by the Swedes. Penn's influence with Charles II. obtained a verdict in his favor from the board of trade in 1685, but the Baltimore family did not finally submit until 1766. In that year the two proprietors sent Charles Mason and Jeremiah Dixon, two English surveyors, who marked off "Mason and Dixon's line," as decided by the board of trade, placing at the end of each mile a stone with the letter P and the Penn arms on the north side, and the letter M and the Baltimore arms on the south side. (See PENNSYLVANIA, DELAWARE.) The southern boundary was settled with Virginia in 1668; but in 1858 the commissioners appointed to restore it found that it had not been drawn due east, varying slightly to the north. Maryland, however, did not attempt to change the ancient line. On the west, Maryland always claimed the south branch as the true origin of the Potomac; but Virginia has successfully maintained the north branch as the boundary, though the question has never been formally settled. — CONSTITUTIONS. The colony was established as a refuge for Roman Catholics, but absolute toleration was given from the first settlement to the religious beliefs of all settlers. From 1691 until the revolution the Protestants were strong enough to disfranchise the Roman Catholics. The charter was also careful to secure the organization of a popular assembly, which shared the government of the colony. The first constitution was framed by a convention at Annapolis, Aug. 14 – Nov. 11, 1776, and was not submitted to popular vote. The right of suffrage was given to freemen over twenty-one, having a freehold of fifty acres, or £30 in property. The legislature was to be composed of a senate and a house of delegates. (See ASSEMBLY.) Delegates were to be chosen annually, four from each county, two from Annapolis, and two from Baltimore; and were to have £500 in property. There were to be fifteen senators, nine from the eastern shore, and six from the western shore, who were to be chosen by electors chosen by the people, and were to be owners of £1,000 in property. They were to serve five years. The governor was to be chosen annually by the legislature on joint ballot, with a council of five. The choice of the capital was left to the legislature, which selected Annapolis. In 1810 an amendment abolished property qualifications for office, and gave the right of suffrage to white males over twenty-one, on one year's residence. In 1837 several amendments were made. The constitution of the senate was abolished, and a new apportionment of delegates was made; twenty-one senators were now to be chosen, one from each county and one from Baltimore; the governor was made elective by the people; and the legislature was empowered to abolish slavery, with compensation to owners, provided the necessary act should be passed unanimously by both houses of two successive legislatures, with three months' publication between. — The second constitution was framed by a convention at Annapolis, Nov. 4, 1850 – May 13, 1851, and ratified by popular vote June 4, 1851. Its principal changes were as follows: the governor was to hold office for four years, senators for four years, and delegates for two years; a new apportionment of delegates was made; and the legislature was to create corporations by general laws, never to grant state aid to corporations, and never to abolish slavery. — The third constitution was framed by a convention at Annapolis, April 27 – Sept. 16, 1864, and was ratified, Oct. 12–13, 1864, by the following close vote: in favor, home vote 27,541, soldiers' vote 2,633; against, home vote 29,536, soldiers' vote 263; majority in favor, 375. It declared the paramount allegiance of the citizen to be due to the government and constitution of the United States; abolished slavery, forbade compensation to owners by the legislature; made a new apportionment of delegates according to population, disfranchised all persons who had borne arms against the United States or had even "expressed a desire for the triumph of enemies over the arms of the United States"; and applied the disfranchisement clause to the vote on the new constitution itself. — The fourth constitution was framed by a convention at Annapolis, May 8 – Aug. 17, and ratified by popular vote, Sept. 18, 1867. It omitted the disfranchisement clauses, and instead of the "paramount allegiance" clause used the "supreme law" clause of the federal constitution. (Art. VI., ¶ 2.) — GOVERNORS. Thomas Johnson, 1777–9; Thomas Sim Lee, 1779–82; Wm. Paca, 1782–5; Wm. Smallwood, 1785–8; John Eager Howard, 1788–91. George Plater, 1791–2; Thomas Sim Lee, 1792–4; John H. Stone, 1794–7; John Henry, 1797–8, Benj. Ogle, 1798–1801; John Francis Mercer, 1801–3; Robert Bowie, 1803–6; Robert Wright, 1806–9; Edward Lloyd, 1809–11; Robert Bowie, 1811–12; Levin Winder, 1812–15; Charles Ridgely, 1815–18; Charles Goldsborough, 1818–19; Samuel Sprigg, 1819–22; Samuel Stevens, Jr., 1822–5; Joseph Kent, 1825–8; Daniel Martin, 1828–9; Thomas King Carroll, 1829–30; Daniel Martin, 1830–31; George Howard, 1831–2. Jas. Thomas, 1832–5; Thomas W. Veazey, 1835–8; Wm Grayson, 1838–41; Francis Thomas, 1841–4; Thos. G. Pratt, 1844–7; Philip Francis Thomas, 1847–50; Enoch L. Lowe, 1850–54; Thos. Watkins Ligon, 1854–7; Thos. Holladay Hicks, 1857–61; Augustus W. Bradford, 1861–5, Thos. Swann, 1865–7, Oden Bowie, 1867–71; Wm Pinkney Whyte, 1871–5; John Lee Carroll, 1875–9; Wm. T. Hamilton, 1879–83. — POLITICAL HISTORY. From the first organization of political parties in the United States, Maryland was a very reliably federalist state. In this she seems to have been influenced, at least in part, by the general feeling of opposition to the politics of her neighboring state of Virginia, which was the rule until 1860, and which, indeed, seems to have been inherited from colonial times. The

federalist control of the state lasted until 1802, but sometimes by a precarious tenure. In 1797 the legislature was so evenly divided that, while the democrats elected the governor, the federalists elected a United States senator, to succeed the new governor, by a majority of one. With the beginning of the century the current turned the other way. The democrats elected the presidential electors and a majority of the lower house in 1800, a majority of the whole legislature in 1801, and a majority of both houses and of the congressmen in 1802. The democratic control of the state brought about the widening of the right of suffrage in 1810, referred to above. It was preceded by an enlargement of the right of suffrage by statute, which was passed early in 1802 after a two years' resistance by the federalist senate, and then only after an implied threat of a convention to revise the constitution, and abolish the electoral character of the senate. Presidential electors were chosen by districts, and the federalists secured two of the eleven electors in 1804 and 1808, and five in 1812. — July 26–27, 1812, occurred the Hanson riots in Baltimore, occasioned by Hanson's persistence in publishing a federalist newspaper, "The Federal Republican," there. The mob sacked the office, and killed or cruelly beat twenty-five or thirty persons who defended it. Among these was the partisan leader "light-horse Harry" Lee, of the revolutionary army, who was crippled for life. The feeling, which this affair aroused, restored the state to the federalists in the October election of the same year. Their majority in the lower house was so large as to more than offset a unanimously democratic senate, chosen the previous year. The federalist control lasted until the extinction of the party, with occasional democratic successes. As a general rule, however, the federalists were in a popular minority, and their control of the state was due to the features of the state constitution, which gave the growing city of Baltimore but half as much influence in the legislature as the weakest of the counties. — The growth of Baltimore and the western counties made the electoral constitution of the senate very unpopular, but the minority resisted all attempts to change it until 1837, when the amendments referred to under the first constitution above were adopted. These reforms were forced by the refusal of the democratic senatorial electors to qualify and form a quorum in 1836, and by an attempt, June 6, 1836, of a popular convention of Baltimore and other counties to call a convention to revise the constitution, "without the aid of the legislature." The attempt created great excitement, but was never brought to an open election for the proposed convention. — From 1820 until 1852 the popular majority in the state was anti-democratic in every presidential election, though the district system of choosing electors gave Jackson seven of the eleven in 1824. The majority, however, was never large; in 1832 it was but four out of nearly 40,000 votes. During the same period the legislatures were very steadily whig, and consequently the United States senators, and the governors until 1837, were of that party. After 1837, when the election of governor was given to the people, there was but one whig governor chosen, Thos. G. Pratt. In the presidential election of 1852 the democrats carried the state. After the destruction of the whig party in 1854–5 its Maryland organization, taking the name of the American party, controlled the state until 1859, electing the governor, United States senator, four of the six congressmen, and a majority of the legislatures, and casting the electoral vote of the state for Fillmore in 1856. (See AMERICAN PARTY.) In 1859 the democrats obtained a majority of both houses of the legislature, and in 1860 they secured the electoral vote of the state for Breckinridge, but only by a very narrow plurality over Bell, (See CONSTITUTIONAL UNION PARTY.) — At the outbreak of the rebellion in 1860–61, the addition of Maryland to the southern confederacy was warmly desired by the leaders of the secession movement, in order thus to bring Washington city within the pale and into the possession of the confederacy, and make the new government, in the eyes of foreign nations, at least the *de facto* successor of the government of the United States. This desire was shared by many of the state's democratic politicians, who had long been used to the idea of secession as an antidote to abolition, and by many of the younger men. These two classes brought a strong pressure to bear on Gov. Hicks, to induce him to call a special session of the legislature, without which no state convention was constitutionally possible. The governor refused to convene the legislature, and asserted that all the arrangements had already been made to force an ordinance of secession through the proposed convention. — This excitement, however, as in other southern states, was almost entirely confined to the politicians; the people, except in the extreme southern counties, were almost unanimously against secession. The feeling, indeed, was not based upon a disbelief in the *right* of secession (see ALLEGIANCE, II.), so much as on economic reasons, such as the inevitable transfer of the war from Virginia to Maryland, and the immediate loss of $50,000,000 in slave property, but its existence, from whatever cause, can not be doubted, nor should it be denied the fair credit for its results. Any reader can easily estimate the increased probability of European recognition which would have followed a secession of Maryland in February, 1861, the irruption of rebel troops over her territory, and the inauguration of the confederate government in Washington instead of in Montgomery. — The fall of Sumter, the president's call for troops, and the armed conflict in Baltimore (see REBELLION) so moved the disaffected classes that they had actually issued an unauthorized call for a meeting of the legislature at Baltimore, when the governor anticipated it by summoning the legislature to meet at

Frederick, a more loyal city, April 26. When this body met, it was found to be unionist, but more from policy than from principle: in the house of delegates a motion looking toward secession was rejected by a vote of fifty-three to thirteen, and a resolution condemning the war against the south was carried by a vote of forty-three to twelve. In September, 1861, a large number of the members were subjected to military arrest (see HABEAS CORPUS), on strong suspicions of secessionist intentions, and the session came to an abrupt end. The governor, in his message to the new legislature, a strongly unionist body, which met Dec. 3, 1861, expressed his own and the popular condemnation of the dispersed legislature for "passing treasonable resolutions," "squandering the people's money," and "trying to plunge us into the vortex of secession." — Throughout the war the state's congressional representation was unanimously unionist, the pro-southern members of the legislature were a very meagre minority, and even when rebel armies entered the state for its "redemption," their reception was so chilling that they finally treated Maryland as enemy's territory. Nevertheless the early neutral attitude of the state, and particularly the Baltimore riots of 1861, influenced the other loyal states to see with comparative indifference a continuance of military arrests and confiscations in Maryland which is still remembered there with some bitterness. One result of this régime was the adoption of the constitution of 1864. (See ABOLITION, III.) Its disfranchising clauses, which the convention assumed to apply to the vote on the constitution itself, awoke general opposition, and in the next constitution were omitted. The memories of this period have since made Maryland very steadily democratic. In 1868, after the remission of disfranchisement by the constitution of 1867, the legislature became unanimously democratic, and in 1882 the republican vote is but ten out of twenty-six in the senate, and thirty out of eighty-four in the house of delegates. In the Frederick congressional district, however, the republican vote has continued strong; in 1874 and 1876 it was only beaten by seventy-eight and fourteen votes respectively out of about 30,000, and in 1878 and 1880 it elected its candidate, who has been the only republican congressman in the state since 1868. — Chief Justice Taney, and Henry Winter Davis (see those names) are the most prominent Maryland names in our national political history. Among the other leaders of state politics have been the following: Charles Carroll, "of Carrollton," one of the early revolutionary leaders, a signer of the declaration of independence, United States senator (federalist) 1789–92; Samuel Chase, a signer of the declaration, supreme court justice 1796–1811 (see IMPEACHMENTS, III.); J. A. J. Creswell, postmaster general under Grant; Chas. W. Goldsborough, federalist representative 1805–17, and governor 1818–19; Alexander C. Hanson, federalist representative 1813–17, and United States senator 1817–19; Robert G. Harper, United States senator in 1816 (see SOUTH CAROLINA); Reverdy Johnson, whig United States senator 1845–9, attorney general under Taylor, democratic United States senator 1863–8, and minister to England 1868–9; Wm. Cost Johnson, whig representative 1833–5 and 1837–43; John P. Kennedy, whig representative 1838–9 and 1841–5, and secretary of the navy under Fillmore; Joseph Kent, federalist representative 1811–15 and 1819–26, governor 1826–9, and whig United States senator 1833–7; Philip B. Key, federalist representative 1807–13, Edward Lloyd, federalist representative 1806–9, governor 1809–11, United States senator 1819–26, and president of the state senate 1826–31; Luther Martin, at first the leading anti-federalist of his state, but afterward one of the most distinguished federalist lawyers of the country (see BURR, AARON); Wm. Vans Murray, federalist representative 1791–7, and minister to the Netherlands 1797–1801 (see X. Y. Z MISSION); William Pinkney, minister to Great Britain 1806–11, attorney general under Madison, democratic representative in 1816, minister to Russia 1816–18, and United States senator 1820–22; Thos. Swann, democratic governor 1865–7, and representative 1869–79; Francis Thomas, democratic representative 1831–41, governor 1841–4, republican representative 1861–9, and minister to Peru 1872–5; Wm. Pinkney Whyte, democratic United States senator 1868–9, governor 1871–5, and United States senator 1875–81. — See Bozman's *History of Maryland* (to 1660); 1 Poore's *Federal and State Constitutions;* Neill's *Terra Mariæ;* 4 Griffith's *Early History of Maryland;* J. Dunlop's *Memoir of the Penn-Baltimore Controversy* (in 1 *Penn Hist. Soc. Mem., Part* 1); Latrobe's *History of Mason and Dixon's Line;* Veech's *History of Mason and Dixon's Line;* Hinkley's *Maryland Constitution of* 1867; *Documents accompanying Governor's Messages,* Jan. 1, 1864, and Jan. 1, 1865; McSherry's *History of Maryland* (to 1848); Scharff's *Chronicles of Baltimore* (1873); Onderdonk's *History of Maryland* (to 1867); Goldsborough's *Maryland Line in the Confederate States Army* (1869); Tuckerman's *Life of J. P. Kennedy;* Wheaton's *Life of Pinkney;* Pinkney's *Life of Pinkney;* Tyler's *Life of Taney;* Scharff's *History of Maryland* (1879).

ALEXANDER JOHNSTON.

MASON AND DIXON'S LINE. (See MARYLAND.)

MASSACHUSETTS, one of the original thirteen states of the American Union. I. BOUNDARIES. The present boundaries of the state are the final result of compromises and agreements with all the surrounding states. (See MAINE, NEW HAMPSHIRE, VERMONT, NEW YORK, RHODE ISLAND.) The territory granted by the first charter to the "governor and company of the Massachusetts-Bay" was embraced between points three miles south of "any or every part" of the

Charles river, and three miles north of "any or every part" of the Merrimac river, and extending westward to the Pacific ocean. The southern boundary, between Massachusetts and Connecticut, was run in 1642, according to the terms of the charter; but the line was not run due west, and two towns of Connecticut were considered part of Massachusetts for nearly a century. The present southeastern portion of the state, the counties of Plymouth, Barnstable and Bristol, fell to it on the union of the Massachusetts-Bay and Plymouth colonies in 1691; and the boundary between it and Rhode Island was fixed in 1741. The northern boundary offered more difficulty. Massachusetts' agents traced the course of the Merrimac toward the extreme north; and the colony claimed the whole coast to a point on a line passing "three miles north of the Merrimac." The claim to the district of Maine was not established until 1737. The claims to the jurisdiction of the territory to the west of the present western boundary line were terminated by cessions to New York and to the United States. (See the states named above, and TERRITORIES.) — II. CONSTITUTIONS. The first civil organization was the "covenant" signed on board the Mayflower, Nov. 11, 1620, by the so-called "pilgrims" who were to form the Plymouth colony. They obtained a patent from the Plymouth company, June 1, 1621, and a grant of the land included between lines drawn north from the mouth of Narragansett river, and west from Cohasset rivulet, June 13, 1630; but neither of these transactions was confirmed by the king, nor was a charter granted. Nevertheless, the Plymouth colonists maintained a government of their own (see NEW ENGLAND UNION), and remained distinct until the union of their colony with that of Massachusetts-Bay, Oct. 7, 1791. — The colony of Massachusetts-Bay was chartered March 4, 1628–9, and the English associates, by resolution of Aug. 29, 1629, of doubtful legality, transferred the powers of government from England to Massachusetts. Here the legislative powers were at first exercised by a general meeting of the freemen (church members). In 1634 the general court was made representative, consisting of not more than two delegates from each town. (See BURGESSES.) In 1644 the general court was divided into two coordinate bodies. June 18, 1684, upon a writ of *quo warranto*, the English chancery gave judgment against the colony, and vacated its charter. King James then attempted to govern Massachusetts as a royal colony, appointing first Joseph Dudley, and then Sir Edmund Andros, as governor. April 18, 1689, the people openly revolted and kept the royal officials in prison until the news of James' abdication arrived. The new sovereigns, William and Mary, were willing to enjoy the fruits of James' oppression; they refused to restore the old charter, but granted a new one, Oct. 7, 1691. This charter vested in the crown, instead of in the colony, the choice of the governor; gave that official a negative on the acts of the general court; and united Nova Scotia to the "reall [royal] province of Massachusetts-Bay" Aug. 26, 1726, an explanatory charter gave the lower house of the assembly the right to choose their speaker, subject to the governor's approval, and to adjourn for not more than two days. — From the year 1766 the crown was engaged in a persistent attempt to still further modify the republican features of the Massachusetts charter, and the attempt, equally alarming to every colony, seems to have been the great moving cause of the open conflict which followed. (See REVOLUTION.) A series of mutual provocations on the part of ministry and colony, unnecessary to be detailed here, resulted in the practical abrogation of the charter by an act for the government of the colony, April 15, 1774. It took from the legislature the choice of the council and of superior court judges; gave the appointment of sheriffs to the governor, and the selection of juries to the sheriffs; and forbade town meetings, except for elections only, or by special permission of the governor. Congress approved the resistance of Massachusetts to the abrogation of the charter; the ministry undertook to meet resistance by force; and the organization of a new national government took place. (See CONGRESS, CONTINENTAL; DECLARATION OF INDEPENDENCE.) — Provincial congresses met Oct. 5, 1774, and Feb. 1, 1775, and the last general court under royal authority was dissolved June 17, 1775. July 19 following, a popular general court met at Watertown, and assumed both the legislative and the executive powers. This body, Feb. 28, 1778, adopted a constitution, which was rejected by popular vote March 4. A constitution, drawn up by John Adams, was adopted by a convention at Cambridge, Sept. 1–6, Oct. 28 – Nov. 11, 1779, and Jan. 5 – March 2, 1780, and was accepted by popular vote. It declared the commonwealth to be "a free, sovereign and independent state"; gave the legislature power to compel attendance upon public worship; constituted a legislature, called "the general court," composed of a senate of forty, chosen annually by districts of various sizes, and a house of representatives, chosen annually by towns in proportion to population; provided for a governor, to be chosen annually by the legislature if there was no popular majority, and to be given the title of "his excellency"; limited the right of suffrage by a property qualification of £60; provided for the support of Harvard college, public schools and grammar schools; and gave the governor power to remove judges on address of both houses of the legislature. The constitution went into force Oct. 25, 1780, and the first legislature under its provisions met at Boston on that day. — A convention, Nov. 15, 1820 – Jan. 9, 1821, adopted fourteen amendments, nine of which were ratified by popular vote, April 9, 1821. Their principal changes were the abolition of the property qualification for suffrage; the adoption of a simpler form of an oath of allegiance, without retaining

the declaration of a belief in the Christian religion; and provision for future amendment by vote of the legislature and ratification by popular vote. In this manner amendments have been proposed and ratified by nine legislatures, the most important being the change of the beginning of the political year from May to January (1833); the apportionment of the senators according to population (1840); the establishment of an educational limitation (ability to read and write) upon the right of suffrage (1857); the disfranchisement of aliens for two years after their naturalization (1859), and the abolition of this latter amendment (1863). — In 1851 the popular vote was against the calling of a constitutional convention. In the following year the result was the reverse; and a convention at Boston, May 4 – Aug. 1, 1853, adopted a revised constitution, which was rejected, Nov. 14, by a small popular majority. The organic law of the state is therefore still the constitution of 1780. — The representation of the towns in the lower house has caused a difficulty which has grown with the increase of population. From 1840 until 1857 one representative was apportioned to 1,200, and one more for 2,400 additional population in a town; each town having less than 1,200 inhabitants was to be represented as many years in each decade as the number 160 was contained in the number of its inhabitants; and the apportionment of representatives or representation was to be made by the governor and council after each decennial census. Since 1857 the house is fixed at 240 members; the legislature apportions the representation to the counties; and the county commissioners (or the mayor and aldermen in Boston) apportion the county's representation among representative districts. In the state political conventions, however, town representation is still retained, making these bodies very large in numbers. — GOVERNORS: (from 1775 until 1780 the legislative council); John Hancock, 1780–85; James Bowdoin, 1785–7; John Hancock, 1787–93; Samuel Adams, 1793–7; Increase Sumner, 1797–9; Moses Gill, 1799–1800; Caleb Strong, 1800–7; James Sullivan, 1807–8; Levi Lincoln, 1808–9; Christopher Gore, 1809–10; Elbridge Gerry, 1810–12; Caleb Strong, 1812–16; John Brooks, 1816–23; William Eustis, 1823–5; Marcus Morton, 1825; Levi Lincoln, 1825–34; John Davis, 1834–5, Samuel T. Armstrong, 1835–6; Edward Everett, 1836–40; Marcus Morton, 1840–41; John Davis, 1841–3; Marcus Morton, 1843–4; George N. Briggs, 1844–51; George S. Boutwell, 1851–3; John H. Clifford, 1853–4; Emory Washburn, 1854–5; Henry J. Gardner, 1855–8; Nathaniel P. Banks, 1858–61; John A. Andrew, 1861–6; Alexander H. Bullock, 1866–9; William Claflin, 1869–72; William B. Washburn, 1872–4; Thomas Talbot, 1874; William Gaston, 1874–6; Alexander H. Rice, 1876–9; Thomas Talbot, 1879–80; John D. Long, 1880–82; Benjamin F. Butler, 1882–3. — POLITICAL HISTORY The colonial history of the state has colored all its after history. The government was very democratic, excelled in this respect only by Connecticut, in which the governor was still elective; in intelligence, education and wealth the people were very nearly on a plane, and that a high one; freemen and representatives alike were infinitely more accustomed to dealing with equals than with superiors; and yet the population was so homogeneous that feeling and action were generally in unison, and the establishment of a state church was hardly felt to be a burden. The great force of Massachusetts came from this combination of conscious individualism with unity of action; it was not so much the law that was supreme, as the individual's conscientious interpretation of the law, and the general agreement of the mass of individuals in the same interpretation. There was thus developed a state which fought the battles of Lexington and Concord upon the technical ground of the individual's right to traverse the king's highway unmolested, and which followed them up by the collection of a voluminous mass of affidavits, by spectators and participants, to influence individual opinion at home and abroad. Individualism has always been the law of state politics; Massachusetts democrats have been as tenaciously indifferent to the fact that their party was in a hopeless minority in the state as their federalist and whig neighbors have been to the fact that their parties were in a hopeless minority in the nation; and Massachusetts members of all parties have been pre eminent for a personal dissection of principles to their logical results, regardless of personal, party or other interests This last form of individualism has been variously characterized as fanaticism or as devotion to principle; but its existence has always been an essential factor in Massachusetts politics. — The political history of the state falls most naturally into four periods: 1, 1775–97; 2, 1797–1823; 3, 1823–48; 4, 1848–82. During the first period the agricultural interest was predominant; during the second, the commercial; during the third and fourth, the manufacturing; but, during the fourth, the rise of a moral question to the surface of politics upturned the state parties from the foundations, and for the first time since 1797 placed Massachusetts in sympathy with a dominant national party. — I.: 1775–97. Massachusetts went into and came out of the revolution at the head of the states, though she only stood eighth in population She had brought on the contest by her stubborn resistance to the ministry; she had fought the opening battles and begun the siege of Boston of her own motion; to the prosecution of the war she had contributed 92,563 men, her nearest competitors being Virginia with 52 715, and Connecticut with 42,831; and, though a formal deference was always paid to the leadership of Virginia, it is indubitable that Massachusetts was the backbone of the rebellion, which was mainly sustained by the community of interests, feelings and action between these two states, a community which was not fairly broken for twenty-five years. In both states there was the same

difficulty in ratifying the constitution in 1788 (see CONSTITUTION, II.); but in Massachusetts the weight of ability was so heavily in favor of ratification, and the voters of the state were so much inclined to choose able men as national representatives, that the senators and congressmen were almost entirely federalist from the opening of the first congress. The state was thus represented in congress by such federalist leaders as Tristram Dalton, Fisher Ames, Caleb Strong, Benjamin Goodhue, Theodore Sedgwick, George Cabot, and Harrison Gray Otis; but in the annual state elections for governors and legislatures the anti-federalists maintained themselves successfully until 1797. It would not be accurate to represent the gradual change, which finally made Massachusetts a very reliably federalist state in 1797, as directly due to commercial interest; for in 1797 the western counties, which had been the seat of Shays' insurrection, and which had no commercial interests, were federalist, while the democratic strength lay in and around Boston and in Maine, the commercial portions of the state. It was rather due to the widening influence of the able federalist leaders; but as these were strongly influenced by their sympathies with the commercial interests of the state, it must be confessed that commerce had a great deal to do with the change, directly or indirectly. (See SHAYS' REBELLION, under CONFEDERATION, ARTICLES OF; ESSEX JUNTO; FEDERAL PARTY, I.) — II.: 1797–1823. In 1797 Samuel Adams declined a re-election as governor, and Increase Sumner, a federalist of the Adams school, was chosen in his stead. From that time until 1823 the governors and legislatures were federalist, with the exceptions of Govs. Sullivan, Lincoln and Gerry, and the legislatures of 1806–7 and 1810–12. The majorities, however, were always small: Strong had but 1,600 majority out of nearly 40,000 votes in 1800, and Gore but 3,000 majority out of 93,000 votes in 1809; and in 1806 and 1808 Govs. Strong and Lincoln served with legislatures of opposite politics. In 1804 the general depression throughout the federal party gave the state's electoral votes to Jefferson and Clinton, the democratic candidates; in all other presidential years the state was federalist until 1820, when, like all the other states, it voted for Monroe and Tompkins. — Political conflict in the state grew gradually warmer as the embargo policy was developed and adopted. (See EMBARGO.) The rise of the war feeling, which followed the collapse of the restrictive system, gradually gave the democrats the small percentage of increase necessary to gain control of the state; but it was not until 1811 that they finally elected a governor and a majority of both houses of the legislature. They then proceeded to make a number of changes: the inferior courts were "reorganized," so as to oust the federalist occupants; the church laws were so modified as to allow dissenters from the congregational church to divert their taxes to the support of ministers of their own faith; and the new apportionment of senatorial districts was as unfair as it is apt to be after similar political revolutions. (See GERRYMANDER.) The result was that in April, 1812, ex-Gov. Strong was again nominated by the federalists, and beat Gerry by a majority of only 1,600 out of 104,000 votes; the lower house of the legislature was strongly federalist; but the senate remained democratic for another year. From this time the state remained federalist by an increasing majority. Gov. Strong was re-elected throughout the war, and his annual messages and conflicts with the federal government as to the control of the state's militia made him particularly obnoxious to democrats in other states. The legislature more than kept pace with the governor, although nearly three years were required for it to pass through the stage of resolutions to the point of action. In 1813 the senate adopted Quincy's resolution "that in a war like the present, waged without justifiable cause, and prosecuted in a manner indicating that conquest and ambition are its real motives, it is not becoming a moral and religious people to express any approbation of military and naval exploits not immediately connected with the defense of our seacoast and soil." This may be taken as indicative of the feeling which prompted the many other anti-war resolutions and acts of the legislature until they culminated in the "Hartford convention." (See HENRY LETTERS; CONVENTION, HARTFORD.) At the end of the war Gov Strong retired, and another federalist took his place. The state remained practically isolated in politics from the other states, even from the other New England states, which had formally or heartily renounced federalism. In state elections the federalists were regularly successful; in congressional elections the democrats regularly secured less than one-third of the state's representatives (see MAINE); but the complete nullity of the state in the national councils was so evident as to be a perennial subject of reference in the newspapers of other states as "the result of the Hartford convention." In 1823 even Massachusetts tenacity gave way, and a democratic governor and legislature were elected. The change, however, to which this state was the last to yield, was the development of manufactures, which finally destroyed the federal party elsewhere. (See FEDERAL PARTY, II.) — III.: 1823–48. Gov. Eustis' message congratulated the legislature that "this ancient and respectable state had been restored to the confidence of her sister states" by the late election; and the state senate proceeded to justify the confidence by expunging, in January, 1824, by a vote of 22 to 15, the famous resolution of 1813 against rejoicing over victories. The new democratic state administration at once began to press for payment of the state's claims for militia services during the war. The federalists had never obtained any recognition for them, for the state had refused during the war to allow the control of her militia to the federal government. The new powers were more suc-

cessful. President Monroe advised their payment, in a message of Feb. 23, 1824; but the act for that purpose was not passed until May 31, 1830. — The federalist vote in 1824 was still 34,210 for Samuel Lathrop to 38,650 for Gov. Eustis. In the following year both parties united on Gov. Lincoln, and party divisions disappeared until the rise of the whig party revived them. In the interval the state gave her electoral votes to her citizen, John Quincy Adams, in 1824 and 1828, the popular vote in his favor being 83 per cent. of the whole; in 1832 its electoral vote was cast for Clay; and in 1836 for Webster. In 1834 Gov. Lincoln retired, and a whig governor and lieutenant governor, Davis and Armstrong, came into office. Everett, the successor of Davis, was also a whig, and he retained office until in 1839 he was beaten by Marcus Morton in the closest election of the state's history. The popular vote was for Morton 51,024, for Everett 50,725, scattering 307, Morton's majority 2. In the following year the whigs nominated and elected ex-Gov. Davis, but in the following year Morton was again successful. In 1843 the whigs elected George N. Briggs, and he retained office until 1851. The party proportion of the popular vote may be estimated from a typical year (1846): Briggs, 54,784, Davis (democrat) 33,196, scattering (abolitionist and others) 13,589. In 1844 the democrats nominated George Bancroft, the historian; in 1848, Caleb Cushing; in 1845–7, Davis. — During the latter years of this period the abolitionist feeling in Massachusetts grew into something like the controlling importance which it held soon after 1848. It was strengthened by the arrest of George Latimer, a Virginia fugitive slave, in Boston, in the autumn of 1842, and though the fugitive was released by purchase, the legislature soon after passed the first personal liberty law of the state. (See PERSONAL LIBERTY LAWS.) In 1843 the democratic legislature, elected with Morton, passed resolutions proposing to congress the passage of an amendment to the constitution basing representation in the lower house of congress on the number of free inhabitants. (See COMPROMISES, I.; SLAVERY.) The resolutions were presented in the house, Dec. 21, 1843, by John Quincy Adams, and, coming from a democratic legislature, gave rise to an intense anger among the southern members. The abolitionist vote rose, after 1844, to about one-third of the democratic vote, and in 1845 compelled a choice by the legislature, in default of a popular majority for any candidate; but it showed no sign of any positive and living growth until 1848. — IV.: 1848–82. The original free-soil party had its kindliest home in Massachusetts. (See FREE-SOIL PARTY.) Its leaders, Henry Wilson, J. G. Palfrey, the historian, Horace Mann, the promoter of education in the state, Francis W. Bird, John B. Alley and others made it a more successful party than the old liberty party had been. In 1848 the popular vote for Stephen C. Phillips, the free-soil candidate, exceeded that for Cushing; and, though it fell slightly behind the democratic vote in 1849, it was sufficient in both years to prevent a choice by the people. In both years the whig legislature chose Briggs. These two elections seem to have suggested to Wilson the idea of the famous "coalition campaign" of 1850. The legislature then chosen was to elect a United States senator for the remainder of Webster's term, ending March 4, 1851, and another for the full term of six years from March 4. Wilson's proposition to George S. Boutwell, the democratic leader, who had been his party's candidate for governor in 1849, and was to be the candidate in 1850, was that the democrats and free soilers should run separate candidates for state officers; that they should unite on members of the legislature wherever such a union would be successful; and that, in the probable event of no popular choice for governor and a coalition majority in the legislature, the free-soilers would only claim the election of Charles Sumner, a Boston lawyer, for the long term senatorship, and would give the democrats the rest of the principal offices. The popular vote was for Briggs 57,364, for Boutwell 36,363, and for Phillips 27,803; and the coalition was successful in the legislature, having 27 to 13 in the senate, and 210 to 174 in the house. The coalition agreement was carried out in the election of Boutwell and the state officers and of Robert Rantoul, an anti-slavery democrat, for the short term senatorship, and the free-soilers were further given the presidency of the senate, four of the nine councilors, and one of the state officers; but Sumner's election occasioned more difficulty. Caleb Cushing and other leading democrats opposed it warmly, and implored the democratic legislators not to send this "fireband into the councils of the nation." In the senate Sumner was chosen without difficulty, but one democrat refusing to vote for him; in the house twenty-three democrats voted for another candidate, thus preventing a choice. The balloting continued until April 24, 1851, when Sumner was chosen on the twenty-sixth ballot, one democrat having voted for him and given him a majority. In the next legislature the coalition still had a majority in both branches, and chose Boutwell governor in spite of a plurality of 21,000 for Winthrop, the whig candidate; but in the following year the whigs recovered their majority, and the governorship. In 1853 the whigs elected Washburn, through the legislature; and as this was the last disputed election it is as well to give the popular vote, which was as follows: Washburn (whig) 60,472, Henry W. Bishop (democrat) 35,254, Henry Wilson (free-soil) 29,545. — The anti-slavery feeling in the state had been intensified by the arrest of Sims, April 3, 1851, and of Anthony Burns, May 23, 1854, and their forcible removal from the state (See FUGITIVE SLAVE LAWS.) The free-soilers, at a mass convention, July 20, and a regular state convention, Sept. 7, took the name of the "republican" party (see REPUBLICAN PARTY), and nominated Wilson for governor; but most of its voters, almost immediately after-

ward, fell into the "know-nothing" organization. (See AMERICAN PARTY.) The result of the election was an overwhelming surprise, particularly to the whigs. The popular vote was, for Gardner (American) 81,503, Washburn 27,279, Bishop 13,742, and Wilson 6,483. Nearly all the legislature were "know-nothings": in the house there were but six whigs and one democrat; and all the eleven congressmen were of the same party. Gardner was re-elected in 1855 and 1856: but in 1855 the republican vote rose to 36,521, while his own fell to 51,674; and in 1856 he claimed to be a "Fremont American," and was voted for by the republicans. In the following year the state became republican in all its branches of government, and thereafter remained so until 1874. Governor Banks' first vote was 59,889 to 30,887 for Erasmus D. Beach (democrat), and 37,553 for Gardner. In 1860 Gov. Andrew received 104,527 votes to 35,191 for Beach (Douglas democrat), 23,816 for Amos A. Lawrence (constitutional union), and 6,000 for Benj. F. Butler (Breckinridge democrat). Andrew's majorities remained large during the war, and in 1864 his vote reached 125,281 to 49,190. At the same election there were no democrats in the senate, and but six out of 240 in the house. From that time until 1874 the democratic proportion of the popular vote was always below 40 per cent., except in 1867, when 42 per cent. was given to John Quincy Adams, and in 1873, when 45 per cent. was given to William Gaston. During all this period all the congressmen had been republicans, and the state's electoral votes had been given to the republican candidates. — In the election of 1874 a complete *bouleversement* took place. An attempt to modify the state's prohibitory liquor law at the previous session of the legislature had been defeated by the governor's veto His renomination, and the nomination of Horatio Knight, another prohibitionist, for lieutenant governor, excited opposition and aggravated other dissensions. Talbot was defeated, Knight was only elected by a small majority, but the republicans elected a majority of both branches of the legislature and all the state officers except the governor. Of the eleven congressmen but five regular republicans were elected, four democrats, and two independent republicans. In 1875 the republicans elected Gov. Rice by 83,639 votes to 78,333 for Gaston, and in 1876 Rice's majority was increased. In the latter year but one democratic congressman was elected. — It is difficult to class the "Butler movement," which fairly took shape in 1878, otherwise than as one of general discontent. It is true that Butler (see his name) openly advocated the peculiar ideas of the greenback-labor party in that year; but the party which supported him in the state seems to have cared little for any interests outside of the state. Its existence seems to have been based upon the assertions that there was a dominant "ring" in the dominant republican party of the state, and that the manufacturing and other corporations, with which the state was filled, coerced the votes of their employés by threats of discharge in case of disobedience. The latter influence, it was said, was fast destroying the independence and self-respect of the voters; the former was filling the offices with its dependents, was increasing taxation and the public debt, was enabling its favorites to escape their share of taxation, was instrumental in expending the public money for purposes useful only to its *protégés*, and, by its power to control the committees of the state convention, through the appointment of the presiding officer, had already made reform through the republican party an impossibility. How much truth was in all this it is hard to say, for specific instances are usually conspicuous by their absence from "Butler" speeches; it is at least certain that the charges were supported by nearly half the voters of the state. Butler had been meagrely supported in previous republican conventions as a candidate for governor, when, in 1878, he offered to run as an independent candidate if 20,000 voters should desire it. The names of 51,784 persons were signed to the invitation, and the "Butler campaign" at once began. The leaders of the two former parties ridiculed Butler's "signers" as men of straw; but it soon became apparent that Butler delegates to the democratic state convention were being chosen all over the state. The democratic state committee therefore announced, Sept. 12, that no delegate pledged to a non-democratic candidate was entitled to sit or vote in the convention. On the day appointed for the convention, Sept. 17, at Worcester, the Butler delegates were present first, and seized the hall; the state committee therefore adjourned the convention to meet at Boston, Sept. 28. The Worcester convention nominated Butler, without referring to the "greenback idea" in the platform; the Boston convention nominated Josiah G. Abbott, proclaiming itself the only representative of the national democratic party. Butler had been nominated, Sept. 11, by the greenback convention; and the republicans nominated Governor Talbot, Sept. 18. The struggle was ended, Nov. 5, by the following popular vote: Talbot 134,725, Butler 109,435, Abbott 10,162; and the state legislature and all but one of the eleven congressmen were republican. In 1879 there was no "capture" of the democratic convention. Butler was nominated by a greenback convention John Quincy Adams by the democrats, and John D. Long by the republicans; but the popular vote varied very little from that of 1878. In 1880 Butler declined to be a candidate; Charles P Thompson was selected by the democrats; and the popular vote at once settled to its normal proportions: Long 164,825, Thompson 111,410, H B. Sargent (greenback) 4,864, scattering 1,147 In 1881 the collapse of political excitement, through Butler's withdrawal, reduced Long's vote to 96,609 and Thompson's to 54,586; the other party votes were little changed. In the senate there are thirty-six republicans and four

democrats; in the house 181 republicans, fifty-five democrats, and four independent.—The state has been so prolific of men who have been influential in politics, that any attempt at selection must be a difficult undertaking. Reference should be made to Charles Francis Adams, John Adams, John Quincy Adams, Samuel Adams, Fisher Ames, N. P. Banks, George S. Boutwell, Anson Burlingame, Benjamin F. Butler, Caleb Cushing, Edward Everett, Elbridge Gerry, John Hancock, Joseph Story, Charles Sumner, Daniel Webster, and Henry Wilson (see their names); to the list of governors given above; and to the following: John B. Alley, free-soil leader, republican congressman 1859–67; George Ashmun, whig congressman 1845–51; Bailey Bartlett, high sheriff of Essex county 1789–1830, and federalist congressman 1797–1801; George Cabot, federalist United States senator 1791–6 (see also ADMINISTRATIONS, III; ESSEX JUNTO; CONVENTION, HARTFORD); Rufus Choate, whig congressman 1831–4, and United States senator 1841–5; B. W. Crowninshield (see ADMINISTRATIONS, VII.), democratic congressman 1823–31; Benj. R. Curtis (see JUDICIARY, DRED SCOTT CASE); John Davis, whig congressman 1825–34, governor 1834–5 and 1840–41, and United States senator 1835–40 and 1845–53; Henry L. Dawes, republican congressman 1857–75, and United States senator 1875–87; William Eustis, democratic congressman 1801–5 and 1820–23 (see Administrations, VI.), minister to the Netherlands 1814–18, and governor 1823–5; William Lloyd Garrison (see ABOLITION); Benjamin Goodhue (see ESSEX JUNTO), federal congressman 1789–95, and United States senator 1796–1800; Benjamin Gorham, federalist and whig congressman 1820–21, 1827–31, and 1833–5; Ebenezer R. Hoar (see ADMINISTRATIONS, XXI.), judge of the state supreme court 1859–69, and republican congressman 1873–5; George F. Hoar (brother of the preceding), republican congressman 1869–77, and United States senator 1877–83; Samuel Hoar (father of the preceding), whig representative 1835-7, and the state's commissioner to South Carolina in 1844 (see SLAVERY); Levi Lincoln, one of the democratic leaders until 1823, governor 1825–34, and whig congressman 1834–41; Horace Mann, secretary of the state board of education 1837–48, free-soil congressman 1848–53, and president of Antioch college, in Ohio, 1853–9; Marcus Morton, democratic congressman 1817–21, judge of the state supreme court 1825–40, and governor 1840–41 and 1843–4; Harrison Gray Otis, federalist representative 1797–1801, and United States senator 1817–22 (see CONVENTION, HARTFORD); Wendell Phillips (see ABOLITION); Timothy Pickering (see ADMINISTRATIONS, I.–III.), federalist United States senator 1803–11, and congressman 1813–17; Josiah Quincy, federalist congressman 1805–13, president of Harvard college 1829–45 (see CONVENTION, HARTFORD; WARS, III.; SECESSION, I.; NATION); Robert Rantoul, democratic United States senator 1851, and congressman 1851–2; Theodore Sedgwick, federalist congressman 1789–96, and 1799–1801 (speaker), and United States senator 1796–9. Joseph B. Varnum, democratic congressman 1795–1811, speaker 1807–11, and United States senator 1811–17, Robert C. Winthrop, whig congressman 1840–50, speaker 1847–9, and United States senator 1850–1.—See 1 Poore's *Federal and State Constitutions;* Palfrey's *History of New England;* Wood's *Massachusetts Compendium* (boundaries); Buck's *Massachusetts Ecclesiastical Law;* Fowler's *History of Local Law in Massachusetts;* Washburn's *Judicial History of Massachusetts;* Moore's *History of Slavery in Massachusetts;* Young's *Chronicles of the First Planters of Massachusetts Bay* (to 1636), and *Chronicles of the Pilgrim Fathers of the Colony of Plymouth* (to 1625); Shurtleff's *Records of the Colony of Massachusetts Bay* (to 1686), and *Records of the Colony of Plymouth* (to 1691); Baylies' *History of New Plymouth* (to 1641); *Lowell Lectures on the Early History of Massachusetts;* Frothingham's *Siege of Boston;* Minot's *History of the Insurrection* (Shays'); Hutchinson's *History of Massachusetts* (1749–74); 4 John Adams' *Works*, 213; Bradford's *History of Massachusetts* (to 1820), Barry's *History of Massachusetts* (to 1820); Carpenter's *History of Massachusetts* (to 1853); J. G. Holland's *History of Western Massachusetts* (1855); Austin's *History of Massachusetts* (to 1876: the best for the general reader); authorities under names referred to above; Loring's *Hundred Boston Orators;* Chandler's *Memoir of Andrew;* Brown's *Official Life of Andrew;* E. G. Parker's *Reminiscences of Choate;* Brown's *Memoir and Writings of Choate;* B. R. Curtis' *Works;* Kinnicutt's *Memoir of John Davis;* M. P. Mann's *Life of Horace Mann;* Pickering's *Life of Pickering;* Upham's *Life of Pickering;* Quincy's *Life of Quincy;* Quincy's *Speeches* (1805–13); Hamilton's *Memoir of Rantoul;* Amory's *Life of Sullivan;* Winthrop's *Addresses and Speeches;* the democratic view of Massachusetts federalists may be found in Carey's *Olive Branch*, 268, 416, *contra*, in Sullivan's *Familiar Letters;* for the "coalition campaign" of 1850 see 2 Wilson's *Rise and Fall of the Slave Power*, 341, and authorities under WILSON, H., and SUMNER C.; for the "Butler campaign" see 27 *Nation*, 169, 220; Winsor's *Memorial History of Boston.*

ALEXANDER JOHNSTON.

McCLELLAN, George Brinton, was born at Philadelphia Dec. 3, 1826, was graduated at West Point in 1846, and became a captain during the Mexican war. In 1855 he was sent to Europe, with two other officers, to study the operations of the Crimean war. In 1857 he retired to private life as chief engineer of the Illinois Central railway; and in 1861 he was appointed major general of volunteers from Ohio. May 14, 1861, he was commissioned major general in the regular army, and late in June and early in July he cleared West Virginia of the enemy's forces. In July he took command of the army of the Potomac, and in November, 1861, of all the armies of the United

States. In the latter part of June and the beginning of July, 1862, he fought the series of "seven days' battles" around Richmond; in September, 1862, he won the battle of Antietam; and Nov. 7, 1862, he was relieved of his command, and ordered to report at Trenton, N. J. Aug. 28, 1864, he was nominated for the presidency by the democratic national convention (see DEMOCRATIC-REPUBLICAN PARTY, VI.), and was defeated in November. (See ELECTORAL VOTES.) In 1877 he was elected governor of New Jersey. (See NEW JERSEY.) — See Hillard's, Hurlburt's, Delmar's and Victor's *lives of McClellan;* Barnard's *Peninsular Campaign;* Swinton's *Campaigns of the Army of the Potomac;* 3–5 Scribner's *Campaigns of the Civil War.*

McLEAN, John, was born in Morris county, N. J., March 11, 1785, and died at Cincinnati, Ohio, April 4, 1861. He removed with his family to Virginia in 1789, and to Ohio in 1797; was admitted to the bar in 1807, and was a democratic congressman from Ohio 1813–16, and state supreme court judge 1817–22. He was postmaster general under Monroe and John Quincy Adams (see ADMINISTRATIONS), was appointed justice of the United States supreme court March 7, 1829, and served until his death. (See DRED SCOTT CASE.) His name was frequently brought before the anti-masons, whigs and republicans as a presidential candidate, but he never received any general party nomination. — See Savage's *Living Representative Men,* 373.

McLEOD CASE, The (IN U. S. HISTORY). In 1837, after the suppression of the Canadian rebellion, or patriot war, a number of Canadian refugees and Americans, using New York state as a base of operations, seized Navy island, in the Niagara river, about two miles above the falls and within British jurisdiction, in order to keep the war alive. Col. McNab, commanding the Canadian militia, sent a party, on the night of Dec. 29, 1837, to capture the steamer Caroline, which carried supplies to Navy island. The attacking party found her at a wharf on the American side of the river, captured her, after a conflict in which one American, Amos Durfee, was killed, and sent her over the falls in flames. In January, 1838, the British government, in an official communication to the government of the United States, assumed the entire responsibility for the burning of the Caroline. — In November, 1840, Alexander McLeod, while in New York state on business, aroused intense feeling among the people there by boasting of his exploits in the attack on the Caroline. He was arrested, lodged in jail in Lockport, and indicted in February, 1841, for murder. At first, bail was accepted, but this increased the excitement, and he was remanded to jail. The British minister demanded his release, in a note to the secretary of state, for the reasons that McLeod was acting under orders in an enterprise planned, executed and avowed by his superiors; that the question was one of international law, to be settled by the two national governments; that the courts of New York had not the means to judge or the right to decide such a question; and that the British government could not recognize the state jurisdiction of the case, but must hold the government of the United States responsible for McLeod. — The new president, Harrison, and his cabinet were unanimous in considering the British claim just; but the minister was informed that it was an impossibility to release a person confined under judicial process, except by operation of law. At first the administration hoped that Gov Seward, of New York, would order the prosecuting officer of the state to enter a *nolle prosequi.* The governor, however, refused to inferfere, but directed that the trial, March 22, 1841, should take place before the chief justice of the state. The president then directed the attorney general of the United States to proceed to Lockport, see that McLeod had skillful counsel, furnish them with the evidence of the British government's official avowal of the burning of the Caroline, and take steps to transfer the case to the supreme court by writ of error, if McLeod's defense should be overruled. — McLeod was brought before the court on writ of *habeas corpus,* and his discharge was asked on the grounds assigned above. The court, however, held that its jurisdiction over the case was complete; that there was no war in existence at the time in any form; that the burning of the Caroline was not an act of magistracy on the part of the Canadian authorities, since it was committed out of Canadian jurisdiction; that all the persons concerned in the affair were "individuals proceeding on their own responsibility," and liable either for arson or for murder; and that the indictment precluded McLeod's discharge upon *habeas corpus.* The opinion of the court was not satisfactory to other and able lawyers. It was adversely reviewed in a pamphlet by Judge D B. Talmadge, of New York; and Webster, in the senate, April 6–7, 1846, used in regard to it the following strong language: "On the peril and at the risk of my professional reputation I now say that the opinion of the court of New York in that case is not a respectable opinion, either on account of the result at which it arrives or the reasoning on which it proceeds." — The case finally came to nothing. McLeod, who seems to have been a liar as well as a braggart, proved an alibi in October, 1841, and was acquitted; and congress, by act of Aug. 29, 1842, provided that if such cases should thereafter arise they should be transferred to the United States courts by writ of *habeas corpus.* (See HABEAS CORPUS.) The British government July 28, 1842, apologized for the violation of territory, and regretted that "explanation and apology was not immediately made"; the American government declared its satisfaction; and the case was ended. — See 3 Spencer's *United States,* 411, 417; 5 Webster's *Works,* 116, and 6:247, 300; Edwards' *Courts and Lawyers of New York,* 305, the case, with the diplomatic correspondence in full, is in 25

Wendell's *Reports*, 483; see also 26 *ib.*, Appendix, 663 (Talmadge's review); but see, *contra*, 3 Hill's *Reports*, 635, and 10 *Democratic Review*, 487; Gould's *Trial of McLeod* (1841); 5 *Stat. at Large*, 539 (Act of Aug. 29, 1842).

ALEXANDER JOHNSTON.

MECKLENBURG. Two grand duchies, situated on the Baltic and forming part of the German empire, bear this name; we shall treat of them together, because they have a constitution and a diet in common, though their territory is divided (with reference to executive power) into two grand duchies. — Mecklenburg-Schwerin has an area of 13,346 square kilometres, and it had, in 1861, 548,449 and in (Dec.) 1871 557,897 inhabitants, of whom more than 540,000 belong to the Lutheran church. In 1880 the population was 577,055. The population in 1871 was distributed among the different parts of the territory as follows: domain lands or *domanium*, 201,829 inhabitants; knights' estates, 133,835 inhabitants; convent lands, 8,826 inhabitants; cities, 200,066 inhabitants; suburbs of cities, 13,151 inhabitants. The importance of these distinctions will be seen further on. — Mecklenburg-Strelitz is composed of two principalities; Stargard on the east and Ratzeburg on the west of Mecklenburg-Schwerin. The area of the two parts of the state is 2,717 square kilometres, and its population, in 1860, amounted to only 99,660 souls (chiefly Lutherans), of whom 48,773 occupied domain lands, 17,371 knights' estates, and the remainder the cities. The census of December, 1871, gave the number of inhabitants as 96,982. In 1880 the population was 100,269. In Mecklenburg a place containing a certain number of inhabitants is not always called a *city*, but a city is a locality represented at the diet. The capital, Neustrelitz, does not appoint a deputy, and if, nevertheless, it is treated officially as a city, this is in opposition to the spirit of the political language of the country. This language has preserved its superannuated character with a constitution whose principal provisions date from 1523, 1572, 1621 and 1755. It is true that, March 23, 1848, the grand duke of Mecklenburg-Schwerin took the initiative of a reform. A new constitution was promulgated Aug. 23, 1849, the former estates were dissolved Oct. 10 of the same year, and the new representative body met Feb. 27, 1850. But Mecklenburg-Strelitz did not agree to this reform, and the equestrian order (proprietors of knights' estates, knights, *Ritter*), recovered from its stupor of 1848, complained to the German diet in session at Frankfort, arbitrators were appointed, and in consequence of their decision a grand ducal decree of Sept. 14, 1850, suppressed the constitution just sanctioned. — Mediæval times were restored in what the equestrian order considered as their rights. In virtue of the pact of *union* of 1523, by which the estates (at that time the equestrian order, the cities and the prelates) declared their opposition for the future to a partition of the country, the two Mecklenburgs had but one diet with annual sessions alternately in the cities of Sternberg and Malchin, both situated in Mecklenberg-Schwerin. The grand duke of this country, who is considered the elder or the first of the grand dukes of Mecklenburg,* convokes the assembly and closes it. The grand duke of Mecklenburg Strelitz may assemble the estates of his territory to discuss their particular interests, for outside the diet the two duchies are entirely separate. — The reformation having abolished the prelates, the estates are now composed of only two orders: the equestrian order and the cities, or, more correctly, the *landschaft, or those outside the equestrian order*. The estates admit of numerous territorial and other subdivisions, but with reference to the grand duke they form a body, a corporation. The equestrian order is composed of all the proprietors (nobles or not) of knights' estates residing in the country. They are more than 750 in number. The cities comprise Rostock, Wismar and thirty-eight others in Mecklenburg-Schwerin, and seven in Mecklenburg-Strelitz; they are represented by members of their municipal councils, and more frequently by burgomasters. All the members of the equestrian order may take part in the deliberations of the diet, but can not be represented there. Those who assist at the deliberations, pay their own traveling expenses and support themselves, since each one exercises a personal right. The representatives of cities, on the contrary, are the mandatories of their fellow-citizens (or are considered to be), and receive a remuneration. Therefore, in a general assembly (*in plenum*), the equestrian order has a great numerical superiority; but the cities have the right of demanding that each order deliberate separately. Moreover, such a numerous assembly is not easily managed, and although there are many dignitaries in the assembly, it is nothing rare to hear several orators speak at once. Each member of the diet enjoys the right of initiative and may present his propositions to the general assembly; but when it is a question of changing the constitution, the proposition must first be submitted to a "limited committee" (*engern Ausschuss*) elected from among the members of the diet and sitting permanently. It will be understood that the constitution means merely *privileges of the estates*. Outside these privileges and finances the government has large powers. Almost all the laws not included in these two categories are termed *indifferent*. Besides, the estates exercise a certain influence on the administration of justice by their right of presentation to certain places of councilors and other special dispositions. — In this organization, that part of the country which is called domain lands, *domanium*, and which has 250,000 inhabitants, is not represented at all.

* At home each one of the two grand dukes is called grand duke of *Mecklenburg* without any distinctive designation. If in 1701 a second line was formed, it was not without opposition, but space does not permit us to give its history.

The two grand dukes, each in his own territory, enjoy power the more absolute since they are considered the proprietors of the soil. It seems to us, also, that the 150,000 inhabitants of equestrian or knights' estates should be added to the non-represented Mecklenburgers. The knights represent themselves and do not give themselves out as *representatives* of their tenants, laborers and house servants. The latter, therefore, find themselves under an absolute government. As an offset, the city of Rostock is almost independent. It is authorized to coin money, and enjoys the right of pardon and of mitigating punishments less than death or forced labor for life.—The decree of Nov. 16, 1867, applicable to the two grand duchies, emancipated the peasants on the domains of the state. In virtue of this decree the peasants on the domains are to acquire the property which they work at present as simple farmers. But to do this they are bound to submit to the following conditions: 1. The peasant to retain his land to the amount of thirty-nine hectares, by paying a sum representing twenty-five times the yearly rental which he has hitherto paid; 2. Farm buildings to be charged to the peasant, the peasant to be credited, in the estimate made of their value, with the sums which he has contributed to their construction; 3. The peasant also to pay for farming implements and cattle, according to a certain rate; 4. The sums coming from the application of these different clauses, with the exception of a part to be collected afterward, to constitute a principal sum not redeemable, with interest at 4 per cent., and a sinking fund of 1 per cent. The peasants on the domains of the state have not the power of choosing between the old and new situation. They must either accept the conditions just enumerated, or vacate the lands which they occupy, the area of which is estimated at 150,000 hectares.—It is plain that a constitution like that which existed up to the present time in Mecklenburg, requires a peculiar social organization. It could not remain altogether intact in view of the movement taking place everywhere in our day, but this remote corner of Germany has been but slightly influenced from without. Except in the cities, the middle class is scarcely represented; great landed proprietors, some tenants and many laborers constitute the population Even in the so-called domain lands, which comprise half the country, there were before 1867 scarcely any of those small proprietors, at once independent and unpretentious, who form the strength of so many other countries. The land belonged to the state, and there were 254 farms on temporary leases, 1,283 on long leases, 4,165 so-called *peasant farms* (*bauerstellen*) generally held on hereditary leases, 7,209 still smaller farmers called *budner*, 2,244 cottagers (*häusler*), or day laborers, to whom were leased houses and gardens for long terms. We pass over certain subdivisions, as 750 mills, farrieries and public houses given on lease.—The ancient institution of guilds continued to flourish on the shores of the Baltic till the introduction of the German constitution; therefore industry is scarcely known in the country; agriculture, too, is worth the attention of the observer only on great estates. Still another distinction should be made. Agriculture is neither skillful nor intensive; it is extensive, that is to say, it is carried on so as to employ as few men as possible. The climate is moist, the earth is soon covered with herbage; it was easy, therefore, to introduce the rotation of crops (*koppelwirthschaft*) common in Holstein. The proprietor prospers by this management, but the estate supports fewer men, since many of the former inhabitants were driven out to be replaced by cattle. We can not congratulate the country on this kind of progress.—The foreign commerce of Mecklenburg (which exports nothing but agricultural products) is carried on through the two ports of Rostock and Wismar. It is fairly active, and reaches perhaps 8,000,000 thalers imports and 7,000,000 exports.—Communal organization exists only in the cities. On equestrian or knights' estates the proprietor unites all powers in himself, and the peasant knows nothing of the commune except payments in money or in kind. In twenty-three cities the burgomasters are appointed by the grand duke, in the others they are elected by the burghers; but in some localities this choice must be confirmed by superior authority. Each city has a municipal council; the cities are free to manage their own affairs, but they must send a copy of their accounts to the ministry, which has them revised. The communal organization, nevertheless, leaves much to be desired; the government has frequently attempted to introduce reforms, but its efforts fail, owing to the resistance of the estates.—Till 1867 the various religions did not enjoy the liberty which is granted them at present in most of the states of Europe Mecklenburgers who are not Lutherans, practiced their religion only by toleration, and it is well understood that Lutherans themselves can not change the least ceremony without the consent of "competent" authority. Mecklenburg was obliged to submit to the law of equality of religions decreed by the constitution of the empire.—There are many benevolent establishments in the country, and praiseworthy attention is paid to primary education. Education is compulsory. Besides, in domain lands every head of a family, whether he has children or not, is obliged to contribute to the school fund. In knights' lands the proprietor, and in cities the municipal council, appoint the teacher. The teachers are poorly paid. Among the conscripts (in 1856) 88 per cent. knew how to read satisfactorily; those who came from knights' estates were the least instructed! Each grand duchy has primary normal schools. There are eight gymnasia in the two grand duchies, and a university in Rostock which dates from 1419.—The judicial organization of the country is very backward. Patrimonial or knights' jurisdiction has been preserved in most of the

cities; the magistrate exercises both judicial and administrative functions. Civil legislation is not uniform in the different parts of the country, but at Rostock there is a supreme court common to both grand duchies. — As to taxes imposed by the estates, they comprise, in addition to ancient tolls, the "ordinary contribution" which is at once a land and poll tax (a personal and property tax) in knights' estates. In domain lands the tax appears under the form of so much per cent. on the rent. In cities the ordinary tax is composed of various levies on lands, houses and professions, to which is added the fifth pfenning for the city. Rostock has a system of its own, which is a kind of octroi.* There is, besides, an "extraordinary tax" which appears also in a direct form, but figures in one place as a land tax, in another as a license, and in a third as a tax on income or capital. The financial system of the two Mecklenburgs is the most complicated labyrinth that can be imagined. The following is the opinion of the government of the country on this subject (official document of 1846). "False in principle, contrary to the most ordinary rules of political economy, the imposts, taxes and tolls hinder and trouble domestic commerce to the profit of the foreigner, weigh upon the poorer tax payer, while the rich may escape their action without infringing the law, render exportation difficult, increase the cost of collecting taxes, without making fraud difficult. * * *." We have enough of this description, but there is reason to think that the events of 1866 and 1870–71 have improved the situation. — The government not being obliged to render an account of the funds which it collects, there is no budget. The revenues of the grand duke of Mecklenburg-Schwerin, before 1866, were estimated at 4,000,000 thalers, of which 2,400,000 came from domain land, 320,000 came from transit dues, 1,000,000 from taxes, and 440,000 from posts and other dues called regalian rights. But the forced connection of Mecklenburg with the tariff system of the empire has abolished the transit dues; it is true, however, that by the same act the grand duchies were relieved from various expenditures. The revenues of the grand duke of Mecklenburg-Strelitz are about 600,000 thalers, 500,000 of which arise from the domains, 82,000 from imposts, and the rest from various sources. The debt of one of the grand duchies is about 9,000,000 thalers, that of the other 1,000,000, a part of which was contracted to build a railway and to redeem the Sound dues. If the reform which we mention above, though far less than is demanded by public opinion in Germany, is realized, there is reason to think that a regular budget will be established in this country which is so backward. — German legislation is in force with reference to the army, the Mecklenburg troops (treaty of February, 1873) forming a part of the ninth army corps of Prussia. — BIBLIOGRAPHY. Boll, *Geschichte Mecklenburgs mit Berucksichtigung der Culturgeschichte*, 2 vols., New Brandenburg, 1855, and *Abriss der mecklenb. Landeskunde*, Wismar, 1861; Raale, *Mecklenb. Vaterlandskunde*, 2d ed., 3 vols., Wismar, 1863, Wiggers, *Kirchengeschichte Mecklenburgs*, Parchim, 1840; Nizze, *Volkswirthschaftliche zustände in Mecklenburg*, Rostock, 1861; Lisch, *Jahrbücher des Vereins für mecklenb. Geschichte und Landeskunde*, 1835; Wiggers, *Die mecklenb. constituirende Versammlung*, Rostock, 1850, *Das Verfassungsrecht im Grossherzogthum Mecklenburg-Schwerin*, Berlin, 1860, and *Die mecklenb. Verfassungsfrage*, Leipzig, 1877.

MAURICE BLOCK.

* By the convention and the law of May 15, 1863, the financial organization of the country was sensibly improved; the tolls (octrois) were abolished and internal barriers replaced by custom houses on the frontiers, which are assimilated to those of Germany since 1867.

MECKLENBURGH DECLARATION (IN U. S. HISTORY). The authorized account of this document is that it was adopted at two o'clock in the morning of May 20, 1775, at Charlotte, by a convention of two delegates from each militia company of Mecklenburgh county, N. C.; that the papers of John M. Alexander, the secretary of the convention, were accidentally burned in April, 1800; that copies of the minutes and declaration were then sent to Hugh Williamson, at New York, the historian of North Carolina, and to W. R. Davie; and that another copy was finally published by the "Raleigh Register," April 30, 1818. From this last publication the declaration first became generally known. — The declaration purports to "dissolve the political bands which have connected us to the mother country, and absolve ourselves from allegiance to the British crown, and abjure all political connection, contract and association with that nation"; to declare that the people of Mecklenburgh county are "a free and independent people," who "are, and of right ought to be, a sovereign and self governing association, under the control of no power other than that of our God and the general government of the congress"; and to establish a revolutionary government for the county. — The declaration is historically suspicious from its use of phrases used in the declaration of July 4, 1776; from the facts that Williamson, and the contemporary writers of this and neighboring states, show no knowledge of it, and that it was entirely ignored in and out of congress at a time when resolutions coming far short of independence were heralded by every newspaper in the country; and from its inability to appeal to any better evidence in support of it than that of dead men, burned papers, and a missing letter of approval from the three North Carolina delegates in congress, two of whom were notorious tories. Nevertheless Bancroft accepts it without hesitation; and the probability is that resolutions, of the kind which were common at the time, were passed May 31, that the "copies" of 1818 were from recollection, with strong traces of the declaration of July 4, 1776, and that the Mecklenburgh "declaration" was not of its purported date, or essentially of its

purported nature. (See REVOLUTION, DECLARATION OF INDEPENDENCE.) — See 7 Bancroft's *United States*, 370; 3 Hildreth's *United States*, 74; Frothingham's *Rise of the Republic*, 422; 3 Randall's *Life of Jefferson*, App 2; 4 Jefferson's *Works* (edit. 1829), 314; Jones' *Defense of the Revolutionary History of North Carolina;* Graham's *Address on the Mecklenburgh Declaration;* W. D. Cooke's *Revolutionary History of North Carolina;* 2 Lossing's *Field Book of the Revolution*, 617; *North Carolina University Magazine*, May, 1853; *North American Review*, April, 1874; Niles' *Principles and Acts of the Revolution*, 132.

ALEXANDER JOHNSTON.

MEDIATION. In international law, mediation is an act the object of which is to reconcile the disputes of nations. Three kinds of amicable negotiations, however, are distinguished: 1, a third power tenders its good offices to terminate the international dispute; 2, or a third power is selected to make impartial proposals of settlement, the other parties reserving the right of accepting or rejecting them; 3, or it is constituted judge or arbitrator to pronounce a sentence founded on the principles of justice and equity and binding on both parties. So we have tender of good offices, mediation, arbitration; each one of these methods has rules, and implies rights and duties for each power.—The tender of good offices generally springs from a spontaneous sentiment; its object is to prevent violence, by engaging the contending parties to come to an understanding and settle their rights, to offer or accept reasonable satisfaction. This is the first step toward mediation.—Mediation is a commission conferred and accepted for the purpose of conciliation, to procure peace, by softening reproach, calming resentment, and enlightening minds. Its tendency is to effect a compromise of opposing claims, to smooth difficulties raised by interest, self-esteem or passion, and it may lead to arbitration.—Arbitration consists in the choice of one or several judges selected by common consent to decide the dispute and pronounce a sentence which, executory like a treaty, is to serve as a law and rule.—We may remark that the processes of arriving at a settlement of disputes between nations are identical with those applied to the disputes of individuals; but we should not be astonished at this; nations are nothing more than agglomerations of individuals, and these agglomerations can not have, really and logically, other laws than those which govern the individuals composing them. Natural right flows from the same sources. Its principles apply, therefore, to nations as well as to individuals. Vattel could therefore say, with the concurrence of all civilized peoples: "Justice is even more necessary among nations than among individuals, because injustice has more terrible consequences in the disputes of these powerful political bodies. Each nation should therefore render to others what belongs to them, respect their rights, and leave them to the peaceful enjoyment of them. But the difference consists in this, that in civil society there are powers charged with enforcing respect for the rights of each one of its own members, while between free and sovereign nations there is no superior judge on earth before whom they can be summoned to appear in order to await from him the settlement of their disputes." Hence the creation, by the force of things, of this rôle of third powers tendering their good offices, or chosen as mediators, or accepted as arbitrators. EUGÈNE PAIGNON.

MEDIATIZATION. In consequence of the wars of the revolution and the empire, a great number of *immediate* principalities, counties and baronies of Germany, that is to say, such as had no other suzerain than the emperor under whose immediate authority they were, were subordinated to princes formerly their equals; this has been termed mediatization. In other words, their prerogatives, property and honors were left them, and their sovereignty taken away. The federal act of the Germanic confederation recognizes (Art. 14) their exceptional position; the mediatized lords (*standesherrn*) continued to be the equals of sovereign princes, in this sense that the latter might and (may?) without mésalliance, intermarry with them (*ebenbürtigkeit*); and they enjoy certain immunities for themselves and their families, such as exemption from military service. Several decisions of the federal diet have recognized for the princes the title of *durchlaucht*, (serene highness), and to the counts that of *erlaucht*, (excellency). Several German states granted them other privileges; they are, for instance, nearly everywhere hereditary peers. Since the dissolution of the Germanic confederation their situation has not been so well defined. In a case tried in Berlin in February or March, 1872, the court refused to recognize the right of privileged jurisdiction in the case of two lords. (They had been members of the board of management in a joint stock company which had failed.)—The number of mediatized rulers is somewhat considerable. There are fourteen in Austria, twenty-nine in Prussia, twenty-two in Bavaria, thirty-five in Würtemberg, eight in Baden, and nineteen in the grand duchy of Hesse. But it is proper to remark that some are mentioned twice, in this sense, and that several houses, such as those of La Tour and Taxis, figure in a number of states. Further, Prussia granted the title of *standesherrn* to twenty-eight other houses of princes and counts. Among mediatized rulers we find the names Aremberg, Croy, Bentheim, Sayn-Wittgenstein, Salm, Solms, Wied, Esterhazy, Schwarzenberg, Windischgraetz, Fugger, Hohenlohe, Ottingen, Waldburg, Loewenstein, Stadion, Leiningen, Furstenberg, Leyen, Isenburg, Erbach, Stolberg, and others. M. B.

MEMORANDUM is a term which has survived from the Latin, which had been introduced as a neutral language in the composition of letters, negotiations and treaties in times before Louis

XIV. In the reign of that monarch the French language became usual in the relations of states. By memorandum was described a species of diplomatic note containing a brief statement of the condition of a question and a justification of the position taken by a government, or the acts emanating from it. — "In monarchic states," says Martens, "the minister of a foreign power may sometimes negotiate directly with the king, either orally, or by laying before him memoirs, etc.; but more frequently he is obliged to enter into a conference with the minister of foreign affairs, or with one or more commissioners whose appointment he has obtained. Conferences are held sometimes at the residence of the minister, sometimes at that of the commissioner, sometimes at a third place. Frequently the minister presents a memoir, a note or another document, which contains in writing the substance of what he has stated orally, and as a rule these papers should be signed. Several states have taken the wise resolution of never deliberating on a point unless the foreign representative has presented the substance of it in writing, in the form of a memoir or a note. But, generally, a minister would not be obliged to return in writing the substance of what he had presented orally, or what he had read, or to sign the copy or the protocol which might have been drawn up; he agrees sometimes to give a *verbal note*, an *aperçu de conversation*, etc. But such papers are not usually signed; as also it is not customary to sign confidential memoirs, and court declarations are sufficiently authenticated by the memoir with which the foreign minister accompanies them" — The nature of the memorandum demands a pure and exact style, showing a cool thinker rather than a rhetorician. It should rivet the attention; in a word, it should express fitly and with unbroken logic, what should be said, and nothing more; it should avoid circumlocution, idle phrases, ambiguous or uncommon words; such should be the character of diplomatic writings. Ill-chosen expressions may lead to irritation or complications, by wounding power in its dignity or its interests.

EUGÈNE PAIGNON.

MERCANTILE SYSTEM. The theory of the balance of trade and the consequences which were drawn therefrom constitute what is called the mercantile system, because the whole of this system tends to consider foreign commerce as the most productive branch of a nation's labor. It is supposed that a nation can sell more than it buys, in a way to ruin neighboring nations by absorbing their precious metals by the greatest possible exportation and the least possible importation. This false theory still prevails in the minds of the masses, and still serves as a rule for many administrations and governments; it forms the basis of the economic ideas of all the writers of the eighteenth century, who did not belong to the physiocratic school or to that of Adam Smith; it is still appealed to in our days by statesmen, and by all those who, by conviction or for financial considerations, defend prohibition, high tariffs and custom impediments. — We have not to detail here, still less to refute, all the consequences of this fundamental error, which would necessitate a full course in political economy, and which would lead us to repeat what is already found in many articles of this Cyclopædia. We will limit ourselves to saying that the mercantile system is in opposition to the true notion of money and of production, to the nature of markets and the mechanism of the operations of commerce, and we will refer the reader more particularly to the articles, BALANCE OF TRADE, COMMERCE, EXCHANGE, OUTLET, MONEY, PRODUCTION OF WEALTH, EXPORTS AND IMPORTS. — All sciences have begun in error; and the mercantile error is found in antiquity. It is plain from a passage in Cicero,* that the exportation of precious metals was often prohibited under the republic, and this prohibition was often renewed, although very uselessly, by the emperors There is perhaps no state in modern Europe which has not formally interdicted the exportation of gold and silver. This exportation was, it is said, prohibited by the English laws before the conquest, and different statutes having the same purpose were passed at that time One of these statutes (3 Henry VIII., chap. i.), approved in 1512, declared that any person who transported metallic specie, plate or jewels, to a foreign country, if it was discovered, would be liable to a confiscation equivalent to double the value of the merchandise transported. — In 1848 when Rossi became minister of the pope, one of his first cares was to repeal the legal provisions which forbade the exportation of coin from the Roman states. About the same time, and a few days after the revolution of February in France, the commissary of the department of the Rhone opposed, by a decree, the exportation of coin from that department! — It is known that commerce, during the fifteenth and sixteenth centuries, developed rapidly, on account of the direct relations of Europe with India by the cape of Good Hope, and the force of circumstances brought about the substitution of a more ingenious and less barbarous system for the gross system of the absolute prohibition of the exportation of coin. Indeed the exportation of gold and silver money by India was advantageous and was practiced notably by the East India company. This company was accused on this point of ruining the kingdom, by taking out of the country its gold and silver; but its defenders, Thomas Mun among others, claimed that this exportation was advantageous, because the commodities brought from India were chiefly re-exported into other countries, from which was received a larger quantity of coin than that required in the first place for the pay-

* "In a great number of cases, before and since my consulship, the senate has very wisely decided that the exportation of gold could not be allowed." (Oration for L. Flaccus, ch. 28.)

ment of these commodities in the east. — It is from this time that the first theoretical essays on economic and commercial questions date. Mun wrote in 1635 or 1640; after him came, in England, Josiah Child, Dr. Davenant, the authors of the "English Merchant," and J. Steuart; in France, Melon and Forbonnais; in Italy, Genoiesi, who were, in the eighteenth century, the most distinguished writers, who defended, with more or less extensive restrictions, the principles of the mercantile system. — The analyses of the physiocrats, and, later, those of Adam Smith, completely refuted this false idea, which all the treatises on political economy place among scientific heresies; but upon this point, we repeat, practice is about three-quarters of a century behind theory The point of departure of this theory rests in this fact, that, since ancient times, money had principally consisted of gold and silver specie. From this fact it was concluded that the possession of money exclusively constituted wealth; the use of money for a long time prevented the perception of the true nature of purchase and sale, that is to say, of exchange, and confounded wealth with the instrument of exchange and the measure of this wealth. The consequences of this error have been formidable for humanity. They have, in fact, led men to misunderstand the freedom of labor, the advantages of the division of employments among nations; led them to create at the frontiers customs barriers to protect certain branches of work, but which hurt all; to direct most industries into unnatural ways; to give to governments a surveillance which they should not be allowed to exercise; to create a barbarous legislation, and to cast discord among nations. "It is no exaggeration," says Storch, "to affirm that very few political errors have produced more disasters than the mercantile system. Armed with power, it has imposed ordinances and prohibitions where it should have protected. The method of making regulations, which it has inspired, has been the cause of vexations of a thousand kinds to industry, to turn it from its natural paths. The mercantile system has persuaded each nation that the well-being of neighboring nations was incompatible with its own; hence was born that reciprocal desire to injure and impoverish each other, and with it that spirit of commercial rivalry which has been the immediate or remote cause of the greater part of modern wars. It is the mercantile system which has driven nations to employ force or cunning to extort from the weakness or ignorance of rival nations treaties of commerce which have been of no real advantage for themselves. It is this system which has presided over the formation of colonies, for the purpose of giving to the mother country the exclusive enjoyment of their commerce, and to force them to have recourse only to the markets of the mother country. Where this system has produced the least evil, it has retarded the progress of national prosperity; everywhere, besides, it has caused torrents of blood to flow; it has depopulated and ruined many countries, to which it might have been supposed it would have furnished in the highest degree power and wealth."

JOSEPH GARNIER.

MESSAGE (IN U. S. HISTORY), a written communication to congress by the president. Regular messages are sent at the opening of each session of congress; special messages, whenever an occasion for them arises. During the administrations of Washington and John Adams the messages were delivered orally by the president to the two houses assembled together; since that time they have been delivered in writing, through the president's private secretary, and then printed by order of congress for general distribution. (See EXECUTIVE.) A. J.

MEXICO forms a triangle whose apex pointing southeast terminates the North American continent. It reaches to that ridge, 1,428 miles long, known as the isthmus of Panama; and includes the most northerly of the passes which exist in that immense embankment and offer a means of passage between the two oceans which wash the shores of the new world, namely, the pass called after Tehuantepec, a town on the Pacific coast. Mexico, however, extends beyond the pass or the isthmus of Tehuantepec; the peninsula of Yucatan, which is farther south, belongs to it also, thus making it contiguous to Central America, which is composed of five independent states, the most important being Guatemala, and of the English colony of Balize. Mexico, then, chiefly extends lengthwise in an oblique direction from 15° to 33° north latitude, lying southeast to northwest, from Cape Catoche in Yucatan to the bay of San Diego in the peninsula of California, a distance of not less than 1,863 miles. Its narrowest part is the isthmus of Tehuantepec, where the width in a direct line is only 136 miles: from Vera Cruz to Acapulco through Mexico, which is indirect, is 341 miles. Farther north, from the mouth of the Rio Bravo del Norte to the anchorage off the town of Sinaloa, following the line of latitude, is a distance of 683 miles. — Mexico, since the diminution it suffered at the hands of the United States, possesses a superficial area of 743,948 English square miles, less than half its size when ruled by Spain, and is about three and a half times as large as France. The greater part, as is shown by the preceding data, is in the torrid zone, the populated portion being almost entirely so. Northward the race of peaceable Indians, who by learning to work and embracing Christianity have entered the pale of civilization, disappear; and the population of European origin, although the more numerous, is scanty. Its increase is hindered by the incursions of savage Indians who are opposed to labor, and in particular those of the Apache nation, with regard to whom the United States, deeming them incapable of being improved, now openly pursues a policy of exter-

mination.— *The Climate of Mexico and the Productions it favors.* By its peculiar configuration Mexico is spared the disadvantages common to tropical countries. That portion of the earth's surface which bears the name of the torrid zone is in general unsuited to white men on account of its extreme heat, but even there the warmth of the sun may be modified by the elevation, that is to say, by the height of the land above the sea level. As the altitude increases, the temperature lowers, till at last, even at the equator, the limit of perpetual snow is reached. The greater part of intertropical Mexico forms a high table land, having a gradual slope on the one side to the Atlantic and on the other to the Pacific, intersected by valleys more or less deep, and studded with mountains and hills. This Mexican plateau enjoys many advantages, among which one in particular is worthy of note, that with the exception of a few isolated summits here and there, its elevation makes it admirably adapted to Europeans, and well suited to the cultivation of the products of the temperate zone, such as cereals, maize, the vine and the olive. On entering Mexico from the south, the central Cordillera of the Andes, which traverse the new world throughout all its length as though they were its spine, spreads out until it occupies almost the entire space between the two oceans; forming a plateau raised above the sea level to a height which, a little north of the isthmus of Tehuantepec, is about 4,900 feet, while at Pueblo, Mexico and Guanaxuato, it varies from 6,800 feet to 7,500 feet. Farther north the elevation is less than at Mexico. — The city of Mexico is built at the foot of two mountains, both covered with perpetual snow, Popocatepetl and Istaccihuatl, the former of which is 17,800 feet high. Setting aside these formidable earth masses and a few others distributed over the plateau, the high districts are for the most part a sort of plain stretching far into the north; the distance this table land extends, from north to south, is at least 1,500 miles, that is, about the distance between Paris and St. Petersburg.— On leaving the shores of the ocean, whether it be the Atlantic or the Pacific, and going toward the high lands, owing to the rapid change of elevation, a quick succession of different climates is encountered, each having its own distinct vegetation. With good means of communication, it would be possible to go in one day, from sunrise to sunset, from the coast plains, where the heat is suffocating, to a temperature resembling that of Montpellier or Toulouse. At each step, the face of the country, the look of the sky, the appearance of the animals and plants, the manners and occupations of the people, all change. First, the sugar cane is met with, in company with indigo, cacao trees and bananas; then comes the coffee shrub, and in succession the cotton plant, oranges, tobacco, olives, wheat and vines, together with many plants peculiar to the country, such as the liana whose fruit is vanilla, the beautiful plant (genus convolvulus) whose root makes jalap, the smilax whose root is sarsaparilla, and the cactus (*opuntia*) the food of the cochineal insect. On first starting, palms, and all those vigorous trees which in equatorial regions spring up along the seacoast, form the surroundings; in the intermediate region, say about the elevation of Xalapa, the trees have that beautiful, bright green foliage, like that of the liquidambar, which is a certain indication of a country plentifully watered by rivers or by the clouds, and the temperature of which is always moderate; they are succeeded by the oaks, which in turn give way to pines and firs, and lastly the firs remain alone as they do amid the crags of the Alps; the last remnants of vegetation are the lichens which only disappear when the perpetual snow line is reached. Maize thrives in every region. — Sugar planting is as profitable in Mexico as it is in the Antilles; cotton is of excellent quality, and the yield is abundant. Maize produces in a good locality and in a favorable season 800 grains for one. The wheat-growing country in the neighborhood of Puebla and of Toluca, notwithstanding that the farming is of the most primitive description, produces twenty-four or twenty-five grains for one. The banana or plantain is one of the staple food sources of Mexico, and it is well known that no other food plant needs so little attention or in proportion produces, even approximately, so much. — It is customary to divide Mexico into three parts, according to climate and productions, giving to each a characteristic name. The first division, which commences at the seacoast, is distinguished by luxuriant vegetation and excessive heat. Unfortunately many parts of it are devastated by yellow fever, a disease deadly to strangers and even to the Mexicans if from the plateau. It bears the name of the hot district (*tierra caliente*). Next in order is the temperate district (*tierra templada*), the climate of which is a perpetual spring. Xalapa and Orizaba are examples of this delightful country, which has a mean annual temperature of from 18° to 20° centigrade, and the thermometric variation in the different seasons is very slight. It is not only free from the overheated atmosphere and malarial exhalations of the seacoast, but also from the insects, both troublesome and dangerous, which swarm to the torment of mankind over a great part of the hot district. The third and last zone, the cold district (*tierra fria*) is the most extensive. It includes the entire plateau, and even those parts of the two inclined planes immediately adjacent to it It is almost universally agreeable to live in, and the inhabitant of the choicest spots in Europe might almost believe himself at home there. — *The Mineral Wealth of Mexico.* Mexico is naturally wealthy in minerals, and especially so in the precious metals, of which silver is the more abundant. The mines form a line 1,863 miles in length, reaching to the very north of Mexico, and taking a direction from southeast to northwest They are the result of one of those tremendous upheavals which have set their mark on the suc-

cessive periods of this planet's existence. The matrix is in veins, principally consisting of quartz, through which the silver is scattered in very small quantity, so much so that after the separation of the waste from the workable ore, the latter only yields the two or three thousandth part of its weight in metal, sometimes even less, and it is only the extreme abundance of the ore which compensates for its lack of richness. In northern Mexico, and especially on the Pacific coast, the traveler may see long lines of rocks cropping out, these being the quartz veins, the hardness and durability of whose substance has resisted all climatic influences. The number of argentiferous veins is practically unlimited, and their thickness is considerable, therein differing from the silver veins of the old world. Although Mexico has produced a great quantity of silver, it has been a mere sample of the metallic wealth of the country; an opinion which, expressed by the great Humboldt in the beginning of the century, has since been confirmed by every engineer and scientific man who has visited the country. The principal prospecting has been done in the neighborhood of the beautiful city of Guanaxuato, round about Zacatecas, farther north still at Guadalupe y Calvo, and in the opposite direction at Real del Monte. By an ingenious process, the invention of a sixteenth century miner, Bartholomew Medina, the silver is separated almost without the use of fuel from the different and often complex combinations in which it is found, the agent used, with a few other substances of less value, being mercury in the proportion of three pounds of it to two of silver. This process, called cold amalgamation, is of great value, because the country, sparsely wooded in the time of the Aztecs, was completely denuded of its forests by the Spaniards. Medina's process quickly spread from Mexico to all the other Spanish possessions in America, where it rendered the same services and is in use still. — Gold is found in Mexico for the most part in combination with silver, in a proportion small in weight but of considerable value, the value of gold being fifteen or sixteen times that of an equal weight of silver. The gold is removed from the silver ingots by "refining." There exist, however, in addition, gold mines, properly so called, which are generally but not invariably alluvial, like those which, existing in every quarter of the globe, have hitherto yielded by the process of washing the greater portion of the gold possessed by man. But the magnificent gold deposits of California remained unknown and therefore undisturbed as long as the country was in the hands of the Spaniards or of independent Mexico. The provinces of Sonora and of Sinaloa, on the Pacific coast, which are an extension of California, contain, according to incontestable evidence, deposits similar to those of California, both in the form of auriferous quartz and of alluvial detritus. — The Mexican mines have been, since the middle of the eighteenth century, the greatest producers of the precious metals in the world. At the beginning of the nineteenth century, when the war of independence broke out, their yield was from 125 to 130 millions, of which nine-tenths was silver. Since then, the country, distracted by continual revolutions and a prey to anarchy, has seen its mines neglected till the present yield barely equals that of the first years of the century. — If the country were restored to a settled condition, if it had an enlightened and stable government to provide the advantages enjoyed by the most civilized nations for three-quarters of a century, such as laws for the protection of labor, technical schools, and lines of communication, the production of gold and silver in Mexico would increase rapidly. The discovery of the great deposits of quicksilver at New Almaden, in California, is calculated to give a lively impetus to Mexican silver mining; for experience joins with calculation to show that abundance of mercury at a low price is a great incentive to activity among the miners who work the silver lodes. — The destruction of the greater portion of the forests and the entire absence of any mineral fuel must cause the production of other metals, and in particular of iron and copper, to be indefinitely postponed. — *Advantageous Position between the two Oceans.* To the advantages which Mexico possesses in its climate, its soil, the unlimited variety of its agricultural products, and its many gold and even silver mines, it adds that of a topographical situation almost unique. It has on its sides the two greatest and most frequented oceans, the Atlantic and the Pacific. It faces thus at the same time both sides of the old world, and the two most industrious, most civilized and most populous portions of it, one at its western extremity, that is, in Europe, and the other at the eastern, that is, China and Japan. It seems chosen to have intimate connections with both, and even to serve as a highway for much of their commerce. The railroad which is to cross Mexico from Vera Cruz to Acapulco, and is completed between the former city and the capital, will be of great service in opening up communication between the interior of the country and the seacoast, and will be useful to many strangers in spite of its steep ascending gradients, but the greater number will desert it for the line which the people of the United States, by a miracle of boldness and economy, have succeeded in opening between New York and San Francisco, both of which are metropolises exercising great attraction. — The isthmus of Tehuantepec was strongly advocated, before the design of the Central Pacific railway between New York and San Francisco was conceived, as the position for a line of rail which, together with the Panama railway, should make a junction between the two oceans. This route has the advantage of shortening greatly the transit from the eastern to the western slope of the North American continent. Travelers going from New York to San Francisco by sea and one of the isthmuses would gain considerably by taking it as

compared with the route via the isthmus of Panama. — The direct railroad between New York and San Francisco deprives of this special advantage the line of rails that was to be placed on the isthmus of Tehuantepec. In return it seems now highly probable that that isthmus will be crossed by a maritime canal of wide section, adapted for the vessels which transport the merchandise exchanged in such quantity between the Atlantic and Pacific basins. This canal, which is intended to commence in the river Guazacoalcos, a tributary of the Atlantic, and to reach the Pacific through the lagoons near Tehuantepec, is seriously projected now by the company which had before the concession for the railway across the isthmus. The United States government has had the proposed route surveyed, and the decision of those surveys, made in 1870–71, under the direction of Captain Schufeldt, by the engineers Fuatos and Buel and other officers, was that the undertaking presented no extraordinary difficulties. It would be necessary to surmount by means of locks an ascent of 233 mètres; the length would be 237 kilomètres from the island of Tacamichopa in the Guazacoalcos to the port of Salma-Cruz on the Pacific. The watershed would be on the plateau of Tarita. Below the island of Tacamichopa use would be made of the bed of the river Guazacoalcos, which it would be easy to improve. The maritime canal of Tehuantepec promises better for the commerce of the United States than any of the rival schemes proposed, as it would greatly shorten the distance between the numerous and busy ports which the Union possesses on the Atlantic side and San Francisco, already the most important mart of the new world on the Pacific. It would also be the most convenient route to Japan, Hongkong or Shanghae. — *The Population of Mexico.* The population of Mexico consists chiefly of the descendants of the indigenous race subdued by Cortez. This industrious and disciplined people rapidly embraced Christianity after Mexico was conquered. Whether voluntary or on compulsion, conversion was general. The Catholic clergy skillfully availed themselves of the similarities existing between Christian theology and that of the Aztec religion. Since that time the indigenes, called Indians through the mistake of Columbus who fancied he had found India, have remained submissive. In a very few instances and during periods of extreme suffering, isolated outbreaks of rebellion have occurred, but, very different in this from the Indian tribes once spread over the whole United States, the Mexican Indian regularly cultivates the soil either for himself or as the servant of some white man, does his day's work in one of the few manufactories which have been established, or labors of his own free will in the mines, where he gives surprising proofs of his physical development. There are numerous half-breeds, the offspring of intercourse between the whites and the Indians, who, under the Spanish dominion, were called *castes.* The number of negroes, or of those sprung from them through unions with whites or Indians, is very small. Formerly there were several thousand black slaves, but they were for the most part set at liberty on the commencement of the war of independence in 1810. — On the western slope of Mexico, in the neighborhood of the city of Acapulco, whose magnificent harbor was the port of arrival and departure of the solitary ship called the Galion, which once a year made the round trip between Mexico and China and the countries which lay on the route, Malays may be met with, the descendants of those who came by that way to settle in the country, but they have not increased. The proof that the Chinese, who are so industrious, who make such intelligent and steady workmen, might easily be attracted to the country and would acclimatize themselves there, is seen in the fact that they are taking root both in California and Australia in spite of the bad treatment they are subjected to in those places. — The dominant race till now has been the white, although in point of numbers it constitutes only one-sixth or one-seventh of the population. It is not without some admixture of Indian blood, as, since the time of Cortez and indeed at that great man's instigation, lawful marriages have been contracted between the two races: several of his companions in arms, and those not the least distinguished, having united themselves before the altars to the converted widows of Mexican chiefs who had fallen in the struggle. The ascendency of the white race is not absolute. The classes of mixed blood and even pure-blooded natives have furnished eminent men to the country who have risen to the highest honors. Guerrero, who was president, was of mixed Spanish and Indian blood, and President Juarez was a full-blooded Indian. — The number and composition of the Mexican people in 1810, according to the statistics of Don Francisco Navarro y Noriega, whom Humboldt mentions as being reliable, was as follows:

Europeans, and Creoles of European origin	1,097,928
Indians	3,676,281
Castes or mixed races	1,338,706
Total	6,112,915

At the present time the population of Mexico is estimated at about nine millions. — *Mexico since the Conquest by Hernando Cortez.* Mexico was, before the European invasion, the most powerful state of the new world. It was the farthest advanced in both the useful and the decorative arts, in science and in literature. This civilization, while in many respects to be admired, was marred by some horrible practices, in particular by that of human sacrifice. Several peoples in succession ruled the country, the last and cruelest being the Aztecs, to which race the emperor Montezuma, in whose presence Hernando Cortez found himself, belonged. — The Spanish conquest was achieved by a succession of battles and of deeds of daring which commenced on the day the Spaniards disembarked (Holy Thursday, 1519)

and terminated Aug. 13, 1521, on which date the last quarter of Tenochtitlan, or Mexico, was carried by assault, and the young and valiant Guatemozin, the last Aztec emperor, was taken prisoner. The Spaniards at once set to work to organize this vast acquisition. The Indians, notwithstanding their conversion, were, with the exception of the nobles and of the people of Tlascala, shared as slaves, or nearly so, between the conquerors and people of all sorts who flocked from Spain to join them, or who were sent there by the crown. This system went by the name of *repartimientos*, a word which indicated quite sufficiently what was done. They portioned out these wretched Indians as though they were herds of cattle, making them till the ground and labor in the mines. This régime, when applied to the islands of Hispaniola or San Domingo, speedily resulted in the extinction of the aborigines. In Mexico the race to be dealt with was hardier and possessed greater vitality. The enforced labor decimated but did not utterly destroy it. It must be said, also, that in this case the clergy labored indefatigably in behalf of the unfortunate Mexicans, and their efforts were crowned with success, upheld as they were by the court of Spain. This latter looked upon the sentiments of Christian charity which Queen Isabella manifested toward the aboriginal peoples of America, and which she, when on her death-bed, commended to her successors, as an inalienable bequest. At a later period the courts of justice or *audiencias*, and the viceroys, among whom were many distinguished men, were the interpreters of the royal views, and ameliorated the evils under which the Indians were crushed by the colonists or by the feudal chiefs who were blinded by avarice. The clergy regarded the task of protecting those unfortunate creatures as a special duty assigned them. In this an example was set to the whole of the new world by the bishop of Chicopas, Bartholomew Las Casas, who, at the time of the barbarities practiced on the natives of Hispaniola, made Europe and America ring with his outspoken denunciation of them. At an early period the Spanish court modified greatly the régime established in Mexico as elsewhere. The *repartimientos* were abolished, and their place taken by *encomiendas*. This was, as nearly as possible, serfdom substituted for slavery. The Indian and his family were attached to the soil instead of depending on the individual caprice of a master. One portion of the Indians remained exempt even from the *encomiendas* in certain villages, access to which was forbidden to the whites. During the reign of Charles III., an enlightened prince, and one who gave his mind to benefiting his people, fresh abuses and deeds of violence came to light, and these seeming intolerable to the court of Madrid, the *encomiendas* in turn were swept away. The native had now no master but the king, but he was obliged to pay an annual tribute, and he continued in a state of pupilage all his life. He was declared incapable of transacting business whenever the sum in question exceeded five piasters. This was done on the supposition that it would act for the protection of the Indians, but the avaricious cunning of the whites still found means of oppressing them, and the more so that they were more unarmed and less free to do it. Intendants, civil governors created by the same prince in 1776 were placed at the head of each province, and invested with considerable power under the authority of the viceroy. Their duty was to administer the affairs of the country in general, and in particular to act for the protection of the Indian. — The Indian nobility or caciques were exempt from the degrading condition of minority to which the other Indians were subject. From the time of Cortez they had been placed on a par with the Castilian nobility, but no care had been taken to educate their descendants. They had ended by lapsing into a condition of barbarity. Of their ancient superiority they only retained the habit of making exactions from their miserable fellow-countrymen. — The numerous class of half-breeds were scarcely better treated than the full-blooded Indian. They too paid tribute, but were, however, free from the state of perpetual pupilage which the Indian was forced to submit to; but they were none the less kept in a condition of degradation. — The class of creole whites, that is to say, whites born in Mexico, suffered under a policy of suspicious surveillance. To those who by their own effort or by inheritance possessed wealth in mines, or in vast agricultural territories, titles of nobility were given; those who were less rich got commissions in the militia and decorations. Neither class was admitted to any share in the government or administration of the country. All that was granted them was the privilege of becoming members of the municipal bodies or *ayuntamientos*. Numerous, and, from their large possessions, influential, this class was profoundly discontented. There was no despotism clever or adroit enough to make the son of a father born in Spain and of a mother equally Spanish admit that there should exist a gulf between him and his parents or between him and an elder son who happened to have been born in Spain. It was useless to inspect all printed matter entering Mexico, with the object of preventing the circulation of any books unless approved by the inquisition; truth has a diffusive force which sets at naught the arbitrary decrees of the most absolute power or the watchfulness of the subtlest inquisition. An antagonism, at one time suppressed, at another outspoken, existed between the creoles (*criollos*) and the natives of Spain, who were distinguished by the name of *Gachupines*. — Ideas of independence were introduced into Mexico by the excitement caused by the independence of the United States and the French revolution, and sank deep into men's minds in spite of the barriers with which government surrounded the people; and the events which took place in the peninsula in 1808 giving the needed opportunity,

by the total eclipse of the legitimate royalty from which the whole system emanated, an explosion followed. The independents, commanded by priests, first Hidalgo and then Morelos as their generals in chief, gained in the beginning important advantages, but they soon suffered severe disaster. A Spanish officer of great merit, Calleja, who was afterward viceroy, made them pay dearly for their early successes. Their armies were beaten and dispersed, their chiefs taken and executed. In 1815 the triumph of the Spanish authority seemed everywhere complete, but it was only so in appearance. The creoles, the chief of whom had in consequence of the atrocities committed by the independents made common cause with the Spaniards, rallied at last from all quarters to their country's flag. The signal was given by one of them, who had distinguished himself with the Spanish armies, Colonel Iturbide. This chief, to whom the viceroy Apodaca had entrusted an imported body of troops, proclaimed independence Feb. 24, 1821, and published a programme which has since been famous, by the name of the Iguala plan (so called from the small town where it was issued). The whole country, every class, gave in their adhesion to it. Independence was henceforth an accomplished fact, and from that time it has never again been questioned. — The proclamation of independence was only the beginning of the greatest trials. The Iguala plan provided that Mexico should henceforward form a perfectly independent monarchy, the crown of which was to be offered to the king of Spain on condition of his residing in the country, and in the event of his refusing, to the infantas, his brothers. The court of Spain utterly rejecting this proposal, Iturbide had himself proclaimed emperor, but seated on the throne in May, 1822, in May, 1823, just one year later, he embarked at Vera Cruz, condemned to exile. The Mexican congress, a permanency since the emancipation gained by the Iguala plan, adopted the republican form of government, and believed it could do no better than copy the federal constitution of the United States, which, suited to the manners and antecedents of the former English colonists, jarred with the customs and prejudices of the Mexicans. The republican constitution, long in elaboration, was published in October, 1824, and the president elected was General Victoria, one of the most intrepid heroes of the war of independence. After four or five troubled years had passed, the horrors of civil war commenced, and the country, since then, has gone from revolution to revolution, from catastrophe to catastrophe. It has been by turns a federal and a simple republic. In the former case, the provinces have not only borne the name of states, but have also possessed a sort of independence with a distinct governing body, on the plan, more or less closely followed, of the United States; in the latter, the central executive has had the entire control, subject really or nominally to the decisions of a congress, consisting, like that at Washington, of two chambers There has even been, apart from any foreign intervention, a thinly disguised effort to establish a monarchy. It was made by General Santa Anna after his return to power in 1853, who planned to have himself elected president for life with the right at his death of naming his own successor. But the attempt proved abortive, and a revolution overthrew Santa Anna in 1855. — During the greater part of the time the federal form of republic has been the prevailing one, and is in existence at the present date. But it is impossible to give the provinces an independent existence such as is possessed by the different states of the American Union. This system has no root in Mexico's past and as a matter of fact the governor of Mexico always has a dominant influence, which, when the country comes to possess passable means of communication, will most assuredly increase — So great has been the political instability of Mexico since it became independent that the presidential chair changed occupants forty-six times between Oct. 10, 1824, and the French invasion, General Santa Anna's name appearing on the list five times. General Santa Anna was, from the declaration of independence until the movement of 1867, the most prominent figure in the country and the mainspring of the events occurring in it. He contributed more than any other to the overthrow of the emperor Iturbide; he, however, judged it inexpedient to accept the presidency till 1834. Forced again and again to relinquish power, he always regained it, and retained it longer than any of his rivals, steering skillfully between parties, soothing each in turn and using them one against the other.— In the midst of the turmoil of events and the incessant storm of personal pretensions, it is possible since the independence to single out two parties having distinct characteristics in complete opposition to each other, which by their antagonism furnish an inexhaustible incentive to revolution. These are, the conservatives and the reformers or liberals, neither, unhappily, knowing any moderation. The first named cling to ancient ideas and old forms of government, the second are saturated with modern theories, and admire in particular the principles of the French revolution of 1789, grafted on some of the federal principles of the United States. The ground on which they joined issue was the connection between church and state It was not that the clergy had been at first hostile to independence; with the single exception of the dignitaries of the church, who were almost to a man Spaniards, they had favored the party of independence, and had even taken an active part in the insurrection, giving it its first leaders, Hidalgo, Morelos and Matamoras, and to the last they continued to support it. But this was not done without making both open and secret reservations. The plan of government sketched by the priest Morelos maintained the prerogative of the church and its absolute control over consciences. The Iguala plan, in accordance with which independence was definitely estab-

lished, provided in its first article that one of the bases of the organization of the country should be the Roman church, catholic and apostolic, and that no other should be tolerated. In respect to its possessions, which were enormous, the Mexican church flattered itself that they would be respected, and it is not unreasonable to suppose that one of the accessory causes of its adherence to the party of independence is to be found in the system inaugurated by the court of Spain at the commencement of the century, of taking possession of the capital of the Mexican clergy and replacing it by annuity bonds which were deservedly protested against. This was actually done to the extent of 58,000,000 francs. — Independence once achieved, the Mexican liberals, who had received their education from the works of the French philosophers and publicists, entered with ardor the course in which they had been preceded by the liberals of France, and in due course by those of the two great peninsulas of southern Europe, Spain and Italy. They openly favored freedom of worship, which the Catholic clergy, in obedience to orders from Rome, rejected with all their power. At the same time the liberals proposed to vest in the state, which was without resources, the possessions of the church. With sound reason Mexican liberals wished, in view of possible claims on the part of Rome, to give the state the guarantees which form part of French public law, and notably such as make the publication of bulls, briefs and other official utterances of the holy see conditional on obtaining the previous sanction of the government. The liberal party also comprehended in its programme the innovations of the Code Napoleon and the French concordat of 1801, such as the civil character of marriage, the abolition of perpetual vows, the abolition of ecclesiastical tribunals, the closing of monastic institutions, the limitation or confiscation by the state of church property, etc. By degrees, overstepping French bounds, it ended by allying itself to the system adopted by the United States, which entirely divorces government from religion and the state from creeds. There has been on this account a complete rupture between the liberals and the clergy. The latter formed the centre and nucleus of the conservative party, with which a great number of the landed proprietors and a section of the Indian population have identified themselves. — After alternate successes and reverses, the liberals at last completely got the upper hand, and the French army found them in power when it entered Mexico. President Juarez, and the party which sustained him, relied on the constitution, which explicitly enjoined freedom of worship. Laws had been passed, which, with certain reserves in their favor, declared the lands and buildings belonging to the clergy to be sequestrated to the state, and under those laws many sales took place. — The political difficulty which has hitherto proved insurmountable in Mexico consists in this, that up to the present time it has not only been impossible to make the two parties walk in harmony, but even to find common ground on which they would tolerate each other. They shun each other absolutely. The liberal party aims at a perfectly commendable object, but does so for the most part without enlightenment and without tact; this object being to establish in Mexico a political system founded on the general principles which modern civilization has adopted in the countries where it has reached its highest development, namely, those of western Europe and the United States of North America, while imitating more particularly such peoples as have an affinity to Mexico in having a resemblance or community in their origin, their traditions, their manners or their language. What are called in France the ideas of 1789, with the deductions which she has drawn from them, and which Spain and Italy have accepted, are the basis of this party's programme. All that portion of this programme which concerns religion, or rather the relations of church and state, is rejected as sacrilegious by the conservative party, which the court of Rome sustains here, and excites by all means in its power. The doctrines of 1789 advocate entire religious liberty, abolition of perpetual vows, and the suppression of church courts; and Juarez, on regaining power after the retreat of the French armies, brought back with himself the constitution whose offspring he was, and vindicated liberal tenets on the subject of religion. His successor, President Lerdo de Tejado, followed his footsteps closely. The liberal party seems to have entered on an indefinite lease of power. It directs its efforts toward remodeling the state on the type of the advanced nations in Europe or the American Union, a work infinitely difficult of accomplishment when regard is paid to the materials on which it has to work and the tools at its disposal. — Mexico needs a moderator who could force or persuade the opposing parties to accept a compromise; some one to reproduce in Mexico what was accomplished in France by the first consul, when he formulated a *modus vivendi* to which an overwhelming majority acceded, and which appeased the dangerous dissensions having their origin in religion. But on this occasion the holy see gave its sanction to the proposed plan, encouraged it, and ordered its acceptance. In Spanish America, on the contrary, the Roman court has not hitherto admitted any compromise, and has declared its intentions in public documents, among which may be cited the allocution, dated Dec. 15, 1856, of Pope Pius IX. on the state of religion in the republic of Mexico, and that of May 6, 1863, on Spanish America in general. Of the same tenor is the concordat signed at Rome, Sept. 26, 1862, with the republic of Ecuador, a document which might have been penned by Hildebrand; as is also the encyclical of Sept. 17, 1863, to the bishops of New Granada. Unfortunately there is no one among the Mexicans who could present himself to them with the authority and prestige which the first consul enjoyed in France. — The history of Mexico, since

its independence, has been marked by many noteworthy incidents, viz.: 1. The invasion by the Spanish brigadier, Barrades, in 1829, to reconquer the country—an attempt which failed totally; 2. The Texan war, in which Santa Anna, wishing to recover that province from the American citizens who had taken possession of it, was defeated and taken prisoner at San Jacinto in 1835, with the result that this province, much larger than France, was lost to the Mexican republic; 3. The war of 1838, in which France took the chateau of Saint Jean d'Ulloa; 4. The war of 1847–8, when the army of the United States, after fighting numerous battles, took the city of Mexico, thereby obtaining the cession to the American Union of California and New Mexico. — But of all events in Mexico's history, the most important was the attempt, made by France in 1862 and the following years, to re-establish monarchy in Mexico in favor of an enlightened and generous prince, the archduke Maximilian of Austria, who, after being installed there, saw himself abandoned by the French arms, and believing it his duty to remain at his post in defense of the Mexicans who adhered to him, was defeated, and fell into the hands of Juarez' government, which had the barbarity to hand him over to a military commission, by order of which he was shot at Queretaro, June 19, 1867 — This expedition, foolishly conceived to begin with, badly organized, badly conducted, and which had such a fatal issue, was one of the greatest mistakes made by modern French policy. The object aimed at was, to raise the party of the great landowners and the clergy, by giving it the new throne as a bulwark: an insane project, as, at the time it was sought to carry it out, that party was so wrecked that so far from being able to make any headway against its opponents, it lacked the very cohesion necessary to maintain its existence, and either could not or did not know how to concentrate on behalf of its unfortunate prince what little power remained to it. The court of Rome, on whose fervent and cordial co-operation the emperor Maximilian thought himself justified in counting, betrayed his hopes and stood aloof from him. — Mexico is at present comparatively tranquil, and laws are better kept or less unknown. Military men seem satisfied that the supreme magistracy should rest in the hands of a civilian. Public education is extending and improving in every department, from the highest to the lowest. Efforts are being made toward the development of public works. The railroad from Mexico to Vera Cruz, opened in January, 1873, promises great results for the agriculture of the country, the export of whose rich and varied produce it will greatly facilitate. Mining is receiving a fresh impetus. But a vast amount of ability, wisdom and firmness will be necessary before the unsettled habits, contracted during half a century of civil discord, are finally relinquished, and the passions which then had free vent are brought under proper control. Highway robbery flourished in Mexico when it was a Spanish colony, and the courts of justice were very severe, but it has increased enormously, the very trains on the Mexico & Vera Cruz railway being sometimes stopped and robbed. There still remains, therefore, much in the way of progress for Mexico to effect before it can equal the condition of the civilized states whose peer it wishes to be, or raise itself to the level of the political institutions it has adopted. — Mexico is divided into twenty-seven states, one territory (lower California), and one federal district made up of the city of Mexico and its environs. The total revenue of the central government, in 1873, was estimated at over fourteen millions of dollars; the imports rose, in 1870, to twenty-three and the exports to twenty-six millions of dollars.*—

* A revolution took place in 1880, which overthrew Gen. Porfirio Diaz and installed in his place Gen. Gonzales. The administration is carried on by a council of six ministers, viz., of justice, finance, the interior, army and navy, foreign affairs, and public works. — The revenue is more than two-thirds derived from customs duties, and about one-half of the expenditure is for the maintenance of the army. The expenditure has for many years exceeded the revenue. In the budget estimates for the financial year ending June 30, 1879, the revenue was estimated at $16,128,807 and the expenditure at $22,108,046. — The public debt of Mexico, external and internal, was estimated at $425,500,000, but no official returns regarding it have been published since 1865, when the total debt was calculated at $317,357,250. The government of the republic does not recognize any portion of this debt, except the 6 per cent internal Mexican debt, and the interest on that has not been paid for many years. The following is an abstract of the debt as published in 1865:

ITEMS	Capital	Annual Interest
Old English three per cent loan as per settlement of 1851	£10,241,650	£ 307,205
Three per cent. stock, created in 1864 for settlement of overdue coupons of old loan	4,864,800	145,944
Six per cent. Anglo-French loan of 1864	12,365,000	741,900
Six per cent. lottery loan of 1865	10,000,000	----------
Interest, £600,000; lottery prizes, £120,000, sinking fund, £250,000	----------	970,000
Six per cent internal Mexican debt, *circa*	7,000,000	420,000
Admitted claims of foreigners, bearing interest at 6 per cent	6,000,000	360,000
Amount due to French government for war expenses, March 31, 1865	13,000,000	----------
Annual payment to France on account of war expenses, as per Paris convention of 1864	----------	1,000,000
Total	£63,471,450	£3,945,049

— The population of Mexico in 1875 was estimated at 9,343,470 souls of which more than one-half were pure "Indians."— The chief articles of export are silver, copper ores, cochineal, indigo, hides, mahogany and other goods: articles of import are cotton and linen manufactures, wrought iron and machinery. More than two-thirds of the entire trade of Mexico is carried on with the United States, and the remainder with France, Germany and Great Britain. The total imports in 1876 were of the estimated value of $28,485,000, and the exports were estimated at $25,435,000, (the export of silver alone valued at $15,000,000). —Mexico had 1,050 miles of railway open for traffic in 1881. The Inter Oceanic railway, across the isthmus of Tehuantepec, sixty miles long, was to have been opened at the end of 1882. In June, 1881, the total length of telegraph wires was

BIBLIOGRAPHY. Solis, *Historia de la conquista de Mexico*, Madrid, 1684, new ed., Paris, 1858, translated into English, 2 vols., London, 1724; Humboldt, *Versuch über den politischen Zustand des Königreichs Neuspanien*, 5 vols., Tübingen, 1809–13; Kingsborough, *Mexican Antiquities*, 9 vols., London, 1831–48; Richthofen, *Die äussern und innern Zustände der Republik Mexico*, Berlin, 1854; Mühlenpfordt, *Versuch einer getreuen Schilderung der Republik Mexico*, 2 vols., Hanover, 1844; Orozco y Berra, *Geografia de las lenguas de México*, Mexico, 1864; Gayangos, *Cartas y relaciones de Hernan Cortes*, Paris, 1866; Icazbalceta, *Colleccion de documentos para la historia de México*, Mexico, 1858–66, and *Documentos para la historia de México*, 20 vols., Mexico, 1853–7; Prescott, *History of the Conquest of Mexico*, 3 vols., Boston, 1844, 3d ed., 3 vols., Philadelphia, 1874; Zavala, *Ensayo historico de las revoluciones de México*, 2 vols., Paris, 1831; Torrente, *Historia general de la revolucion moderna hispano-americana*, 5 vols., Madrid, 1829–30; Mora, *Mejico y sas revoluciones*, 8 vols., Paris, 1836; Alaman, *Historia de México*, 5 vols., Mexico, 1849–52; Cuevas, *Porvinir de México*, 1821–51, Mexico, 1851–7; Labédollière, *Histoire de la guerre de Mexique*, Paris, 1866; Payno, *Historia de México*, Mexico, 1871; Kendall, *Mexico under Maximilian*, London, 1872; Niox, *Expédition du Mexique: Récit politique et militaire*, Paris, 1874; *Boletin de la sociedad de geografia y estadistica de la República Mexicana*, Mexico, 1878–9; Chevalier, *Le Mexique ancien et moderne*, Paris, 1866; Domenech, *Le Mexique tel qu'il est: La vérité sur son climat, ses habitants et son gouvernement*, Paris, 1866; Flint, *Mexico under Maximilian*, Philadelphia, 1867; Geiger, *A Peep at Mexico: Narrative of a Journey across the Republic from the Pacific to the Gulf*, London, 1874; Brantz Mayer, *History of the War between Mexico and the United States*, New York, 1848, and *Mexico, Aztec, Spanish and Republican*, 1852; Mansfield, *The Mexican War*, New York, 1848; Helps, *The Life of Hernando Cortes, and the Conquest of Mexico*, London, 1871.

MICHEL CHEVALIER.

MICHIGAN, a state of the American Union, formed from the northwest territory. (See TERRITORIES, ORDINANCE OF 1787.) The territory of Michigan, as formed by the act of congress of Jan. 11, 1805, was enlarged by other acts until that of June 28, 1834, when it embraced all the territory north of Missouri, Illinois, Indiana and Ohio, and between Lakes Erie and Huron and the Missouri river. According to the provision of the ordinance of 1787, which directed congress to admit new states, with a population of 60,000 at least, from the northwest territory, Michigan began its applications for admission as a state in January, 1833, claiming to have reached the constitutional limit of population; but congress paid no attention to the applications, and the bills for admission, which were introduced, were not acted upon. Finally a convention, called by the territorial council, framed the first constitution, referred to below. The question of the southern boundary was very embarrassing to congress, which finally passed the act of June 15, 1836, to settle the northern boundary of Ohio and to admit Michigan when its convention should assent to the boundaries provided by congress. A convention called by the territorial legislature, Sept. 28, 1836, refused to ratify the new boundaries; but another convention, Dec. 15, 1836, chosen by the people of their own motion, ratified them, and this was accepted as sufficient by congress. The state was then admitted by act of Jan. 26, 1837. Objections were made to the counting of Michigan's electoral votes in 1837, on the ground that the electors were chosen before the state was admitted, but they were counted "in the alternative." (See ELECTORS.) — BOUNDARIES. The first constitution claimed for the new state the same boundaries as those established for the territory of Michigan in 1805—the southern peninsula of Michigan, with the southern boundary a few miles farther south than at present. The act of June 15, after so fixing the northern boundary of Ohio and the southern boundary of Michigan as to give the disputed territory to the former state, added to the new state, in compensation, the whole of the *northern* peninsula of Michigan also, with a western boundary as follows: from the mouth of the Montreal river in Lake Superior, up the main channel of the Montreal to the middle of the lake of the Desert; thence by a straight line to the nearest headwater of the Menomonee river and up that fork to the Menomonee river; thence down its main channel to the centre of the most usual ship-channel of the Green bay of Lake Michigan, and through that channel to the middle of Lake Michigan; thence down the middle of Lake Michigan to the northern boundary of Indiana, and east and south, with the Indiana line, to the Ohio line. The eastern and northern boundary was that between the United States and Canada. — CONSTITUTIONS. The first constitution was framed by a convention which met at Detroit, May 11 – June 29, 1835, and was ratified by popular vote, Nov. 2. It prohibited slavery; gave the right of suffrage to white males over twenty-one, on six months' residence; provided for a house of not less than 48 nor more than 100 representatives, to be chosen annually, and a senate one-third as numerous, to serve two years; and fixed the governor's term at two years. — The second constitution was framed by a convention held at Lansing, June 3 – Aug. 15, 1850. Its principal modifications were that it fixed the capital permanently at Lansing, where the legislature had already established it; it fixed the number of senators at 32, and of representatives at not less than 64 nor more than 100, and it forbade the creation of corporations, except under general laws, the giving of state credit to corporations, and the passage of laws to license

10,580 English miles. The postoffice carried 4,406,410 letters in 1879-80. At the end of June, 1881, Mexico had 873 postoffices.

the selling of intoxicating liquors. It was amended in 1866 by giving the right of suffrage to voters absent from the state during time of war in the military service of the United States; in 1870 by empowering the legislature to fix maximum rates for transporting passengers and freight on railroads, and by prohibiting the consolidation of parallel or competing railroads, and in 1876 by abolishing the prohibition of license laws.— GOVERNORS. Stevens T. Mason, 1836–40; William Woodbridge, 1840–42; John S. Barry, 1842–6; Alpheus Felch, 1846–8; Epaphroditus Ransom, 1848–50; John S. Barry, 1850–52; Robert McClellan, 1852–5; Kinsley S. Bingham, 1855–9; Moses Wisner, 1859–61; Austin Blair, 1861–5; Henry H. Crapo, 1865–9; Henry P Baldwin, 1869–73; John J. Bagley, 1873–7; Charles M. Croswell, 1877–81; David H Jerome, 1881–3.— POLITICAL HISTORY. In presidential elections Michigan was democratic until 1856, except that in 1840 it was carried by the whigs for Harrison by a very small majority. In 1856 it was republican, and in subsequent elections it has always been the same, the popular majority not varying much from 6 per cent. of the total vote. The congressional and state elections have been governed by much the same laws. The senators, congressmen, (see APPORTIONMENT), legislatures and governors were democratic until the end of 1854, with the following exception: the whig success in the election of 1840 included not only the electoral vote of the state, but the congressman from 1851 until 1853, two United States senators and the governor (Woodbridge) — Early in June, 1854, the "anti-Nebraska" state convention of Michigan formally adopted the name "republican" for their party, the name having been recommended to the consideration of several of its members by a letter of Horace Greeley, of New York. The state was carried in the election of 1854 by the party which its state convention had baptized, and since that time the governors, legislatures and United States senators have all been republican. In 1881 the democrats have but 15 of the 132 members of the legislature on joint ballot. The congressmen have been almost as invariably republican: the only exceptions have been the elections of 1854, 1858, 1862, 1870, and 1876, in each of which a single democratic representative was chosen; and the election of 1874 in which three democratic and liberal republican representatives were chosen. In the congress of 1881–3 all the nine representatives are, as usual, republican.— In local politics there has been little worthy of note, except in 1853, when a "Maine liquor law" was adopted by a popular majority of nearly two to one, and in 1870–72, upon questions in regard to the railroads of the state. Until 1870, under acts of the legislature, towns, cities and counties had issued bonds in aid of various local railroads. In 1870 the state supreme court decided that the whole system of bond issues was outside of the legitimate field of taxation, and was unconstitutional. The legislature therefore proposed three amendments, two of which, referred to under the second constitution above, were ratified by popular vote. The third, which was intended to legitimize the bond system of the past and to authorize its continuance, was rejected by a heavy popular majority. —Among the political leaders of the state have been the following: Kinsley S. Bingham, democratic representative 1847–51, first republican governor of the state, and United States senator 1859–61; Austin Blair, the war governor of the state, and republican representative 1867–73; Julius C. Burrows, republican representative 1873–5 and 1879–85; Lewis Cass (see his name); Zachariah Chandler, first republican United States senator 1857–75 and 1879–81, and secretary of the interior under Grant. Isaac P. Christiancy, justice of the state supreme court 1858–72 and chief justice 1872–4, United States senator 1875–9, and minister to Peru 1879–81; Omar D. Conger, republican representative 1869–81, and United States senator 1881–7. Thos W Ferry, republican representative 1865–71, and United States senator 1871–83; Jacob M. Howard, republican representative 1861–2, and United States senator 1862–71; Jay A Hubbell, republican representative 1873–83; Robert McClelland, democratic representative 1843–9 governor 1852–3, and secretary of the interior under Pierce; Charles E. Stuart, democratic representative 1847–9 and 1851–3, and United States senator 1853–9; Alpheus S. Williams, major general of volunteers 1861–5, minister to San Salvador 1866–9, democratic and liberal republican representative 1875–9; and William Woodbridge, whig governor 1840–41, and United States senator 1841–7. — The name of the territory and state was given from that of the lake on its border, an Indian word. It is probably a compound of the Algonquin word "gan" (lake) with the Chippewa prefix "mitcha" (great). The popular name for its people is "Wolverines."— See 1 Poore's *Federal and State Constitutions;* 2 *Stat at Large*, 309, 5 .48, 144 (for acts of Jan. 11, 1805, June 15, 1836, and Jan 26, 1837, respectively); 12 Benton's *Debates of Congress*, 701, 749, and 13 : 29, 65, 185, 255; Sheldon's *Early History of Michigan* (to 1815), J H. Lanman's *History of Michigan* (to 1837); 2 Wilson's *Rise and Fall of the Slave Power*, 412, authorities under CASS, LEWIS; Chas. Lanman's *Life of William Woodbridge*, and *Red Book of Michigan* (to 1870), Campbell's *Political History of Michigan*, (1880); Porter's *West in* 1880, 195. ALEXANDER JOHNSTON

MILAN DECREE. (See EMBARGO, in U. S. History.)

MILITARY COMMISSIONS, and the Trial of the Conspirators for the Murder of Abraham Lincoln, President of the United States. When war prevails in a portion of country occupied or threatened by an enemy, whether within or without the territory of the United States, crimes and military offenses are often committed

which can not by the rules of war be tried or punished by courts martial, and which at the same time are not within the jurisdiction of any existing civil court. The good of society demands that such cases be tried and punished by the military power, by referring them to a duly constituted military tribunal composed of reliable officers, who, acting under the solemnity of an oath and the responsibility attached to a court of record, examine witnesses, pass upon the guilt or innocence of the arraigned parties, and determine the degree of punishment to be inflicted for the violation of law. — The powers of these tribunals have not been defined, nor any mode of procedure established by statute law, but the rules which apply to courts martial are held to be applicable to military commissions, and they are subjected to review and confirmation in the same manner and by the same authority as courts martial.—With respect to the jurisdiction of military commissions, it is held that all military offenses which do not come within the statute referring them for trial before a court martial, must be tried and punished under the laws of war, by military commissions. It is also held, that many offenses which in time of peace are civil offenses, become in time of war military offenses, and must be tried by a military tribunal even in places where civil tribunals exist. In fact, jurisdiction over capital offenses committed by parties not in the military or naval service of the United States, under certain circumstances has been claimed and exercised by military commissions, and parties thus convicted have, by the approval of the higher authority, suffered the penalty attached to the commission of such crimes. The constitution of the United States provides the right of trial by jury to persons held to answer for capital or otherwise infamous crimes, except when arising in the land or naval service. This is referred to as conclusive against the jurisdiction of military courts over such offenses when committed by citizens. It is, however, laid down as a rule by Benet (p. 208) that while the letter of the article would give force to such a declaration, yet in construing the different parts of the constitution together, such interpretation must give way before the necessity for an efficient exercise of the *war power* which is vested in congress by that instrument. It is also held by the same authority, that this principle has been recognized by the legislation of the country since an early period in its history, by the adoption of the fifty-seventh article of war, in the fact that it has from the beginning rendered amenable to trial by courts martial, for certain offenses, not only military persons, but all persons whatsoever. This article was first adopted by the congress of the confederation, and remained unchanged at the formation of the constitution. — A military commission is not restricted in its jurisdiction to offenses committed in the state or district where it sits, or the place where the offense was committed, as are the criminal courts of the country, but extends to any military department in which, on account of facilities for obtaining evidence, or for other good reasons, it may be convenient to bring a case to trial. During the war of the rebellion a great number and variety of offenses against the laws and usages of war, committed mostly by civilians, (Winthrop's Digest, p. 328), were tried and punished by military commissions, to wit: unauthorized correspondence with the enemy; blockade running; mail carrying across the lines; drawing a bill of exchange upon an enemy; dealing in confederate securities or money; manufacturing arms, etc., for the enemy; furnishing articles contraband of war to the enemy; publicly expressing hostility to the government of the United States or sympathy with the enemy; entering the federal lines from the enemy without authority; violating a flag of truce; violating an oath of amnesty or of allegiance to the government; aiding prisoners of war to escape; unwarranted treatment of federal prisoners of war; burning and destroying bridges, railroads, steamboats, and cutting telegraph wires used in military operations; recruiting for the enemy within the federal lines; engaging in *guerrilla* warfare; assisting federal soldiers to desert; resisting or obstructing an enrolment or draft, impeding enlistments; conspiracy by two or more to violate the laws of war by destroying life or property in aid of the enemy. — Of the ordinary crimes over which jurisdiction has been assumed by military commissions, especially during the war of the rebellion, are to be enumerated as most frequent, attempts to defraud the United States, misappropriations of public money and property and embezzlement of the same, bribery of and attempts to bribe United States officers breach of the peace, rape, arson, receiving stolen property, burglary, riot, larceny, assault and battery with intent to kill, robbery, homicide, and the crime known as "murder in violation of the laws of war." A recent illustration of this latter clause, was the principal offense of the Modoc Indians, tried by a military commission in July, 1873, which, as a treacherous killing of an enemy during a truce, was charged as "murder in violation of the laws of war." — From such jurisdiction, however, are very properly excepted such offenses as are clearly within the legal cognizance of the criminal courts of the country, when such courts have been left in the full operation of their usual powers, upon the establishment of a military government, or the *status* of martial law Such was the condition of the courts in the District of Columbia during the war of the rebellion, as at no time was the operation of the civil courts impeded or in anywise interfered with during its existence, and ordinary criminal offenses committed therein by civilians or soldiers, not excepted by the act of March 3, 1863, were in general and particular, taken cognizance of by the courts of said district.—Likewise in a state or district where a military government has not existed or martial law been proclaimed, or, if it has existed or been proclaimed, has ceased to be exer-

cised, and the regular criminal courts are open and in full operation, the supreme court of the United States has decided that a military commission, in the absence of special authority by congress, can not assume jurisdiction of a public offense, although the *nation* be still involved in war. (*Ex parte* Milligan, 4 Wallace, 1; Milligan *vs.* Hovey, 3 Bissell, 13; *In re* Murphy, Woolworth, 143; Devlin *vs.* U. S., 12 Ct. Cl., 271; XII. Opin. Att'ys Genl, 128.) — The case, however, claiming the greatest attention as the most noted of all such illegal trials in the history of the United States, is that known as "The Trial of the Conspirators for the Assassination of Abraham Lincoln, President of the United States," and the attempted assassination of certain other public officers and members of the government. This is more clearly set forth in the executive order promulgated by the president, relating to the trial of the accused, and dated

EXECUTIVE CHAMBER.
WASHINGTON CITY, May 1, 1865.

Whereas the Attorney General of the United States hath given his opinion:

That the persons implicated in the murder of the late President, Abraham Lincoln, and the attempted assassination of the Honorable William H. Seward, Secretary of State, and in an alleged conspiracy to assassinate other officers of the Federal Government at Washington City, and their aiders and abettors, are subject to the jurisdiction of, and lawfully triable before, a Military Commission:

It is *ordered:* 1st. That the Assistant Adjutant General detail nine competent military officers to serve as a Commission for the trial of said parties, and that the Judge Advocate General proceed to prefer charges against said parties for their alleged offenses, and bring them to trial before said Military Commission; that said trial or trials be conducted by the said Judge Advocate General, and as Recorder thereof in person, aided by such Assistant and Special Judge Advocates as he may designate: and that said trials be conducted with all diligence consistent with the ends of justice; the said Commission to sit without regard to hours.

2d. That Brevet Major General Hartranft be assigned to duty as Special Provost Marshal General, for the purpose of said trial and attendance upon said Commission, and the execution of its mandates.

3d. That the said Commission establish such order or rules of proceeding as may avoid unnecessary delay, and conduce to the ends of public justice.

(Signed) ANDREW JOHNSON.

Whereupon the following special order was issued from the office of the adjutant general of the army, to wit:

WAR DEPARTMENT, ADJ'T GENL'S OFFICE,
WASHINGTON, May 6th, 1865.
SPECIAL ORDERS No. 211.
Extract.

* * * * * * * *

4. A Military Commission is hereby appointed to meet at Washington, District of Columbia, on Monday, the 8th day of May, 1865, at 9 o'clock A. M., or as soon thereafter as practical, for the trial of David E Herold, George A. Atzerodt, Lewis Payne, Michael O'Laughlin. Edward Spangler, Samuel Arnold, Mary E. Surratt, Samuel A. Mudd, and such other prisoners as may be brought before it, implicated in the murder of the late President, Abraham Lincoln, and the attempted assassination of the Honorable William H. Seward, Secretary of State, and in an alleged conspiracy to assassinate other officers of the Federal Government at Washington City, and their aiders and abettors.

Detail for the Court.

Major General David Hunter, U. S. Volunteers.
Major General Lewis Wallace, U. S. Volunteers.
Brevet Major General August V. Kautz, U. S. Volunteers.
Brigadier General Albion P. Howe, U. S. Volunteers
Brigadier General Robert S. Foster, U. S. Volunteers.
Brevet Brig General James A. Ekin, U. S. Volunteers.
Brigadier General T. M. Harris, U. S. Volunteers.
Brevet Colonel C. H. Tomkins, U. S Army
Lieutenant Colonel David R. Clendenin, 8th Ills Cavalry.
Brig General Joseph Holt, Judge Advocate and Recorder.

By order of the President of the United States.

(Signed) E. D. TOWNSEND,
Assistant Adjutant General.

Immediately thereafter the commission met pursuant to the foregoing orders, and all the members were duly sworn. The Hon. John A. Bingham and Brevet Col H L. Burnett, judge advocate, also appeared, by direction of the judge advocate general, as assistant or special judge advocates, and were likewise duly sworn. — The accused were then severally arraigned on the following charge and specification: "Charge against David E. Herold, George A. Atzerodt, Lewis Payne, Michael O'Laughlin, Edward Spangler, Samuel Arnold, Mary E. Surratt, and Samuel A. Mudd. For maliciously, unlawfully and traitorously, and in aid of the existing armed rebellion against the United States of America, on or before the 6th day of March, A. D. 1865, and on divers other days between that day and the 15th day of April, A. D. 1865, combining, confederating and conspiring together with one John H. Surratt, John Wilkes Booth, Jefferson Davis, George N. Sanders, Beverly Tucker, Jacob Thompson, William C. Cleary, Clement C. Clay, George Harper, George Young, and others unknown, to kill and murder, within the military department of Washington, and within the fortified and entrenched lines thereof, Abraham Lincoln, late, and at the time of said combining, confederating and conspiring, president of the United States of America, and commander in-chief of the army and navy thereof; Andrew Johnson, then vice-president of the United States aforesaid; William H. Seward, secretary of state of the United States aforesaid, and Ulysses S. Grant, lieutenant general of the army of the United States aforesaid, then in command of the armies of the United States under the direction of the said Abraham Lincoln; and in pursuance of and in prosecuting said malicious, unlawful and traitorous conspiracy aforesaid, and in aid of said rebellion, afterward, to wit, on the 14th day of April, A D. 1865, within the military department of Washington aforesaid, and within the fortified and entrenched lines of said military department, together with said John Wilkes Booth and John H. Surratt, maliciously, unlawfully and traitorously murdering the said Abraham Lincoln, then president of the United States, and commander in chief of the army and navy of the United States as aforesaid; and maliciously, unlawfully and traitorously assaulting with intent to kill and murder the said William H. Seward, then secretary of state of the United States, as aforesaid; and lying in wait with intent maliciously, unlawfully and traitorously to kill and murder the said Andrew Johnson, then being vice president of the United States; and the said

Ulysses S. Grant, then being lieutenant general and in command of the armies of the United States as aforesaid." — Then followed the specification, at great length, designating the combining and conspiring on the part of the accused to maliciously and traitorously kill and murder the president and the aforesaid officers of the government of the United States, and of the army of the United States, designing and intending thereby to deprive the army and navy of the United States of a constitutional commander-in-chief; the armies of the United States of their lawful commander, and to prevent a lawful election of president and vice-president of the United States aforesaid, and by the aforesaid means to aid and comfort the insurgents engaged in armed rebellion against the said United States, and thereby aid in the subversion and overthrow of the constitution and laws of the United States. — The specification further sets forth the time and place of the said murder, and the means and manner of death of the said Abraham Lincoln, president of the United States, the mortal wound having been inflicted by one John Wilkes Booth, in pursuance of the said conspiracy; and further, the aid and assistance rendered unto said Booth by the accused, said Spangler, an employé of the theatre in which the said murder was committed, enabling the said Booth to approach and enter the box in the said theatre in which the president was sitting at the time of the murderous assault; and further, the aid and assistance rendered by the accused, the said David E. Herold, unto the said Booth, while attempting his escape through the military lines of the government aforesaid, and the further attempt to aid in the concealment of the said Booth after the act aforesaid. — The specification further relates the attempt of the accused, in the further pursuance of the said conspiracy, to kill and murder the Hon. William H. Seward, secretary of state, and the time, place and manner of the murderous assault. And in further prosecution of said conspiracy, the act of George A. Atzerodt, of lying in wait, on the night of the murder of the president, and about the hour of the same, with intent to kill and murder Andrew Johnson, then vice-president of the United States. And further, the act of the accused, Michael O'Laughlin, of lying in wait at the same hour of the aforesaid murder of the president, with intent to kill and murder Ulysses S. Grant, commander of the armies of the United States. And further, the attempt of the accused, Samuel Arnold, to aid, comfort and abet the aforesaid murderous acts, in pursuance of the conspiracy, by meeting, counseling and conspiring with the accused upon divers occasions. In further prosecution of the said conspiracy, the specification sets forth that the accused, Mary E. Surratt, did, at Washington city, on or before the 6th day of March, A. D. 1865, and on divers other days and times between that day and the 20th day of April, A. D. 1865, receive, entertain, harbor and conceal, aid and assist the said John Wilkes Booth and the other accused, with the intent to aid and abet them in the execution of the same, and in escaping from justice after the murder of the said Abraham Lincoln as aforesaid. And in further prosecution of the said conspiracy, the accused, Samuel A. Mudd, did, at Washington city, on or before the 6th day of March, 1865, and upon divers other days between that time and the 20th day of April, 1865, aid, assist, entertain, harbor and conceal the said John Wilkes Booth and the other accused, with knowledge of the conspiracy aforesaid, and with the intent to aid them in the execution of the same, in escaping from justice after the murder of the said Abraham Lincoln as aforesaid. — To the specification, all the accused severally pleaded "Not guilty," also to the charge, "Not guilty." — The several accused applied for permission to introduce counsel; and their applications were granted. — All of the accused, severally, through their counsel, asked leave to withdraw, *pro tempore*, their plea of "Not guilty," heretofore filed, in order that they might plead to the jurisdiction of the commission. The application being granted, the defendant, Mary E. Surratt, and all others of the accused, severally offered a plea to the jurisdiction of the commission, as follows: "Mary E. Surratt, one of the accused, for plea, says that this court has no jurisdiction in the proceedings against her, because she says she is not, and has not been, in the military service of the United States. And, for further plea, the said Mary E. Surratt says that loyal civil courts, in which all the offenses charged are triable, exist, and are in full and free operation in all the places where the several offenses charged are alleged to have been committed. And, for further plea, the said Mary E. Surratt says that the court has no jurisdiction in the matter of the alleged conspiracy, so far as it is charged to have been a conspiracy, to murder Abraham Lincoln, late president of the United States, and William H. Seward, secretary of state, because she says, said alleged conspiracy and all acts alleged to have been done in the formation and in the execution thereof, are, in the charges and specifications, alleged to have been committed in the city of Washington, in which city are loyal civil courts, in full operation, in which said crimes are triable." Signed, on behalf of the accused, by her counsel. — The judge advocate then presented the following replication:

> Now come the United States, and, for answer to the special plea by one of the defendants, Mary E. Surratt, pleaded to the jurisdiction of the Commission in this case, say that this Commission has jurisdiction in the premises to try and determine the matters in the Charge and Specification alleged and set forth against the said defendant, Mary E. Surratt. (Signed) J. HOLT,
> Judge Advocate General.

The court overruled the pleas of the accused to its jurisdiction. — The accused then severally made application for *severance*, and asked to be tried separate from those charged jointly with them, for the reason that they believed that their

defense would be greatly prejudiced by a joint trial. The commission overruled the application for a severance. — The accused then severally pleaded: To the specification, "Not guilty," and to the charge, "Not guilty." — The commission adopted and promulgated its rules of proceeding, and thereupon began taking testimony by calling for the prosecution, Richard Montgomery, Sandford Conover and James B. Merritt, whose testimony was taken during the secret session of the commission, and for a time suppressed. The evidence of these parties related to the action of prominent men connected with the confederacy. The first effort of the government was to establish the general conspiracy alleged in the charge and specification. To this end sixteen witnesses were called, among whom were Richard Montgomery, Sandford Conover, James B. Merritt (the three witnesses before mentioned), General Ulysses S. Grant, Henry Von Steinacker, William E. Wheeler, and Hon. Chas. A. Dana. — The prosecution presented the testimony of Lieut. William H. Terry, William Eaton, and Col. Joseph H. Taylor, with respect to a secret cipher found among Booth's effects. Hon. C. A. Dana testified to finding key to cipher in Secretary Benjamin's office at Richmond, Va. Charles Duell and James Ferguson testified to alleged assassination letter, Charles Dawson to the "Lou" letter addressed to Booth, and Samuel K Chester with respect to Booth's confession as to the plot to capture the president.—For the purpose of connecting Jefferson Davis with the assassination, the prosecution presented the testimony of Lewis F. Bates, J. C. Courtney, James E. Russell, Rev. W. H. Ryder, and others. Edward Frazier testified to the alleged payment of parties by Secretary Benjamin, of certain sums of gold for burning steamboats. Col. Martin Burke testified to alleged confession of Robert C. Kennedy, of plot to burn New York city. G. J. Hyams, W. L. Wall and A. Brenner testified to the alleged introduction of small-pox by Dr. Blackburn into the north, by means of infected clothing. Seven witnesses testified to the alleged starvation of Union prisoners. Three witnesses testified to the alleged mining of Libby prison by confederate authorities. Twenty-nine witnesses testified with respect to the assassination and attending circumstances. Fifteen witnesses testified with regard to the pursuit and capture of Booth and Herold. Four witnesses testified to papers obtained from confederate archives, being proposals to "rid the country of some of her deadliest enemies," by parties who wanted a consideration therefor. Twelve witnesses testified on behalf of the government in the endeavor to establish the guilt of Edward Spangler, one of the accused. Fifteen witnesses testified on behalf of the government in the endeavor to establish the guilt of George A. Atzerodt, one of the accused. Eighteen witnesses testified on behalf of the government in the attempt to establish the guilt of Lewis Payne, one of the accused. Twenty-two witnesses testified on behalf of the government in the endeavor to establish the guilt of Dr. Samuel A. Mudd, one of the accused Thirteen witnesses testified on behalf of the government in the endeavor to establish the guilt of Michael O'Laughlin, one of the accused. Seven witnesses testified on behalf of the government in the endeavor to establish the guilt of Samuel Arnold, one of the accused Twenty-one witnesses testified on behalf of the government in the endeavor to establish the guilt of Mary E Surratt, one of the accused. The prosecution closed, and the defense began by impeaching the testimony of H. Von Steinacker, a witness called by the government to prove the general conspiracy. Before the trial began, and during its progress, large rewards were offered by the government for testimony that would establish the conspiracy and convict the accused parties. While certain testimony of great importance to the government was thus obtained, there crept into the case, by this means, the evidence of parties who had committed perjury to obtain the proffered reward. In this class of testimony was that of the party named Von Steinacker. This individual swore that he was an engineer officer in the topographical department, on the staff of Gen. Edward Johnson, and that altogether he was in the confederate service three years. That in the summer of 1863 he saw Booth and two civilian companions in the camp of the second Virginia regiment, and was formally introduced to them. That there was a secret meeting of the officers and the three civilians That the plan of the proposed assassination was discussed and approved, and that it was further agreed to send certain officers on "detached service" to "Canada and the border, ' to release rebel prisoners, to lay northern cities in ashes, and, finally, to obtain possession of the members of the cabinet and kill the president. — The counsel for the defense of Mary E Surratt, becoming possessed of evidence that would establish the perjury of this party, presented to the commission, in due form, their allegations impeaching his veracity and character as a witness for the government. By the testimony of witnesses whom they had summoned, they proposed to show that he was originally a deserter from the federal service; that early in the war he had enlisted as a private in Blenker's regiment of New York volunteers; that having been condemned by a court martial for stealing an officer's arms and equipments, he had escaped within the confederate lines, and, enlisting as a private in the confederate service, had been detailed as a draughtsman by Oscar Heinrichs, an engineer officer on Edward Johnson's staff; that while serving in that capacity he was convicted by a confederate court martial for stealing an officer's coat and arms; that at the battle of Gettysburg he was captured within the Union lines, and escaped by representing himself as in possession of the dead body of Major H. K. Douglas, of Edward Johnson's staff, then alive. The commission refused to entertain the motion to permit

the allegations to go upon the record, proof to be adduced in support of the same; and, on motion of the judge advocate general, the whole proceedings were stricken from the record. While the counsel for the defense were not permitted to fully establish his character as a witness, they were, however, allowed to attack in part his credibility as such, and for that purpose called Gen. Edward Johnson, who testified that Von Steinacker was never an officer on his staff. Oscar Heinrichs being called, testified that he was an engineer officer on the staff of Edward Johnson; that he was acquainted with the witness, Von Steinacker; that he was an enlisted man in the confederate service, detailed by himself as a draughtsman. Major H. K. Douglas, whose "dead body" Von Steinacker represented he had in his possession at the time of his capture at Gettysburg, was also called, and testified that he was wounded at the battle of Gettysburg, taken prisoner, and held as such for nine months, and did not see Steinacker again after that engagement. All of these witnesses swore positively that neither Booth nor the other conspirators ever made their appearance in their camp, and that no officers of their command were ever sent on "detached service" to burn northern cities, capture the members of the cabinet and kill the president. That there were no secret meetings of the officers with Booth or other civilians at any time. They each testified that Von Steinacker had repeatedly stated that he was a deserter from the federal service. — The counsel for the defense of Mary E. Surratt further called and examined in her behalf thirty-one witnesses whose testimony related to her character as a loyal woman; her ignorance of the plot to either abduct or kill the president; her expressions of gratification at the ultimate success of the Union arms and the speedy close of the war; her kindness to Union soldiers and a large body of escaped government horses which she retained and fed at her own expense for a considerable time, and surrendered to the government without remuneration; the nature and object of her visit to Marlborough Court House on the day of the murder of the president, not as an agent of Booth to deliver arms to Lloyd at Surrattsville, as alleged by the government, but to obtain the means, in obedience to a summons from Mr. Calvert, to meet a pecuniary engagement so as to avert the peremptory sale of her property, by foreclosure; the meeting of Payne and the officers at her house on the morning of the second day after the murder, and her failure to recognize him; of the character of testimony for the prosecution and their impeachment; the intoxication of Lloyd on the 14th of April, the day of the alleged visit to bear arms; impeachment of the testimony of Weichman, principal witness for the prosecution, his own guilt in meeting with the conspirators; the deeply religious character of Mrs. Surratt, her unbounded charity, and the utter improbability of any knowledge of, participation in or consent to any plot to either abduct or assassinate the president. — The counsel for the defense of David E. Herold called in his behalf nine witnesses, whose testimony related to the weakness of his intellect, his admiration for Booth and his susceptibility to his influence. The counsel for the defense of Edward Spangler called twenty-three witnesses, whose testimony related to his character, the nature of his relations to the theatre, the use of the rope found in his box, and the impossibility of criminal relations with Booth on the occasion of the murder. The counsel for the defense of George A. Atzerodt called in his behalf fifteen witnesses, whose testimony related to his character; of his conversations with regard to the assassination of Lincoln, Seward and Grant; of his superlative cowardice, as rendering it impossible for him to perform the part required of a conspirator. The counsel for the defense of Lewis Payne called in his behalf nine witnesses, whose testimony related to his attention to the sick after the battle of Gettysburg; his mental condition, indicating insanity; his examination with regard to his insanity, and causes and indications of his insanity, mental and moral; Payne's own admissions; his desire to die; his splendid physical condition; the affray in which Payne saved the lives of Union soldiers. The counsel for the defense of Dr. Samuel A. Mudd examined in his behalf seventy-four witnesses, who testified with respect to his reputation as a citizen and as a master; of his loyalty, of the professional character of services to Booth while attempting to escape after the perpetration of the deed; and impeaching the testimony of witnesses for the prosecution. The counsel for the defense of Michael O'Laughlin called in his behalf nine witnesses, who testified with respect to his visit to Washington on the 13th and 14th of April, and their presence with him on those days, his presence with others at the house of the witness Purdy at the hour of the assassination; and his presence at the Penn house the balance of the same night; Booth and O'Laughlin schoolmates; the voluntary surrender of O'Laughlin to the authorities. The counsel for the defense of Samuel Arnold examined eight witnesses in his behalf, who testified to his whereabouts from March 21 to April 1; concerning his visit to Fortress Monroe on April 1; his employment as a book-keeper; his confession in Marshal McPhail's office; his employment at the time of his arrest. — This closed the evidence for the defense. There were, in all, three hundred and forty witnesses examined, including prosecution and defense; a large proportion of them being recalled, many as often as three or four times. — Upon the conclusion of the testimony, argument upon the jurisdiction of the commission was presented by the counsel of Mary E. Surratt. An argument on the plea to the jurisdiction was also presented by the counsel of Samuel A. Mudd. The counsel for David E. Herold, Edward Spangler, Mary E. Surratt, George A. Atzerodt, Lewis Payne, Samuel A. Mudd, Michael O'Laughlin,

and Samuel Arnold, then presented the several arguments for their defense. — The special judge advocate, Hon. John A. Bingham, then presented the reply of the government to the "several arguments in defense of Mary E. Surratt, and others, charged with conspiracy and murder of Abraham Lincoln, late president of the United States, etc." — After a continuous session of nearly two months, upon the conclusion of the various arguments for the defense and the prosecution, June 30, 1865, the commission met with closed doors, all the members being present, also the judge advocate and assistant judge advocates (the counsel for the defense being excluded) and proceeded to render judgments in the cases. — Upon the consideration of the cases of the accused, David E. Herold, George A. Atzerodt, Lewis Payne and Mary E. Surratt, the commission found the said accused, upon the specification, guilty, except "combining, confederating and conspiring with Edward Spangler"; of this, not guilty. Of the charge, guilty, except "combining, confederating and conspiring with Edward Spangler"; of this, not guilty. And the commission thereupon pronounced the following sentence, to wit: "And the commission do therefore sentence her, Mary E. Surratt, and him, David E. Herold, George A. Atzerodt and Lewis Payne, to be hanged by the neck until they be dead, at such time and place as the president of the United States shall direct; two-thirds of the members of the commission concurring therein." — Upon the consideration of the cases of the accused, Michael O'Laughlin, Samuel Arnold and Samuel A. Mudd, the commission adjudged them guilty of part of the charge and specification, and thereupon pronounced the following sentence: "The commission do therefore sentence the said Michael O'Laughlin, Samuel Arnold and Samuel A. Mudd, to be imprisoned at hard labor for life, at such place as the president shall direct." — Upon consideration of the case of the accused, Edward Spangler, the commission adjudged him guilty of part of the charge and specification, and thereupon pronounced the following sentence: "The commission do therefore sentence the said Edward Spangler to be imprisoned at hard labor for six years, at such place as the president shall direct." — The proceedings of the commission were thereupon laid before the president for his action upon the findings and sentences, all of which were approved and made known in the following executive order:

EXECUTIVE MANSION, July 6th, 1865.

The foregoing sentences in the cases of David E. Herold, G. A. Atzerodt, Lewis Payne, Michael O'Laughlin, Edward Spangler, Samuel Arnold, Mary E. Surratt and Samuel A. Mudd, are hereby approved, and it is ordered, that the sentences of David E. Herold, G. A. Atzerodt, Lewis Payne and Mary E. Surratt be carried into execution by proper military authority, under the direction of the Secretary of War, on the 7th day of July, 1865, between the hours of 10 o'clock A. M. and 2 o'clock P. M. of that day. It is further ordered, that the prisoners Samuel Arnold, Samuel A. Mudd, Edward Spangler and Michael O'Laughlin be confined at hard labor in the Penitentiary at Albany, New York, during the period designated in their respective sentences.

(Signed) ANDREW JOHNSON,
President.

(This order was afterward, to wit, on the 15th day of July following, so modified as to direct that the said Arnold, Mudd, Spangler and O'Laughlin be confined at hard labor in the military prison at Dry Tortugas, Florida, during the period of their respective sentences.) — On the same day the following order was issued by the war department in accordance with the direction of the president:

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
WASHINGTON, July 6th, 1865.

To Major General W. S. Hancock, United States Volunteers, Commanding the Middle Military Division, Washington, D. C.

Whereas, By the Military Commission appointed in paragraph 4, Special Orders No. 211, dated War Department, Adjutant General's Office, Washington, May 6, 1865, and of which Major General David Hunter, United States Volunteers, was President, the following persons were tried, and after mature consideration of evidence adduced in their cases were found and sentenced as hereinafter stated, as follows: [here follow the findings and sentences in the cases of David E. Herold, G. A. Atzerodt, Lewis Payne, and Mary E. Surratt;]

And whereas the President of the United States has approved the foregoing sentences in the following Order, to wit:

EXECUTIVE MANSION, July 6th, 1865.

The foregoing sentences in the cases of David E. Herold, G. A. Atzerodt, Lewis Payne and Mary E. Surratt are hereby approved, and it is ordered, that the sentences in the cases of David E. Herold, G. A. Atzerodt, Lewis Payne and Mary E. Surratt be carried into execution by proper military authority, under the direction of the Secretary of War, on the 7th day of July, 1865, between the hours of 10 o'clock A. M. and 2 o'clock P. M. of that day.

(Signed) ANDREW JOHNSON,
President.

Therefore you are hereby commanded to cause the foregoing sentences in the cases of David E. Herold, G. A. Atzerodt, Lewis Payne and Mary E. Surratt to be duly executed, in accordance with the President's Order.

By command of the President of the United States
E. D. TOWNSEND
Ass't Adjutant General.

This order was promulgated about 5 o'clock P. M., July 6, 1865. In a final attempt to save the life of their client, the counsel for Mrs. Surratt, at 2 o'clock A. M., July 7, appeared before Judge Wylie, one of the justices of the supreme court of the District of Columbia, at his residence in the city of Washington, and at that early hour presented for his judicial action the following petition for a writ of *habeas corpus* in her behalf, to wit:

WASHINGTON, D. C., July 7, 1865.

To the Hon. Andrew Wylie, one of the Justices of the Supreme Court of the District of Columbia:

The petition of Mary E. Surratt, by her Counsel, most respectfully represents unto your Honor, that on or about the 17th day of April, A. D. 1865, your petitioner was arrested by the Military Authorities of the United States, under the charge of complicity with the murder of Abraham Lincoln, late President of the United States, and has ever since that time been, and is now, confined on said charge, under and by virtue of the said military power of the United States, and is in the special custody of Major General W. S. Hancock, Commanding Middle Military Division, that since her said arrest your petitioner has been tried, against her solemn protest, by a Military Com-

mission, unlawfully and without warrant, convened by the Secretary of War, as will appear from paragraph 4, Special Orders No. 211, dated War Department, Adjutant General's Office, Washington, May 6th, 1865, and by said Commission, notwithstanding her formal plea to the jurisdiction of the said Commission, is now unlawfully and unjustifiably detained in custody and sentenced to be hanged on to-day, July 7th, 1865, between the hours of 10 o'clock A. M. and 2 o'clock P. M. Your petitioner shows unto your Honor, that at the time of the commission of the said offense she was a private citizen of the United States, and in no manner connected with the military authority of the same, and that said offense was committed within the District of Columbia, said District being at the time within the lines of the armies of the United States, and not enemy's territory, or under the control of a Military Commander for the trial of civil causes. But, on the contrary, your petitioner alleges that the said crime was an offense simply against the peace of the United States, properly and solely cognizable under the Constitution and Laws of the United States, by the Criminal Court of this District, and which said Court was, and is now, open for the trial of such crimes and offenses. Therefore, inasmuch as the said crime was only an offense against the peace of the United States, and not an act of war; inasmuch as your petitioner was a private citizen of the same and not subject to military jurisdiction, or in any wise amenable to military law; inasmuch as said District was the peaceful territory of the United States, and that all crimes and offenses committed within such territory are, under the Constitution and Laws of the United States, to be tried only before its criminal tribunals, with the right of public trial by jury; inasmuch as said Commission was a Military Commission, organized and governed by the laws of Military Courts Martial, and unlawfully convened without warrant or authority, and when she had not the right of public trial by jury as guaranteed to her by the Constitution and Laws of the United States, that therefore her detention and sentence are so without warrant, against positive law and unjustifiable: Wherefore she prays your Honor to grant unto her the United States most gracious writ of *habeas corpus*, commanding the said Major General W. S. Hancock to produce before your Honor the body of your said petitioner, with the cause and day of her said detention, to abide, etc., and she will ever pray. MARY E. SURRATT.

By her Counsel.

Judge Wylie granted the writ, making upon it the following indorsement:

Let the writ issue as prayed, returnable before the Criminal Court of the District of Columbia now sitting, at the hour of 10 o'clock A. M. this 7th day of July, 1865.

ANDREW WYLIE,
A Justice of the Supreme Court of the District of Columbia.
July 7, 1865.

At half past eleven o'clock, on the morning of the 7th of July, Maj. Gen. Hancock, accompanied by Att'y Gen. Speed, appeared before Judge Wylie in obedience to the writ, and made the following return:

HEADQUARTERS MIDDLE MILITARY DIVISION,
WASHINGTON, D. C., July 7th, 1865.

To Hon. Andrew Wylie, Justice of the Supreme Court of the District of Columbia:

I hereby acknowledge the service of the writ hereto attached and return the same, and respectfully say that the body of Mary E. Surratt is in my possession, under and by virtue of an order of Andrew Johnson, President of the United States and Commander-in-Chief of the Army and Navy, for the purposes in said order expressed, a copy of which is hereto attached and made a part of the return; and that I do not produce said body by reason of the Order of the President of the United States, indorsed upon said writ, to which reference is hereby respectfully made, dated July 7, 1865. W. S. HANCOCK,

Major General U. S. Vols., Commanding Middle Division.

The president's indorsement upon the writ is as follows, to wit:

EXECUTIVE OFFICE,
July 7, 1865, 10 A. M

To Major General W. S. Hancock, Commander, etc.:

I, Andrew Johnson, President of the United States, do hereby declare that the writ of *habeas corpus* has been heretofore suspended in such cases as this, and I do hereby especially suspend this writ, and direct that you proceed to execute the Order heretofore given upon the Judgment of the Military Commission, and you will give this Order in return to the writ. ANDREW JOHNSON,

President.

The court ruled that it yielded to the suspension of the writ of *habeas corpus* by the president of the United States; and under this illegal suspension of the "writ of writs" the prisoner, Mary E Surratt, together with Herold, Payne and Atzerodt, were executed upon the scaffold. — There are two important incidents connected with the closing scenes of the trial which became known to the writer,* and are of great interest. It was at first proposed to acquit Mrs. Surratt, or at least to spare her life. Objection was made by the judge advocate general, who proposed, in its stead, that the same judgment should be rendered by the commission as in the cases of Payne, Atzerodt and Herold, with a recommendation to the president for mercy in her case. This course was adopted, the judgment rendered, and the recommendation signed by nearly all of the members of the commission. This recommendation was not placed before the president with its findings at the time they were presented for his approval, as Andrew Johnson subsequently averred, upon his honor, that he never saw the recommendation until two years after the execution, when, upon sending for the papers in the case, he found it among them, in a detached form. — The other incident is the declaration of Payne, made on the morning of the execution to Gen. Hartranft, the special provost marshal, and by him transmitted forthwith to the president. The statement, as taken down by him, is as follows: "The prisoner Payne has just told me that Mrs Surratt is entirely innocent of the assassination of President Lincoln, or of any knowledge thereof. He also states that she had no knowledge whatever of the abduction plot, that nothing was ever said to her about it, and that her name was never mentioned by the parties connected therewith." Gen. Hartranft indorsed upon this declaration these significant words: "*I believe that Payne has told the truth.*" It was, however, of no avail. Her death had been decreed. JOHN W. CLAMPITT.

MINES. The importance of mining as a source of national wealth and an element of progress in civilization scarcely needs explanation. Each of the three great productive industries exploits a natural kingdom for the benefit of man. What agriculture does for the vegetable, and the chase (as a modification of which we may rank the raising of cattle, poultry and fish) for the ani-

* The writer was of counsel for Mrs. Surratt.

mal, mining does for the mineral or inorganic world. Its products are, in general, less perishable than those of agriculture, and hence more convenient for storage, export, manufacture, etc. On the other hand, its sources of supply are not perpetual, and, once exhausted, can not be renewed. A wasteful agriculture, or a reckless destruction of forests or of animal species, such as food fishes, can not inflict upon a nation such irretrievable loss as the exhaustion of its mineral resources. Moreover, these resources are not equally distributed among nations. Those who possess and utilize them — especially in the cases of coal and iron — secure great industrial and commercial advantages. Hence, vigor in the development and economy in the use of mineral resources have always been urged as a national duty. — For those who seek to refer the actual practice of nations to general principles, this argument may suffice to justify the special relations which so many governments have assumed toward the mining industry and the ownership of mineral deposits, as distinguished from agriculture, and the ownership of land. At an earlier period the sovereign's peculiar right to the metallic treasures of the earth was referred to a divine ordinance. A survey of the history of mining and mining jurisprudence shows, however, that its characteristic features in different nations have been the result of various local causes, rather than of general principles, dogmatically applied. — Probably the first metals used were those which occur in a native state, such as gold, silver and copper. The two former, being lustrous and malleable, and resisting oxidation under ordinary circumstances, became in the earliest periods of which history speaks, and have remained to this day, objects of high esteem and a convenient medium of exchange and measure of value. Bronze, or ancient "brass," was very probably discovered accidentally through the fusion of impure ores of copper. Its use appears to have antedated in many nations — perhaps not everywhere — that of iron. Without this latter metal, apparently, the extensive ancient workings for gold and copper, discovered by several travelers in Siberia, were conducted by a nomadic race, before the irruption of the Tartars. These operations resembled those of the prehistoric miners of this continent, *e. g.*, the copper miners of Lake Superior, the mica miners of North Carolina, the turquoise miners of New Mexico, etc. They are cited here as among the evidences that the industry of mining was in the beginning, like every other, carried on by individuals, and probably without permanent ownership of the land. — The Phœnicians had abundance of metals, but not to any considerable extent in their own country. They both mined and traded in the Mediterranean countries for gold, lead, silver and iron, and even sailed as far as Great Britain, where they obtained tin. But the claim of the sovereign to all such treasures appears to have been asserted only as one of the rights of the conqueror. When a country was conquered, not only the mines, but all other forms of property, were at the victor's mercy. Extensive mining operations were carried on by the Egyptian kings, of whose cruel administration of these works Diodorus, quoting partly from Agatharcides, gives a pathetic picture. It is probable that the greater portion of their miners were purchased slaves, though convicts and prisoners of war furnished a part. To prevent conspiracies and escapes, the different gangs were placed under overseers who were not their countrymen. They were forced to labor naked, under dreadful hardships and severities. The stronger ones hewed the rock in the mines, the half-grown youths carried it to the surface, persons over thirty years of age (so soon was their vigor destroyed) were set at the easier task of crushing it in mortars, and the women and old men ground it fine in hand mills. — The mining of the ancient Greeks is divided into three periods: the first comprising the working of mines in the islands, begun by the Phœnicians; the second, the operations on the mainland, principally those of the Athenians; the third, the development of important mines in the provinces of the Macedonian Philip, which subsequently fell, with the rest of the Greek mines, into the hands of the Romans. During the first period, the proprietors of the island mines were chiefly the petty rulers of the islands. Gold, silver, copper and iron were the products. Perhaps the only mention of the payment of anything like a royalty is that which records the annual tribute of one-tenth the revenue of the gold and silver mines of Siphnos, sent to the shrine of the Delphic Apollo. In later times, this payment having been discontinued, the mines were drowned by the rising of the neighboring sea — a result attributed to the wrath of the neglected god. In the second period the administration of the Athenian mines appears to have begun with the working or leasing of them by the republic. Before the Persian war the annual income from this source (about $30,000 at the beginning of that war) was distributed among the citizens. Afterward, on the advice of Themistocles, this distribution ceased, though the state still received payments from the mines. Probably the more ancient mines, as the property of the republic, were rented on special terms, but the general code encouraged the enterprise of private adventurers by remitting taxes on gross production, and inviting both citizens and friendly aliens to work under the light royalty of one twenty-fourth part of the net profits. The labor was performed by slaves, hired from their owners. The overseers, and probably, in many cases, the lessees themselves, were slaves also. The slave miners of Athens amounted to many thousands. Once, at least, they revolted, and, taking possession of Mount Sunium, made it the base of many destructive raids upon Attic territory. A certain governmental supervision was exercised over mining. An official director of mines granted permits for "prospecting"

(*i. e.*, searching for ore), and there were laws determining the dimensions of mining "claims." — In western Europe mining was carried on at an early day by the tribes subsequently tributary to Rome. The Etruscans obtained iron from Elba; the Salassians, in Lombardy, turned the course of the Po, and extracted gold from its bed. The tribes of Gaul were producers of gold, silver, copper and iron, and the Britons of gold, silver, iron, lead and tin. For the latter metal the Phœnicians traded with them secretly; and the Romans, by following the Phœnician ships, solved at last the mystery of the Cassiterides. But the most abundant ancient supply of nearly all the metals named was furnished by Spain. The Spanish, Sicilian and Sardinian mines, operated by the Carthaginians, furnished the wealth by the aid of which Carthage paid her numerous mercenaries and waged her costly wars with Rome. — The first two Punic wars delivered into the power of Rome the mines of Sicily, Sardinia and Spain. Those of Asia Minor, Greece, Macedonia, Asia, Egypt, Gaul and Britain were afterward added, about in the order named, by successive conquests, and became thus the property, not of private citizens, but of the state. Yet the Roman law secured the "mineral right" to the landowner, when the land was held by complete title; and doubtless many mines in Italy and elsewhere, outside the conquered provinces, were so held by individuals. The situation was therefore somewhat like that of the United States, which owns the mineral rights of the public domain only, while the private owners of land in any state or territory own its mineral contents also, according to the Roman and the later English common law. — The Romans at first farmed their revenues, and under this general policy awarded leases of their mines periodically. Ordinarily the lessees employed as workmen purchased slaves. The system was in the highest degree wasteful and ruinous, as well as cruel. The lessees, anxious only to gain as much profit as possible during their limited term of possession, robbed the mines without regard to economy or permanence and security. Vast numbers of slaves (Polybius speaks of 40,000 in a single district in Spain) were kept constantly at work, with a severity of discipline not surpassed by that of the early Egyptians. During the period between the close of the first Punic war and the establishment of the empire, the production of metals under this system was immense; but it ended with the practical exhaustion of many of the mines. The emperors effected considerable reforms. They worked the mines through responsible officials, instead of leasing them out to speculators; and since the government could not well purchase such vast numbers of slaves as had previously been owned by private mine lessees, a system securing a sort of feudal service from the inhabitants of the mining regions was gradually introduced, and the slaves who continued to be employed were rather convicts than purchased barbarians or captives. At the same time the emperors appear to have encouraged private enterprise in the discovery and exploitation of new mines. Trajan allowed the Dacian gold mines to be worked by an association (*collegium aurariorum*); and Valentinian I. gave free permission to prospect for metals, under obligation of paying to the crown a portion of the subsequent profit. But before these measures could completely restore the prosperity of the mining industry of the empire, the irruptions of the barbarians practically destroyed it. The Byzantines held out longest; but after the seventh century they surrendered their mines to the conquering Arabs. Those of Asia Minor, Thrace and Greece were the last which the empire retained. The Arabs in Spain, the Franks in Gaul, and the Goths under Theodoric in Italy, gleaned something for awhile in a rude way from the abandoned mines. But beyond some hints of this, history is silent on the subject, until some centuries later, when an entirely new principle—that of the German "mining freedom" (*bergbaufreiheit*)—bringing with it a new and active mining industry, makes its appearance in Europe. — This is first seen as a local custom, prevailing with remarkable uniformity at all the ancient centres of German mining, and securing to every citizen in the community the right to mine wherever, as the first discoverer of metalliferous deposits, he could do so without encroaching upon mining rights previously acquired. The exact origin of this custom is not known; but it is highly probable that it sprang out of that early form of communism, the *markgenossenschaft*, in which the *mark* was held in common, and redistributed annually among the inhabitants for the purposes of agriculture. Such a redistribution of mining rights could not be fairly made, since the operations of mining (much slower and more laborious then than now) often required years of preliminary development, and the skill required was not possessed by all. Naturally, therefore, the habit would be formed of permitting those to own the mines who had the knowledge to find and work them, and of making their tenure dependent on their perseverance in this work. In this existence of an estate in minerals, entirely independent of the estate in the surface and soil, lies the distinctive character of the German mining law. It doubtless existed as far back as the tenth century in Saxony and Thuringia. The earliest written records of it are much later, as will be seen, but they are elaborate and complicated codes, and bear internal evidence of the antiquity already attached to the immemorial customs which they reduce to systematic form. The German miners, adventurously penetrating into the Roman and Sclavonic countries, carried their *bergbaufreiheit* with them; and the earliest of their codes which we possess were issued in Latin or German in those colonies. The first is the mining treaty of 1185 between Bishop Albrecht of Trent, and the German immigrants. The

Iglau code, published about 1250, was rapidly extended over Moravia, and was adopted within twenty-five years at Schemnitz, in Hungary. The code of Schladming, in Styria, dates from 1307; that of Massa, in Tuscany, is half a century earlier. All these are supposed to have had a common origin in the *bergrecht* of Freiberg, in Saxony, *i. e.*, in the unwritten customs of Freiberg or of the Harz, whence the first miners went to Freiberg in the twelfth century. The Freiberg code itself can not be traced back of 1232, in written form. A brief summary of the Iglau code will suffice to indicate the nature of all. This curious document is in Latin, and bears the seals of Wenzel, king of Bohemia and Moravia, and his son, the margrave of Moravia. After a pious and wordy prelude, it ordains that certain officials shall fix the boundaries of mining claims, and defines the dimensions of these and the conditions on which the possessory title of the miner may be acquired and maintained. The full size of the surface granted to a single mine, when unoccupied space permits, is 479 feet along the course of the vein by 196 feet in width. A certain proportion of the claim is set apart for the king, another for the town, or the original owner of the land. Special rights of administration and judgment are accorded to the mining courts of Iglau, and various principles and methods are laid down for the decision of intricate cases of conflicting claims. The thrifty burghers of this "mining city" (*bergstadt*) won fame and profit by keeping the provisions of this code a secret, and acting, under their guidance, as arbitrators in questions of mining jurisprudence referred to them from other provinces. One of the most frequent causes of dispute was the privilege conferred upon the party driving a deep adit, which, by drawing the water from the mines of other parties, and by facilitating their ventilation, was held to entitle the owner to a share in their profits. To secure this reward, and other incidental "adit privileges," the adit must be a certain distance below any other similar work, and must be prosecuted under certain conditions. — The above will sufficiently show the general nature of the medieval German mining law. It should be added that gold and silver only (including ores containing one of these metals) were at first the objects of it. Other minerals were the exclusive property of the landowner. — Simultaneously with the public appearance of the codes, which, as has been said, embodied customs already old, arose the conflicting claims of the emperor and of the territorial sovereigns. The latter, as the actual owners of many of the mines, and the possessors of general tax-laying authority over the rest, had vantage-ground, which in the course of time they strove to extend. But the emperors had to create their claim out of little or nothing. Frederick I., on the strength of a parliamentary decree applying to Lombardy only, and speaking of the *argentaria* and salines as sources of royal income, attempted to include the German mines in the same category of *regalia*, and by the ingenious device of granting the mines of Trent to the bishop (who had them already), secured a *quasi* recognition of his prerogative, as a precedent. In fact, the emperors seem at no time to have intended to take possession of the mines, but only to establish the right to get revenue, independent of the local legislatures and sovereigns, from this convenient source. Meanwhile, the territorial rulers saw their advantage in promptly adopting and employing for their own interest the theory of "royalty"; and finally the owners of the soil made themselves heard, asserting their rights (upon which constant encroachment was attempted) to certain non-precious metals. The thirteenth century presents a confused conflict among emperor, prince, landlord and miner. The famous "golden bull" of Charles IV. (1356) simplified the conflict by surrendering the claims of the emperor to the electors, and by excluding also the landowner, and putting all metals, precious and base, together with salines, under one rule, namely, the right of the territorial sovereign. The practical result was the exercise of mining royalty by all the princes, whether electors or not; but the "golden bull" was only a "quit claim" deed of this right The sovereigns were left to assert it as best they might, against the ancient, wide-spread democratic principle of "mining freedom." The issue of this conflict was different in different states. In the main, however, the essential victory remained with the miners. The princes granted the right of free exploration, and the right of the discoverer, reserving to themselves only the usual tribute, and the police and magisterial jurisdiction The basis of mining rights was however, nominally, the grant of the prince, not the ancient mining customs of the people; and hence, in not a few exceptional cases, the sovereign exercised the power which had thus established "mining freedom" to set it aside, granting whole mining districts without reference to the discovery right. One of the first steps taken by sovereigns to confirm by exercise their rights of royalty, was the endowment of certain cities and districts with peculiar privileges on account of their mines. Turin and Vallensasco, in Italy; Truro and Penzance, in Cornwall; and many localities in Hungary, Silesia, Switzerland, Sweden, etc., are instances outside of Germany. In the latter the mining cities were very numerous. The famous seven mining cities of the Harz, and the "ancient and honorable free mining city of Freiberg," in the realm of the Saxon counts of Meissen, as well as many other privileged cities of Saxony, important mining centres down to recent times, may be cited as examples. — In the sixteenth and seventeenth centuries an elaborate system of jurisprudence grew up in Germany, varying somewhat in the different states, and affected with occasional exceptions, yet based in the main upon the principles above described. It included free, or nearly free, exploration (build-

ings not being imperiled, and damages to surface or to agriculture being chargeable to the explorer); the immediate "denunciation" (*muthung*) of a discovery made; the issue of a preliminary permit; the survey, location and regular lease of the mining ground, after the deposit had been sufficiently exposed; the obligation to prosecute the work continuously, unless natural causes, such as foul air or excess of water, prevented; the payment of royalty (usually one-tenth or one-twentieth of gross product) to the elector; the division of a mining enterprise into shares (*kuxe*, usually 128 in number); the furnishing of mine timbers by the crown forester, or by private owners under agreements and regulations supervised by the crown officers, etc. The driving of adits was the privilege of the prince, but it was very generally conceded to private parties, with the appertaining advantages and revenues. It was common to give the prince, "by ancient usage," one-eighth of the stock in every leased mine. He was, however, liable to assessment like any other stockholder, and forfeited his stock by non-payment. Mining leases covered a certain area of the surface and a space below the surface, either bounded by vertical planes or by surfaces parallel with the dip of the vein. The first was called a square location (*gevierdtfeld*) and the second an inclined location (*gestrecktfeld*). The possessor of an inclined location was generally allowed to work about twenty-one feet (three and one-half *lachter* or fathoms) into the hanging wall (roof) of his vein, and an equal distance into the foot wall (floor), and to extract all ore found within these limits, as well as in the vein proper, which he might follow indefinitely downward (*in die ewige teufe*). The simple square location was applied to beds, masses, and even to true veins, when they dipped not more than fifteen degrees below the horizontal. — The principle of mining freedom took little root in Great Britain; and perhaps the sole trace of it now remaining is the custom of "tin-bounding" in Cornwall and Devon. The number of Cornish mining terms which betray a German origin, shows that the enterprising German miners of the middle ages probably found their way to that region, and left their mark upon both institutions and language. There is reason to believe, however, that the British crown at one time laid claim to all mines. Certainly it has from time immemorial claimed by prerogative all gold and silver, and not until the reign of William and Mary was the enjoyment of tin, copper, lead or iron mines, even though their ores contain intermixtures of the precious metal, secured to the subject. The ground of the claim to gold and silver was thus quaintly stated from the bench in the celebrated "case of mines," in the reign of Elizabeth: "The common law, which is founded upon reason, appropriates everything to the persons whom it best suits, as common and trivial things to the common people; things of more worth to persons of a higher and superior class; and things most excellent to persons who excel all others: and because gold and silver are the most excellent things which the soil contains, the law has appointed them, as in reason it ought, to the person most excellent, and that is the king." The right to mines of pure gold or silver, or of either of these, mixed with other metals than tin, copper, lead or iron, appears to be still a royal prerogative, but it is not exercised; and perhaps there are no known cases in which it could be exercised. Practically in Great Britain (and absolutely under the English common law as held in this country) the mineral right of whatever kind originates in the ownership of the soil, although it may be alienated and separately conveyed by the act of the owner, who must, however, to make such conveyance effective as a basis for mining, expressly grant also the right to enter upon his land, dig and carry away the minerals, etc. The exception above mentioned, namely, the custom of tin-bounding in Cornwall and Devon, is spoken of as already "ancient" in a charter granted to the tinners of those districts in the third year of King John. It was thus defined in a modern case at law (Rogers *vs.* Brenton, 10 Q. B., 26): "That any person may enter on the waste land of another in Cornwall, and mark out by four corner boundaries a certain area; a written description of the land so marked, with metes and bounds, and the name of the person for whose use the proceeding is taken, is recorded in an immemorial local court, called the stannary court, and proclaimed at three successive courts held at stated intervals; if no objection is successfully made by any other person, the court awards a writ to the bailiff of the court to deliver possession of the said bounds or tin-work to the bounder, who thereupon has the exclusive right to search for, dig and take to his own use all tin and tin ore within the described limits, paying to the landowner a certain customary proportion of the ore raised, under the name of 'toll-tin.' The right descends to executors, and may be preserved for an indefinite time, either by actually working and paying toll, or by annually renewing the four boundary marks on a certain day." The custom in Devonshire, it is said, is a freehold interest descending to the heir, and unaccompanied by the obligation to pay any toll to the landowner. It would probably be held void in law, since even the Cornish custom was pronounced by Lord Denman, in the case above cited, to be sustainable only by actually working and paying toll. Bounding, he says, is a direct interference with the common law right of property; and a custom, to have such force as that, must be not only immemorial but reasonable—as the custom of holding tin-bounds without working would not be. The practice has now fallen into disuse; but the stannaries court (created by the consolidation of the several stannary courts) survives, with both common law and equity jurisdiction, concurrent with that of the ordinary courts, in matters arising out of mining. The only mining legislation of Great Britain at the present day is that which supports a school of mines,

provides for the collection of mining statistics, maintains inspectors, and imposes certain regulations for the order and safety of the miners. Two statutes (35 and 36 Victoria, chaps. 76 and 77, 1872) contain these regulations.—The mining laws of Australia and Canada follow the principle of English law, modified by old grants of the crown, and by the fact that in these colonies large areas of unoccupied public land exist, on which the local governments may authorize mining upon such terms as they may choose. Their leases or sales of mining rights on such lands are simply acts of the landowner under the common law.—The new codes of mining law in the German states (beginning with that of Prussia, adopted in 1866, which the others more or less closely imitate,) express two tendencies: the one, toward a wider recognition of the rights of the landowner, the other, toward a withdrawal of the government from undue interference with mining, and a reduction of its burdens of taxation and tribute. The inclined location is no longer granted; and the miner is confined to the space inclosed by vertical planes drawn through his surface boundaries. The permission of the landowner is necessary to preliminary explorations; though he may be compelled by the decision of the authorities to give such permission, yet only upon receiving a bond of indemnity. A mining grant is not forfeited by ceasing to work it, unless the authorities, for sufficient reason, insist upon the resumption of work, in which case the grantee has a right of protest and appeal, and six months' grace The numerous fees, royalties and tithes of former times are done away, and in their place a moderate tax is imposed; in Austria, Saxony and Bavaria, a tax on net profits; in Prussia, a tax on the value of the products of 1 per cent. for the general treasury of the state, and 1 per cent. to cover the expenses of supervision. Iron mines are generally, if not universally, free of royalty to the state. Benefit societies for miners (*knappschaftsvereine*) are established by law. Bog iron ore; gold nuggets in the soil (in Prussia); gold placers (in Bavaria); coal (in Saxony and some other states); iron (in Silesia); salt and salines (in Hanover); mineral springs and amber (except in East Prussia and West Prussia, where amber found in the sea or on the beach belongs to the state) are exceptions to the mining law, and belong to the landowner.—A brief notice of the mining laws of France will suffice, first, because the mining industry of that country is limited (though in 1810, when the statute of Napoleon was promulgated, the productive mines of Rhenish Prussia belonged to France, and these mines were actually worked according to French law until 1865); secondly, because the French system, unlike the English, the German and the Spanish, has had little to do with the development of our own mining law. By the decree of 1791, after the abolition of feudal rights, the mines and mineral deposits of France were declared to be the property of the nation, and the government was authorized to make "concessions" of them, such concessions to be always temporary only, and the preference to be given to the landowner, to whom was moreover expressly reserved all that part of every mineral deposit lying within one hundred feet of the surface. These provisions amounted nearly to a prohibition of general mining. The law of 1810 declared, in accordance with the Code Napoleon, that the property in minerals goes with the property in land, but that the government may separate the two, granting the mineral right, even in perpetuity, to another than to the landowner, on the simple condition of a tribute paid to the latter. *Mines* only are subject to these conditions. In this class certain underground workings are included; *minieres* (open works) and *carrieres* (quarries) are left to the landowner. The tax paid to the state is 2 per cent. of the gross product.—The Spanish ordinance of mines, published in 1783, has been substantially in force ever since in Mexico, and was the law in the territories which the United States acquired from Mexico by conquest and purchase. It asserts the right of sovereignty over all species of metals, and authorizes the concession of mining rights only so long as the mine is worked. It is also very full in its directions as to the manner of mining, attempting to correct, in this way, the tendency to reckless robbery of mines, inevitable under such tenure. The size of claims (invariably "square locations") is regulated by the dip of the vein as shown by a shaft thirty feet deep; the length of the claim along the course of the vein being 200 yards (*varas*) and the width from 100 to a maximum of 200 yards, according to the dip, the smallest width being granted to a claim on a vertical vein, and the greatest on a vein departing forty-five degrees or more from the vertical These measures are so calculated that under the most frequent circumstances (the dip varying from forty-five degrees to sixty degrees from the horizontal) the vein will pass out of the claim at the vertical depth of 600 feet, at which depth, the ordinance naively remarks, it is commonly much exhausted. It need hardly be said that the introduction of steam engines and the construction of deep adits has long since rendered it possible to mine to the depth of over 3,000 feet. The taxation of Mexican mines has always been heavy, especially in the form of the export tax on bullion. Spain did for her western provinces what Carthage and Rome had done for Spain, and the spirit of her legislation, the desire to wring as much plunder from the rich mines as possible, has lingered in the land. It is believed that a more liberal treatment of the mining industry, with the view of attracting and protecting foreign capital, will hereafter obtain.—We are now prepared to explain the history of the relation of our own government to the mining industry. It is based entirely upon the common law. True, the early English colonial grants asserted some crown rights in the metals. Thus the great charter of King James to the London and Plymouth companies (1606) provided that

one-fifth of the gold and silver, and one-fifteenth of the copper, which might be discovered, should belong to the crown. But long before the revolution, the right of landowners to all minerals beneath the surface appears to have been recognized. Before the adoption of the federal constitution, the confederate congress, in prescribing a form of grant or patent for lands in the western territory, reserved "one-third part of all gold, silver, lead and copper mines within the same for future sale or disposition." It was not, however, until the acquisition of the lead regions of the upper Mississippi, under the Louisiana treaty with France, in 1803, that the question assumed practical importance. Under the power given by the constitution to congress to dispose of the public lands, the lead mines were reserved from sale, and in 1807 the president was authorized to lease them for not more than five years. The policy of reserving from the operations of ordinary grants of public land mineral lands and lands containing known salines or mines, has continued to the present time, and is incorporated in all the formal statutes relating to the subject. It is held, however, that land not officially set apart as "mineral," and not known to contain salines or mineral deposits, being once conveyed by the government to a private purchaser or settler, all subsequently discovered mineral deposits belong to him. The attempt to lease the mines on the public domain, shown in the act of 1807 above mentioned, was the first and last experiment of our government in that direction. The leases covered tracts at first three miles square (afterward reduced to one mile) and bound the lessees to work the mines with due diligence, and return to the United States 6 per cent. of the ores obtained. The first leases were not issued until 1822, and the product did not become considerable until 1826, when it began to increase rapidly. After 1834, however, in consequence of the immense number of illegal entries of mineral lands at the Wisconsin land office, the miners and smelters refused to pay rents any longer, and the government was unable to collect them. Meanwhile, by a forced construction (afterward declared invalid) of the act for leasing the lead mines, hundreds of leases were granted to speculators in the Lake Superior copper region, where a wild excitement prevailed from 1843 to 1846. In the latter year, the bubble burst; the issue of permits and leases was suspended as illegal; and in acts passed in 1846 and 1847 the policy of selling the mineral lands outright was adopted by the government. The act of July 11, 1846, authorized the sale of the reserved mineral lands in the states of Illinois and Arkansas, and the territories of Wisconsin and Iowa, at an increased rate of $1.25 per acre, as a minimum, but still reserved them from pre-emption. The act of March 3, 1847, creating the Chippewa land district in Wisconsin territory, ordered a geological survey, granted pre-emption to parties in possession of lead mines by occupation from discovery, or by lease under the United States, by paying $5 per acre, and provided for public and private sales at the same price. The act of March 1, 1847, ordered the sale of the copper mines in the state of Michigan, after a geological survey; precedence to be given to lessees of the government, who need pay but $2.50 per acre, the minimum at public sales being $5. The act of March 3, 1849, organizing the department of the interior, transferred to it the powers exercised under the preceding act by the treasury, and still earlier by the war department, with regard to the mines of the United States. The act of Sept 26, 1850, repealed the acts of 1847, and placed the mineral lands within the districts referred to on the same footing, as to sale, private entry and pre-emption, as other public lands of the United States, saving the rights of the lessees. — The application of the policy of sale to the public mineral lands west of the Missouri encountered peculiar embarrassments, arising from two main causes. Large portions of this territory were acquired from Mexico; and the United States, in assuming sovereignty, assumed also, it was held, the ownership of the metals which pertained to sovereignty under the Spanish ordinances. In the case of existing Spanish agricultural grants, not expressly conveying the mineral right, that right would thus belong to the United States, not to the grantees. But our courts finally held that when such a grant was confirmed by a United States patent, the mineral right was thereby conveyed to the grantee, whether it had been originally so conveyed to him by the grant or not, because the United States patent gives a full title in fee according to the common law. By this decision a great source of difficulty was removed, although certain evils resulted from the acquisition in this way, by agricultural grantees, of much larger areas of mineral land than could have been acquired under the ordinary operations of our laws. A second and more extensive difficulty in disposing of the mineral lands in the Rocky mountains and on the Pacific slope arose from the fact that, under the excitement beginning with the discovery of gold in California, and continuing as a motive power ever since, population rushed into these regions in advance of the public surveys, indispensable to an orderly sale of the lands. The government was taken by surprise; and for nearly twenty years it permitted miners to enter upon the public lands, dig and carry away gold, silver, copper, quicksilver and other valuable minerals, without attempting to assert its dominant ownership. A system of possessory titles, good as against all claimants except the United States, grew up under local customs and regulations, which the subsequent legislation of congress recognized, as a matter of temporary policy, to a mischievous extent. — The first mining on the Pacific coast after the acquisition of the region by the United States, was the "gulch" and "placer" mining for gold in California. (It is difficult to fix exactly the dates of the beginnings of mining in the different territories. The

following list is approximately correct: The rediscovery of gold in California—previously known to hunters, Indians and Jesuit missionaries—took place in 1848. Gold mining began practically in Arizona in 1850, in Oregon in 1852, in Colorado in 1859, in Idaho and Montana in 1860. Quicksilver mining on a regular scale began at New Almaden, California, about 1851. Hydraulic mining began in California about 1853. The mining of silver ore from the Comstock lode, in Nevada, in the neighborhood of earlier gold diggings, began about 1853.) — The placer miners of California early adopted local rules with reference to the size of their claims, and the use of the water necessary to work them. Since the country was swarming with eager adventurers, it was natural that actual occupation should be recognized as necessary to maintain title, and that abandonment should work forfeiture in favor of some new comer. As to the size of claims, they were usually restricted according to the nature of the deposit, as a "gulch," "creek," "bar," or "flat" digging, etc. In gulches and creeks, however, it was common to grant to each claimant a certain number of linear feet along the stream by the whole width, whatever it might be. When the miners proceeded, by an easy transition, to "quartz mining," *i. e.*, to the development of the quartz veins which they had discovered as the sources of the accumulated wealth of the placers, they carried over to this new industry such of the placer rules as they could conveniently apply, and, in particular, the two above mentioned, of necessary continuous occupation and of a single definite dimension of claim. Very likely there were among them German miners who remembered the *gestrecktfeld* of their fatherland. At all events, it was this, and not the square location of Mexico, that was generally adopted in the quartz mining camps, and has been incorporated into the federal statutes. The principle of recording claims, and deciding conflicts in favor of priority of record, is another feature of the American mining customs, as of all German mining codes. — Unfortunately, there was no uniformity in the customs of different localities. The inhabitants of a certain district held a mass meeting, declared the boundaries of their district as they chose (usually not encroaching on any other already established, unless by way of division of a district found to be inconveniently large), fixed the size of claims and the amount of work necessary to hold them, elected a recorder, and adjourned—to meet again and alter their laws if they should see fit. Often the first settlers (three men have been known to hold a mass meeting, and thus fix the limits and laws of a new district) arranged matters more liberally for themselves than for the hundreds who rushed in afterward; and with the larger population there came the imperative reform. The records were, in many places, carelessly kept, laying the foundation for much litigation and opening the door to fraud. — As has been remarked, the United States passively allowed this system or chaos of local customs to exist for many years. The miners on the public lands were technically trespassers; yet by a series of decisions in the state courts, and finally in the United States supreme court (3 Wallace, 97), it was held that their possessory rights, as against all claimants except the United States, were capable of being transferred, taxed, and valued in money. Finally, an act of congress (July 27, 1865,) declared that actions for the recovery of mining claims should not be affected by the paramount title of the United States, but should be judged according to the law of possession. The principle was recognized again in the act of May 5, 1866, concerning the boundaries of Nevada, in which the possessory titles of citizens holding mining claims were recognized, with a distinct proviso that they should not be considered as titles in fee. The act of July 25, 1866, granting the right of way and other important privileges to the Sutro tunnel (draining the Comstock lode in Nevada), excepted from its grants that lode and all others then in actual possession of other persons, unless the same should be abandoned or forfeited under local laws It also provided—the first and last instance of the kind in our federal legislation—that the mines "drained, benefited or developed by the tunnel" should be subject to certain payments in return. This general principle is found in Spanish ordinances (Tit. X , Art. 3), which provide for rewards and royalties to the constructors of adits, or for the assessment of mines benefited thereby, in the proportion of the benefit derived, to pay the expense of such construction. A similar feature is found in the German codes. The act of July 26, 1866, was the first general law on the subject of the mines on the public lands. It declared (Sec. 1), that the mineral lands, surveyed or unsurveyed, were open to exploration and occupation by all citizens or those who had declared their intention to become citizens, subject to such regulations as might be prescribed by law, "and subject, also, to the local customs or rules of miners in the several mining districts, so far as the same may not be in conflict with the laws of the United States"; (Sec 2), that any person or association claiming a vein or lode of quartz or other rock in place, bearing gold, silver, cinnabar or copper, having expended thereon not less than $1,000, and having a good possessory right under the local laws or customs, might file a diagram, conforming in dimensions to the said customs, "enter such tract and receive a patent therefor, granting such mine, together with a right to follow such vein or lode with its dips, angles and variations to any depth, although it may enter the land adjoining, which land adjoining shall be sold subject to this condition"; (Sec. 3), that the application and diagram should be posted and advertised for ninety days, to permit the presentation of adverse claims, after which (there being no adverse claims) the survey should be made, covering one lode only, and the patent issued on payment

of $5 per acre and costs; (Sec. 4), that the survey might be varied from the rectangular form to suit the circumstances and local customs, but "no location hereafter made shall exceed 200 feet in length along the vein for each locator, with an additional claim for discovery to the discoverer of the lode, with the right to follow such vein to any depth, together with a reasonable quantity of surface for the convenient working of the same, as fixed by local rules," and "no person may make more than one location on the same lode, and not more than 3,000 feet shall be taken in any one claim by any association of persons"; (Sec. 5), that local legislatures might provide rules for working, "involving drainage, easements and other necessary means"; (Sec. 6), that the appearance of adverse claims should cause a stay of proceedings for patent, until these had been settled by the courts. The remaining sections refer to additional land districts, rights of way for roads and ditches, the use of water (determined by priority of possession for mining, agricultural or other purposes), and the rights of settlers upon agricultural lands under the pre-emption and homestead laws. — The act of July 9, 1870, provided for similar proceedings as to "placers," ("including all forms of deposit excepting veins of quartz or other rock in place"), such claims not to exceed 160 acres for each person or association, and to be sold at $2.50 per acre. — The act of 1866 proved defective in practice, not only as to certain administrative details, but also in three important particulars: it covered mines of gold, silver, cinnabar and copper only; it left too much latitude to the mining customs, to which it nevertheless gave the full rank of law; and it was obscure as to the nature of the title conferred by the patents granted under it. The last point requires a brief further explanation. The terms "tract," "patent," "land adjoining shall be sold," etc., and the provision for payment by the acre, all pointed to a title in fee; but the usage of miners, the conditions of such localities as Virginia City, Nevada, (where a large town had been built, and town lots were daily bought and sold, on the land comprising the Comstock vein outcrop), and finally, in accordance with these influences, the construction of the statute by the highest courts (overruling in some instances contrary decisions below), settled the title to apply to the vein only, with the surface as an easement for convenient working. Entering upon the surface of another's patented claim, to explore for veins alleged to be other than the vein named in the patent, was therefore no trespass. — The act of May 10, 1872, now incorporated in the revised statutes, corrected the three defects above named, as well as others less important. It extended (Sec. 2, or Rev. Stat., Sec. 2320) the privileges of location to lodes bearing gold, silver, cinnabar, lead, tin, copper or other valuable deposits. It overruled in some particulars the local customs, providing (Sec. 2) that 1,500 feet should be the maximum length of a mining claim, 300 feet on each side of the middle of the vein at the surface the maximum, and 25 feet on each side the minimum, width; that no location should be made before the discovery of the vein within the limits of the claim (abolishing the custom of locating so-called "extensions" of neighboring mines); that the end lines of each claim should be parallel. It declared (Sec. 3, or Rev. Stat., Sec. 2322) that all lode locators in good standing under local regulations not in conflict with United States laws, should "have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations, and of all veins, lodes and ledges [these terms are synonymous] throughout their entire depth, the top or apex of which lies inside of such surface lines extended downward vertically, although such veins, lodes or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side lines of such surface locations," but that this right of possession outside the location should be confined between vertical planes extending through the end lines of the location, and should not authorize the owner to enter upon the surface of a claim owned or possessed by another. It prescribed (Sec. 5, or Rev. Stat., Sec. 2324) that locations and records should be made in a certain way, and that on all claims located after the date of the act, $100 worth of labor should be performed annually as the condition of possessory title, until patents should be taken. On claims located before the act, $10 worth of labor for each one hundred feet along the vein was required annually to maintain title. The time for the first annual expenditure on this class of claims was subsequently extended (act of March 1, 1873) to June 10, 1874, and again (act of June 6, 1874) to June 10, 1875. These concessions relieved individual cases of hardship, but served to prolong for some years the mischievous practice, under local customs and rules contrived for the purpose, of holding large numbers of claims without either working or purchasing them. Since 1875 this practice is extinct; the annual work (called by our western miners "assessment work") required by the United States law making it too expensive a speculation. — Thus, by a long and irregular course, the mining law has reached a form unprecedented as a whole in history, yet resembling in details here and there some features still maintained, or already discarded, by foreign nations. It grants to locators, and the United States patent to mineral land confirms, a peculiar right, which may be summed up as the ordinary common law right to the surface and all beneath it, *plus* a certain addition and *minus* a certain deduction — the addition being the right of the locator to follow veins of which his land contains the apex, downward, between the end planes of his location into his neighbor's land; and the deduction being a similar right possessed by the adjoining neighbor. The meaning of the terms "vein, lode or ledge," "top or apex," etc., which the law does not define, has been more or less completely

settled by the courts. By the act of February 18, 1873, deposits of iron or coal are excepted from the act of 1872, as are all the public mineral lands in Michigan, Wisconsin and Minnesota. The act of May 5, 1876, excepts also Missouri and Kansas. A separate act (March 3, 1873, Rev. Stat., Sec. 2347–2352) provides for the pre-emption, entry and purchase of coal lands, 160 acres by an individual, or 320 (or under certain conditions 640) acres by an association, at a minimum price of $10 per acre for lands more, and $20 per acre for lands less, than fifteen miles from a completed railroad. Under these provisions, speculation in coal lands by the parties engaged in building railroads in Colorado, Utah, Montana and Arizona is now active. That the United States mining law is in many respects still defective can scarcely be denied. The large amount of costly litigation under this system, as compared with the almost total absence of mining litigation proper in the older states, under the common law system, is a striking and unanswerable fact. In 1879 a special public land commission, consisting of the commissioner of the general land office, the director of the geological survey, and three civilians appointed by the president, was authorized by congress to consider the whole question of the land laws, surveys, etc. This commission, consisting of J. A. Williamson, commissioner, etc., Clarence King, director, etc., and Messrs. Thomas Donaldson, A. T. Britton and J. W. Powell, made an elaborate "preliminary report" in February, 1880, including a large amount of testimony, and the draft of a new land code recommended to congress. As regards the mineral lands, its most important features are the final abolition of mining districts and district officers, the sweeping adoption of "square locations," *i. e.*, the ordinary common law system now obtaining in the older states, and certain provisions tending to force possessory owners to become purchasers within a reasonable period. No legislative action has been taken; and it is doubtful whether the prejudices of the mining communities will permit so radical a change. The committee's report and accompanying documents will remain, however, a treasury of information on this subject. — One means for encouraging the mining industry has been employed by all civilized governments, namely, the collection and publication of mining statistics. In this country the several states have performed the work most irregularly. Pennsylvania, New Jersey, Ohio, Indiana, Michigan, Nevada, California, and perhaps some other states, at present keep up more or less complete statistical bureaus. The federal government began by doing it very imperfectly in the census and in the statistical bureau of the treasury; then, more carefully, for the public lands in and west of the Rocky mountains, through special commissioners reporting to the secretary of the treasury (1866–76); then through the reports of the director of the mint at Washington and of the various topographical and geological surveys of the interior and war departments. There is now a perceptible tendency, on the part especially of those states which have done the least, to develop their own resources and industries, to extend the national geological and statistical work, heretofore confined chiefly to the national lands, into the states. The surrender of state sovereignty, when it comes in the form of a deliverance from state responsibility and expense, seems to have no terrors, even for the sternest opponents of centralization. — The police regulation of mining operations is, in the United States, confined to the protection of the lives of workmen, and does not extend to the prevention of waste or the securing of permanence in mining. It is exercised, if at all, by state and local authorities only. — Hon. A. S. Hewitt, in a presidential address before the American institute of mining engineers, in June, 1876, gives a table, prepared by the writer, showing the production of leading metals and minerals in the United States during the first century of national independence. The following table has been constructed from that, by condensation, correction and addition, bringing it to the end of 1881. It claims approximate accuracy only, but may serve to show the growth of the mining industry of the country.

PRODUCT OF LEADING MINERALS IN THE UNITED STATES.

YEAR.	Anthracite Unit, 1,000 tons *	Pig Iron Unit, 1,000 tons	Lead Unit, 1,000 tons	Copper, Unit, 1,000 tons.	Quicksilver Unit, 1,000 flasks *	Gold Unit, $1,000 coin value.	Silver Unit, $1,000 coin value	Petroleum, Unit, 1,000 bbls *
1776 to 1852	38,279	10,961	391	6	49	175,000	.....	.....
1852	5,725	541	13	1	20	60,000	.....	.....
1853	5,941	723	15	2	22	65,000	.....	.....
1854	6,847	662	14	2	30	60,000	.....	.....
1855	7,084	700	14	3	33	55,000	.....	.....
1856	8,000	789	14	4	30	55,000	.....	.....
1857	7,095	713	14	5	28	55,000	.....	.....
1858	7,864	630	14	6	31	50,000	.....	.....
1859	9,011	751	14	5	13	50,000	100	3
1860	9,805	821	14	7	10	46,000	150	650
1861	9,147	653	14	8	35	43,000	2,000	2 114
1862	9 026	703	14	9	42	89,200	4,500	3,057
1863	10,953	846	14	6	41	40,000	8,500	2,611
1864	11,631	1,014	14	7	47	46,100	11,000	2,116
1865	10,783	832	13	7	53	53,200	11,250	3,498
1866	14.234	1,300	14	7	47	53,500	10,000	3,598
1867	11,346	1,305	14	8	47	51 700	13,550	3 347
1868	15,810	1,431	15	9	48	48,000	12 000	3,716
1869	16,576	1 711	16	12	34	49,500	13,000	4,215
1870	17,820	1,696	16	13	30	50,000	16,000	5,659
1871	1.,380	1,708	18	13	32	43,500	22 000	5,795
1872	22,084	2 540	23	12	32	36,000	25,750	6 589
1873	22,881	2 561	47	16	28	35 000	36 500	9 879
1874	21,667	2,401	53	18	28	39 600	32,800	10,910
1875	20,644	2,109	58	16	50	33,400	41.400	8,788
1876	19,000	1 869	61	18	75	44,329	41 500	8,972
1877	21 323	2 067	75	19	79	45,300	46 075	13,186
1878	18,6 0	2 301	83	19	64	41 0.0	40 000	15,165
1879	27,825	2,742	90	20	74	32,540	38 624	19,742
1880	24 848	3,835	95	25	60	34,522	40 005	24,229
1881	28,500	4 114	105	31	59	31 870	15,078	27,264

— The following table is intended to show the general extent of the mining industries of the principal European states. It is mostly from official

* The ton in this table is the gross ton of 2,240 pounds avoirdupois. The flask of quicksilver is 76½ pounds avoirdupois. The barrel of petroleum is 42 gallons.

sources, and gives the product of the year 1879. The units employed are, for everything but gold and silver, metric tons of 1,000 kilogrammes, equal to 2,205 pounds avoirdupois, nearly; for gold and silver, kilogrammes (one kilogramme equals 2,679 pounds or 32,151 ounces Troy). With the exception of coal and salt, the table represents the product of metallurgical rather than mining industry, and does not record, therefore, the crude ores which are exported from certain countries. The export of iron ore from Spain was, in 1879, about 2,700,000 tons; and several hundred thousand tons were exported from Algiers. Chili exported, in 1879, 49,390 tons of copper, of which 80 per cent. was in bars and ingots, 17¼ per cent. in regulus, and 2¾ per cent. in ores. Australia produced, in 1879, 8,133 tons of tin, and Banca and Billiton about 10,000 tons.

PRINCIPAL MINERAL PRODUCTS OF LEADING EUROPEAN STATES IN 1879.

PRODUCTS.	Great Britain	France.	Belgium.	Italy.*	German Empire.	Austria	Hungary.	Sweden.	Russia.	Spain
Coal, (metric tons)	136,152,360	16,576,854	15,447,292	700	42,023,687	5,378 605	674,009	122,104	3,218,661	.....
Lignite, "	.....	527,631	.....	120,000	11,445,029	7,905,935	967,510	.....	.....	.....
Salt, "	2,599,302	.....	.....	32,100	238,160	† 256,000	151,421	.....	5,823	.....
Pig Iron, "	6,091,262	1.373,239	453,371	12,000	2,226,588	285.839	118,321	342,547	476,962	450,000
Lead, "	52,438	† 15,000	7,961	10,000	66 966	‡ 9,181	1,967	285	.....	100.325
Copper, "	3,517	.....	.....	400	10,420	258	1,086	813	3,443	20,883
Tin, "	9,684	.....	.....	.....	.....	33	.....	.....	.....	.....
Zinc, "	5,643	14,467	82,867	.....	96,757	3,290	.....	.....	4,759	.....
Quicksilver, "	.....	.....	.....	109	.....	429	28	.....	.....	1,527
Silver, (kilogrammes)	10,473	.....	.....	15.000	177.507	29,535	18,661	1,356	11,424	.....
Gold, "	.....	.....	.....	100	467	17	1,594	3	43,111	.....

* Average for five years, 1875–9. † Estimated. ‡ Including litharge. ‖ Average of three years' reports, 1878-80.

The omissions in the above table do not always indicate a complete absence of product. They are sometimes due to the absence of returns. But it is believed that in all such instances the amount is trifling.

—The following miscellaneous statistics may also be of interest in this connection. The production of lead in 1881 is estimated (in metric tons) as follows: Spain, 120,000; Germany, 90,000; England, 67,000; France, 15,000; Italy, 10,000; Belgium, 9,000; Greece, 8,000; Austria, 6,000; Russia, 1,500; United States, 110,000; total, 436,500; which is nearly the whole ascertainable product of this metal in the world—that of Asia being unknown, and that of Australia and South America insignificant. The European product of spelter (metallic zinc) for 1880 is estimated (in metric tons) as follows: Germany, 99,405; Belgium 65,000; England, 22,000; France, 13,715; Austria, Poland, etc., 3,200; total, 203,330. Great Britain produced, in 1881, about 10,000 metric tons of tin; Australia and Tasmania, 12,000; and Banca and Billiton, 11,000. — Bibliography. The following works may be consulted with profit on the subject of this article: Classic authors, particularly Strabo, Pliny and Diodorus; Dr. J. F. Reitemeir's *Geschichte des Bergbaues und Hüttenwesens bei den Alten Völkern*, Gottingen, 1785; Count Kaspar Sternberg's *Geschichte des Bergbaues und der Berggesetzgebung des Königreichs Böhmen*, Prague, 1838—this work contains the full text of the oldest German mining code, that of Iglau; the *Journal für Bergrecht*, Bonn, monthly; the *Annales des Mines*, Paris, monthly; Councillor R. Klostermann's *Das Preussische Berggesetz*, also the editions and commentaries of Oppenheim and Huysson; the codes and commentaries of Hesse, Nassau, Saxony, etc.; the German Cyclopædias of Zedler, Halle, 1733, Meyer and Brockhaus, Leipzig, 1877, and later—articles *Bergbau, Bergrecht, Bergherr*, etc.; R. P. Collier's *Treatise on the Law Relating to Mines*, London, 1849, Philadelphia, 1853; Prof. J. D. Whitney's *Metallic Wealth of the United States*, Philadelphia, 1853; J. A. Rockwell's *Compilation of Spanish and Mexican Law in Relation to Mines, etc.*, New York, 1851—there is a larger work on the subject by Gen. H. W. Halleck; Gregory Yale's *Legal Titles to Mining Claims and Water Rights in California*, San Francisco, 1867; the Reports of the United States Commissioner of Mining Statistics, Washington, 1867–76; the Reports of the various United States Geological Surveys, and of the Director of the Mint; George A. Blanchard and Edward P. Weeks' *Law of Mines, Minerals and Mining Water Rights*, San Francisco, 1877; Henry N. Copp's *United States Mining Decisions*, Washington, 1874, *United States Mineral Lands*, Washington, 1881, and *Land Owner*, Washington, monthly; the Report of the Public Lands Commission, Washington, 1880; Hon. A. S. Hewitt's *A Century of Mining and Metallurgy in the United States*, Trans. Am. Inst. of Mining Engineers, vol. v., Easton, Pa., 1877. Several parliamentary "blue-books" contain much information as to the administration of mines in Great Britain. The writer's views on the United States mining law in its different stages will be found more at length in the successive Reports of the Commissioner of Mining Statistics; a communication to the Public Lands Commission, appended to its report; a paper on the *Eureka-Richmond Case*, Trans. Am. Inst. of Mining Engineers, vol. vi, 1878; and the files of the *Engineering and Mining Journal*, New York, weekly. The above list might be indefinitely extended, particularly as to foreign authorities; but the works named will be found to contain abundant further references for those who desire to pursue the subject still more widely or deeply.

R. W. Raymond.

MINISTRY, the body of officers of state who compose the executive government of a sovereign or supreme ruler of a kingdom or empire — Formerly, and as lately as the reign of Charles I., under the English system of government, the king's privy council constituted his executive advisers. This council existed at a very early period of English history. At first it was a small committee, chosen by the king from the parliament, then called the "great council," and was possessed of much power, a part of which was the right to inquire into all offenses against the state, and to commit offenders for trial before the proper courts of law. It was composed of the chancellor, the treasurer, the justice of either bench, the escheator, the sergeants, some of the principal clerks of chancery, and some bishops, earls and barons, nominated by the king. This court has long ceased to exercise the function of advising the king on matters pertaining to the executive government, having grown too cumbrous for such practical work. A smaller body, called the cabinet, composed of from eleven to seventeen of the leading members of the ministry in power, has taken its place. This committee of the ministry, or cabinet, is merely a deliberative body; yet eminent public men have claimed for it, under the British constitution, a defined and acknowledged power for carrying on the executive government of the country. Its members, as a body, have no power to issue orders or proclamations, but all the weighty measures that call for the attention of the government, relating to the interests of the people, both at home and abroad, are considered by the cabinet, who determine what legislation shall be initiated by the ministry of which they are the principal members. — At the head of the ministry is the premier or prime minister, called first lord of the treasury, to whom is entrusted the selection of his associates in the ministry and the subordinate members of the government. He is generally a statesman of great national prominence, and the leader of his political party. As he is ordinarily called by the sovereign to the position of chief of the government on account of the triumph of his political party on some measure of great public interest, he selects his associates in the government from among leading men of his own party, so that his administration may conform to the will of the popular majority, as represented by a majority in the house of commons. He himself is placed in the executive branch of the government as the first lord of the treasury, and its other necessary heads are the lord chancellor, the chancellor of the exchequer, the secretaries of state for home, foreign, colonial and Indian affairs, the secretary for war, the lord president of the council, the lord of the privy seal, and the first lord of the admiralty. Ministers holding the offices of president of the board of trade, president of the poor-law board, vice-president of the committee of council on education, postmaster general, chancellor of the duchy of Lancaster, and chief secretary for Ireland, have or have not seats in the cabinet, according to circumstances. It depends, in every case, upon the position of the minister in the ranks of statesmanship, and, to some extent, on the importance of the measures affecting his department which the prime minister intends to propose for legislation. — There are many important officers of the government who do not possess seats in the cabinet, to wit, the attorney general and solicitor general for England; the lord advocate and solicitor general for Scotland; the lord lieutenant, attorney general and solicitor general for Ireland; the first commissioner of works, the lord chamberlain, and others. The prime minister sometimes holds the chancellorship of the exchequer in addition to the office of first lord of the treasury. — Cabinet meetings are usually held on the summons of any member of the ministry; their proceedings are secret, and no record is preserved. Each measure relating to the public service is committed for action to the head of the department to which it properly belongs. The members of the government have seats in parliament, and the prime minister endeavors, in forming his ministry, so to distribute the great offices of state, that when a principal secretary has a seat in one house, the under secretary shall be a member of the other. It is the custom for ministers to make periodic statements in parliament concerning the business of their departments, and they may at any time be called upon to explain their conduct. (See INTERPELLATION.)— Under the British constitution the sovereign is not held personally responsible for the acts of the government, no matter how disastrous they may be to the interests of the country. That responsibility rests with the ministry, which originates nearly all the great measures that become law, and is therefore sponsor for their beneficial application and result. The government of England being in part representative, the will of the people is indicated by parliamentary majorities. The executive government is presumed to represent the popular will, therefore the ministry and the popular house of parliament must accord in opinion; and if they do not accord, or if a ministry does not possess the confidence of the house of commons, a want sometimes expressed by a vote of censure, either the prime minister dissolves parliament and appeals to the country or the ministry ceases to exist. In the latter case each member resigns immediately, and a new government is formed by the appointment of a new prime minister, who proceeds to form a new ministry by direction of the sovereign. It is true that the sovereign possesses the power to dismiss his ministers whenever they cease to command his confidence, but he seldom exercises this power, as such a change would be useless without the support of the house of commons, who, by refusing their support could in a measure destroy the functions of government. Parliament is sometimes dissolved and the ministry dismissed by the sovereign, and

an appeal made to the country, to which a response is given in the political complexion of the succeeding house of commons. By this means the crown may temporarily overcome the parliamentary will. This course, however, is seldom pursued by the sovereign, as at best the victory would be ephemeral. As the result of such an arbitrary act, an unfriendly parliament would doubtless be elected, and the ministry and government stand as in the beginning. Sometimes it may become necessary for the public interests that parliament should be dissolved, and an appeal be made to the people by sending the members of the house of commons back to their constituency to be judged for their work. Were this power not vested in the sovereign there might be a danger of destroying the proper balance of the constitution, so necessary in a mixed form of government, by parliament becoming permanent, repealing the act of 1 Geo. I., c. 38, which limits the session to seven years, and assuming all the functions of government; an example of which is to be found in the long parliament, which Charles I. consented should not be dissolved until it dissolved itself. — When a ministry resigns on account of differences between itself and parliament, all the adherents of the ministry holding political office resign with it, and also the great officers of the court, and those of the royal household who have seats in parliament, in either house; also, the three junior lords of the treasury, the two secretaries of the treasury, the four parliamentary under secretaries of state, the paymaster general, the master general of the ordnance, the surveyor general of the ordnance, the five junior lords of the admiralty, the first secretary of the admiralty, the chief commissioner of Greenwich hospital, the president and parliamentary secretary of the poor-law board, the vice-chamberlain, the captain of the gentlemen at arms, the captain of the yeomen of the guards, the lords in waiting, the mistress of the robes, the treasurer of the household, the chief equerry or clerk marshal, the judge advocate general, and the lord chancellor for Ireland. — In 1839 Sir Robert Peel being commissioned by the queen (Victoria) to form a new cabinet, the Melbourne ministry having resigned, he demanded that the change of administration should include the resignation of the chief appointments held by the ladies of her majesty's household. This demand the queen refused, and Sir Robert Peel declined to undertake the formation of a government, and Lord Melbourne was restored to his position of first lord of the treasury. The duke of Wellington accorded with Sir Robert Peel in the opinion that the change suggested was necessary to establish perfect proof of her majesty's confidence in the new ministry. The ministry of Lord Melbourne, immediately after their recall, assembled in council and adopted certain resolutions of a very stringent and positive character in opposition to the proposition of resignation of the ladies of the queen's household on any change of ministry. — The resignation of the ministry occurs almost invariably upon a disagreement with the house of commons on some public measure, or upon a vote of "want of confidence." There have been many ministerial resignations of a notable character, but space forbids an extended review. The resignation of the duke of Wellington, Nov. 16, 1830, was memorable for the advent of the celebrated reform ministry of Earl Grey. This leader introduced at different sessions three reform bills, each of which was rejected by the house of lords, or nullified by amendments. On the rejection of the *third* measure by the house of lords, the bill having passed the house of commons by a large majority, the ministry of Earl Grey resigned. This act was followed by a week of intense excitement, when the government resumed office, on the king granting them full powers to create a sufficient number of peers to overcome the adverse majority in the lords. The Melbourne ministry followed, and resigned in 1834. Sir Robert Peel succeeded, and resigned in 1835. The Melbourne ministry again came into power, and resigned in 1841, upon a vote of "want of confidence." Sir Robert Peel came again into office, and again retired in 1846, having been defeated on the "Irish protection of life bill," giving place to a whig administration under Lord John Russell, who resigned in 1852. Lord Derby then became prime minister, but almost immediately gave way to Lord Palmerston, who remained in office six years and went out in 1858, on the defeat of the "conspiracy bill." In 1859 he was again recalled, and remained first lord of the treasury until he died, in October, 1865. Russell again came into power, as Earl Russell, but resigned the year following on account of parliament rejecting his reform bill of that year. Lord Derby then became the head of the new ministry, and remained for two years only, resigning in 1868. He was succeeded by Disraeli, who assumed office in February, 1868, and retired in December of the same year, a general election, necessitated by the passage of a reform bill extending the suffrage, having resulted in a large liberal majority. The ministry of Mr. Gladstone then came in and continued till 1875, when it resigned, and Mr. Disraeli became, for the second time, first lord of the treasury, and remained at the head of the government, the latter part of the time as Lord Beaconsfield, until the adverse elections of 1880. Mr. Gladstone then, for the second time, assumed the reins of government by appointment of the queen, and with a liberal ministry is now in power. — In the United States the council of executive advisers is called the cabinet. It is composed of the heads of the various departments of the federal government, and consists of the secretary of state, secretary of the treasury, secretary of war, secretary of the navy, secretary of the interior, the attorney general and postmaster general. They are appointed by the president at the incoming of each new administration, and seldom a single member of a previous administra-

tion is retained in the cabinet of a new president, although he may be of the same political party which elected his predecessor. — The office of minister is unknown to the constitution of the United States. By long-established custom, originating from the habit of the presidents of obtaining advice on public matters of grave interest from the heads of the departments, and for that purpose assembling them at the presidential mansion as the most convenient place, the American cabinet has sprung into existence. Under the constitution and laws of the United States they have no seat assigned them in either house of congress. Under our form of government the president is held responsible for the character of his administration, and therefore no necessity exists for an individual member of the cabinet to possess a seat in congress. Still many argue that the law should be changed and members of the cabinet be assigned to seats in congress for the purpose of explaining matters pertaining to the proper administration of their individual departments, as being conducive to a better administration of public affairs. A bill to this effect was introduced in the senate of the United States during the session of the 46th congress, but without favorable action being taken thereon. — As the president is held responsible for the "good conduct" of each member of his cabinet in the performance of his official duties, the power necessarily exists with the president to remove at his pleasure any or all of the members of his cabinet. It is true that the constitution and laws provide that this shall be done "by and with the advice and consent of the senate." Still so inseparably is the right connected with the means of enforcing a proper administration of public affairs, that it is regarded as an inherent right of the office, and the senate invariably consents to the personal wish of the president with regard to his official family. The action of the senate in confirming new appointees to cabinet honors is therefore merely *pro formâ*. This prerogative of the president is seldom used save in individual cases. In the case of the administration of President Andrew Jackson, however, the whole of the cabinet was removed, by requesting their resignations. A wide difference in law or custom prevails in the United States from that in England, with regard to the matter of resignation on account of parliamentary differences, or parliamentary votes of want of confidence, etc. While in England the custom is absolute that a ministry must resign when censured by a vote in parliament, in the United States congress might pass many votes of censure, or refuse to pass many favorite measures of the administration strongly recommended by themselves and the president, without in the least affecting the integrity of the cabinet. Its members would pay but little attention to any demand that congress might make for their resignation or removal, but a single indication on the part of the president of his desire to terminate their official relations, would instantly compel the resignation of that member of the cabinet. Should he prove contumacious and decline to resign at the verbal wish of the president, in that case, as in the case of a member of President Grant's cabinet (Jewell, postmaster general) during his second presidential incumbency, he would *by letter* request the same, which act is equivalent to removal, inasmuch as the president states his purpose in direct terms of appointing a successor to his office. — The duties of the cabinet, other than as advisers to the president, are of an important and widely varied character. As heads of their various departments, they are held by the executive responsible for the proper administration of their separate divisions of executive labor. It is a part of their province as chiefs of departments to construe and enforce the laws of congress pertaining to their individual branches, and often to disburse large sums of money Frequently they originate important measures which are recommended to congress by the president in either his annual message, or by transmitting their reports to him to the congress of the United States. It is generally understood that the secretary of state originates our foreign policy, and the secretary of the treasury that of finance. The secretary of the interior controlling to a very considerable degree our home interests and policies, is always an important officer, as is the postmaster general and the attorney general, as all must concede; and in time of war the most important of all are the secretaries of war and navy, who virtually control the armies and navies of the Union, and are therefore responsible to the president, and through him to the country, for the success and honor of our arms. In addition to this, each member of the cabinet, as the head of his department, is obliged to submit to congress an estimate of expenses necessary for its efficient operations for each fiscal year.

JNO. W. CLAMPITT.

MINNESOTA, a state in the American Union. That portion east of the Mississippi was a part of the territory ceded by Virginia, and was left out of the limits of the last entire state formed out of the northwest territory. (See TERRITORIES, ORDINANCE OF 1787, WISCONSIN.) That portion west of the Mississippi was a part of the territory ceded by France; it was successively a part of the territories of Missouri and Iowa, and was left out of the limits of the state of Iowa, as finally organized. (See ANNEXATIONS, I.; MISSOURI; IOWA.) By act of March 3, 1849, the two portions, with the modern territory of Dakota, were organized into the territory of Minnesota. An enabling act, for those inhabitants within the modern state of Minnesota, was passed Feb. 26, 1857. — BOUNDARIES. The boundaries assigned by the enabling act, and accepted by the state constitution, were as follows: "Beginning at the point in the centre of the main channel of the Red River of the North, where the boundary line between the United States and the British possessions crosses the same; thence up the main channel of said river to that

of the Bois des Sioux river; thence up the main channel of said river to Lake Traverse; thence up the centre of said lake to the southern extremity thereof; thence in a direct line to the head of Big Stone lake; thence through its centre to its outlet; thence by a due south line to the north line of the state of Iowa; thence east along the northern boundary of said state to the main channel of the Mississippi river; thence up the main channel of said river, and following the boundary line of the state of Wisconsin, until the same intersects the Saint Louis river; thence down said river to and through Lake Superior, on the boundary line of Wisconsin and Michigan, until it intersects the dividing line between the United States and the British possessions; thence up Pigeon river, and following said dividing line, to the place of beginning." — CONSTITUTION. Two constitutional conventions, one composed of republicans and one composed of democrats, were organized under the enabling act. Both met July 13, 1857, and, having finally come to a mutual understanding, agreed upon the same constitution, and adjourned Aug. 29. The joint constitution was ratified by an almost unanimous popular vote. It forbade slavery, "feudal tenures of every description," and leases of agricultural land for more than twenty-one years. The governor's term was fixed at two years. The right of suffrage was given to white male citizens over twenty-one, on a residence of one year in the United States and four months in the state. The capital was fixed at St. Paul, with a permission to the legislature to remove it. Under this constitution the state was admitted by act of May 11, 1858. The following amendments were made to the constitution in subsequent years: in 1858 the governor was allowed to issue not more than $5,000,000 in bonds, secured by a pledge of the faith and credit of the state, to aid certain railroads within the state; in 1860 the foregoing amendment was expunged, and the levy of any tax to pay the interest or principal of the bonds issued was prohibited, unless the levy should be ratified by a popular vote; in 1868 the word "white" was struck out of the suffrage clause; and in 1876 the legislature was empowered to allow women to vote at school elections. — GOVERNORS. Henry H. Sibley, 1858; Alexander Ramsey, 1858–62; Stephen Miller, 1862–6; Wm. R. Marshall, 1866–70; Horace Austin, 1870–74; Cushman K. Davis, 1874–6; John S. Pillsbury, 1876–82; I. F. Hubbard, 1882–4. — POLITICAL HISTORY. The political history of the state may be briefly summed up in the statement that it is and has always been a republican state. Its electoral votes have always been cast for republican candidates, and all its governors, United States senators and congressmen have been republicans, with the exceptions of the first governor, Sibley, Senator Rice, and the congressman from the second district in 1879–81, who were democrats. The republican majority in the state has been steadily increasing, as shown by the votes for governor in the following years 1865, 17,335 to 13,864; 1875, 46,175 to 35,373; 1879, 55,918 to 41,583. The only reasonably close election was in 1869 when the republican vote was 27,348 to 25,401. The legislature has always been republican in both branches, usually by a two-thirds or greater majority. In 1874, an exceptional year, the republican majority was only twenty-one to twenty in the senate, and fifty-four to fifty-two in the house, but it immediately and rapidly increased again until in 1881 it was twenty-nine to twelve in the senate and eighty-six to twenty in the house. — The most important question in state politics has been that of the state's railroad bonds. The original constitution prohibited the loaning of the credit of the state to any corporation. The desire of the people for railroad improvement led them in April, 1858, to adopt the amendment noticed above, under the constitution: the vote in its favor was 25,023 to 6,733. Under this amendment $2,275,000 in bonds, guaranteed by the faith and credit of the state, was issued and transferred to third parties. In the panic which immediately followed, the railroads defaulted, and the state foreclosed on their lands, road beds and franchises, which were transferred to new railroads and have developed the present railroad system of the state. In 1860 the new amendment, practically repudiating the bonds, was passed. In 1869 a bill to set aside 500,000 acres of land for the payment of the bonds passed both houses, but was not signed by the governor. May 2, 1871, a proposition to submit the claim of the bondholders to arbitration was submitted to a popular vote and was defeated, 21,499 to 9,293. Governor Pillsbury omitted no opportunity, from his inaugural, Jan. 7, 1876, until October, 1881, to urge upon the legislature the duty of some provision for the payment of the "dishonored bonds," and their final settlement is largely due to his unremitting exertions. The act of March 1, 1877, authorized the issue of new 6 per cent. bonds at the rate of $1,500 for $1,750 and accrued interest. Bonds were not to be issued until the people should ratify an amendment setting aside 500,000 acres of land to secure their redemption. The amendment was defeated, June 12, by a vote of 59,176 to 17,324. In 1881 most of the bondholders offered to surrender their bonds on payment of one-half their face value; and the legislature accepted the terms, March 2. Soon afterward the state supreme court decided that the repudiation amendment of 1860 was void, as it impaired the obligation of a contract; and that the legislature was competent to pay this, as a legal and valid indebtedness of the state. In October the arrangement was consummated, and the long suspended debt was canceled. — Apart from this question, interest in state politics has been confined to occasional attempts to remove the state capital, a bill for which purpose was passed and vetoed in 1869, and to attempts to organize distinct farmers' or temperance parties. None of these last have as yet met any great success. — Among the more promi-

nent leaders in state politics have been the following: Ignatius Donnelly, republican representative 1863–9, and democratic candidate for representative in 1878; Mark H. Dunnell, republican representative 1871–83; S. J. R. McMillan, justice of the state supreme court 1864–74, chief justice 1874–5, and United States senator 1875–87; Alexander Ramsey, whig representative from Pennsylvania 1843–7, governor of Minnesota territory 1849–53, and state 1858–62, and secretary of war under Hayes; Henry M. Rice, democratic United States senator 1858–63; Henry H. Sibley, governor in 1858, and democratic candidate for representative in 1880; Wm. D. Washburn, republican representative 1879–85; Wm. Windom, republican representative 1859–69, United States senator 1870–81 and 1881–3, and secretary of the treasury under Garfield. — The name of the territory and state was given from that of its principal river, an Indian word, said to mean "sky-tinted water." — See 2 Poore's *Federal and State Constitutions;* 9 *Stat. at Large*, 403, 11 : 167, 285 (for acts of March 3, 1849, Feb. 26, 1857, and May 11, 1858, respectively); Smith's *Constitutional Convention of* 1857; Neill's *History of Minnesota* (1858); Gale's *Upper Mississippi* (1600–1867); *Tribune Almanac* (1859–81); *Messages of Gov. Pillsbury* (Jan. 7, 1876 – Oct. 12, 1881); Porter's *West in* 1880, 250. ALEXANDER JOHNSTON.

MINORITY REPRESENTATION. (See REPRESENTATION.)

MISSISSIPPI, a state of the American Union. Its territory consists mainly of land ceded by Georgia to the United States in 1802, a strip about twelve miles wide along the northern edge being a part of the South Carolina cession of 1790. (For both see TERRITORIES.) That part of the state from the parallel of 31° north to an east and west line passing through the mouth of the Yazoo river seems rightfully to have been ceded by Great Britain to the United States in the treaty of 1783; but it was claimed by Georgia, and was included in her cession. The portion of the state south of the parallel of 31° was ceded to the United States by France in 1803. (See ANNEXATIONS, I., II.) — The act of April 7, 1798, for the appointment of commissioners for the Georgia cession, authorized the president to form a territorial government in the ceded territory like that of the northwest territory (see ORDINANCE OF 1787), "excepting and excluding the last article of the ordinance." (See SLAVERY.) In this way the cession became slave territory, and subsequently a slave state. The organization of Mississippi territory was formally completed by the supplemental act of May 10, 1800. The name of Mississippi was given to the territory, and subsequently to the state, from the name of the river which was its western boundary, an Indian word signifying "the great river," or "the whole river," not "father of waters" as it is usually translated. By an enabling act of March 1, 1817, the inhabitants of the western part of the state (see ALABAMA) were authorized to form a state government. — BOUNDARIES. The enabling act prescribed the following as the boundaries of the new state: "Beginning on the river Mississippi at the point where the southern boundary line of the state of Tennessee strikes the same; thence east along the said boundary line to the Tennessee river; thence up the same to the mouth of Bear creek; thence by a direct line to the northwest corner of the county of Washington; thence due south to the gulf of Mexico; thence westwardly, including all the islands within six leagues of the shore, to the most eastern junction of Pearl river with lake Borgne; thence up said river to the 31st degree of north latitude; thence west, along the said degree of latitude, to the Mississippi river; thence up the same to the beginning." These boundaries were accepted by the first constitution of the state. — CONSTITUTIONS. A convention at the town of Washington, July 7 – Aug. 15, 1817, formed the first constitution, which was ratified by popular vote. It confined the right of suffrage to free white males, twenty-one years of age or more, on a residence of one year in the state and six months in the county. The legislature was composed of a house of representatives chosen for one year, and a senate for three years. Property qualifications were imposed as follows: on the governor the possession of 600 acres, or $2,000 worth of land; on senators 300 acres, or $1,000 worth; and on representatives 150 acres, or $500 worth. The governor was to hold office for two years, and was to remove judges on address of two thirds of both houses. The legislature was forbidden to pass laws for the emancipation of slaves without consent of their owners, unless a slave should render some distinguished service to the state, in which case the owner was to be paid a full equivalent; or to pass any laws to prevent immigrants from bringing their *bona fide* slaves into the state; but was to have full power to prevent the bringing of slaves into the state as merchandise. In capital cases slaves were never to be deprived of the right of trial by jury. Under this constitution the state was admitted Dec. 10, 1817. — The second constitution was formed by a convention at Jackson, Sept. 10 – Oct. 26, 1832, and was ratified by popular vote. Its principal changes were as follows: no property qualification for office or suffrage was ever to be required; representatives were to hold office for two years and senators for four years; the capital was fixed at Jackson; the legislature was empowered to direct in what courts suits against the state were to be brought; the introduction of slaves for the buyer's own use was permitted until 1845; and the provision for a jury trial for slaves was omitted. — A state convention at Jackson, Jan. 7, 1861, passed an ordinance of secession, Jan. 9, which was not submitted to popular vote. Another convention, Aug. 14–26, 1865, made two amendments to the constitution, the second of which prohibited slavery thereafter in the state, and empowered the legislature to provide by law for

the protection of the freedmen, and to guard against the evils that might arise from their sudden emancipation.—A reconstruction convention at Jackson, Jan. 7–May 15, 1868, formed a constitution, which was at first rejected by popular vote, June 28, but was afterward ratified, Nov. 30–Dec. 1, 1868. Its more important changes were as follows: all citizens of the United States, resident in the state, were to be citizens of the state; no property or educational qualifications were ever to be required for electors, and this provision was not to be amended before the year 1885; slavery was forbidden; "the right to withdraw from the federal Union on account of any real or supposed grievances shall never be assumed by this state, nor shall any law be passed in derogation of the paramount allegiance of the citizens of this state to the government of the United States"; the governor's term was lengthened to four years, and he was given the power to call forth the militia to suppress "riots," as well as insurrections; the right of suffrage was to be limited to such persons as could swear that they were "not disfranchised in any of the provisions of the acts known as the reconstruction acts of the 39th and 40th congresses," but this was not to apply to persons whose disabilities should be removed by congress, provided the state legislature concurred therein; no one was to hold office who was not a qualified elector as aforesaid, or who in any way voted for or aided secession or rebellion; and the ordinance of secession was declared null and void. (See RECONSTRUCTION.)—GOVERNORS. David Holmes, 1817–19; George Poindexter, 1819–21; Walter Leake, 1821–5; David Holmes, 1825–7; Gerard C. Brandon, 1827–31; Abraham M. Scott, 1831–3; Hiram G. Runnels, 1833–5; Charles Lynch, 1835–7; Alexander G. McNutt, 1837–41; Tilghman M. Tucker, 1841–3; Albert G. Brown, 1843–8; Joseph W. Matthews, 1848–50, John A. Quitman, 1850–52; Henry S. Foote, 1852–4; John J. MacRae, 1854–8; William McWillie, 1858–60; John J. Pettus, 1860–62; Jacob Thompson, 1862–4; Charles Clarke, 1864, until superseded in 1865; Wm. L. Sharkey, provisional, 1865–6; Benj. G. Humphreys, 1866–8; Adelbert Ames, provisional, 1868–70; Jas L. Alcorn, 1870–74; Adelbert Ames, 1874–8; John M. Stone, 1878–82.—POLITICAL HISTORY. The electoral vote of the state has always been given to democratic candidates, except in 1840 and 1848, when it was given to Harrison and Taylor respectively, whigs, and in 1872, when it was given to Grant, republican; in 1864 and 1868 the vote of the state was not counted. (See ELECTORAL VOTES.) The whig party of the state, though usually unsuccessful, was always a strong minority, polling about 45 per cent. of the total vote; and so late as 1856, when its organization had taken the name of the American party, it still polled 41 per cent. of the total vote.—During the same period the state elections were almost as steadily democratic. The whigs were a strong minority in both houses of the legislature, and occasionally, as in 1841, 1842 and 1852, obtained a majority in one or both houses. Until 1842 the two representatives in congress were chosen by general ticket, and in 1837 the whigs elected both; with this exception the state's representatives were democratic. After 1842, when congressmen were chosen by districts, the only exceptions to the general rule were the elections of one whig representative in 1847 and one pro slavery know-nothing in 1855. After 1856 the opposition to the dominant party became steadily weaker; in 1855 it had polled 27,694 votes to 32,638, while in 1859 the proportion was but 10 308 to 34 559. In 1860 the democrats controlled both houses of the legislature by majorities of 27 to 4 in the senate and 86 to 14 in the house. Two political contests of this period deserve more particular mention.—*The Union Bank Bonds.* At the session of the legislature in 1837 an act was passed "to incorporate the subscribers to the Mississippi Union Bank." As the constitution required in such cases, it was published to the people, and re-enacted Feb 5, 1838. The act provided for the issue of $15,500,000 in state stock to the bank, as capital, as soon as a corresponding amount in private subscriptions should come in. A supplementary act of Feb. 15, 1838, changed the conditions to an immediate issue of $5,000,000 of state stock, prior to private subscriptions, and this was the change which was afterward alleged to be unconstitutional. The stock was issued and sold at a heavy discount through the bank of the United States, but the sale was sanctioned by the legislature in 1839. It was not until July 14, 1841, that the governor, McNutt, who had signed the acts mentioned, and had ordered the issue of the remaining $10,500,000 to the bank in 1839, declared his belief that the first issue of $5,000,000 was unconstitutional and void. The question of their payment at once became a political one, T. M. Tucker, who had opposed the first issue in the legislature, heading the opposition to its payment. In 1841 Tucker was elected governor, and thereafter the repudiation of the first issue was made final. A resolution of the legislature in 1842 denied that the state was under any obligation, legal or moral, to redeem the bonds; and in 1875 an amendment to the state constitution forbade the legislature to make any provision for their redemption.—*The Davis-Foote Campaign.* In 1850 the time for secession seemed to be close at hand. (See SECESSION.) Of the two United States senators of the state, Jefferson Davis was the leader of the pronounced secessionists, and Henry S Foote of those who were against the *advisability* of secession. (See ALLEGIANCE, II.) Both resigned, and began a joint canvass for the governorship in 1852, in order to bring the issue plainly before the people. Davis polled 27,729 votes to 28,738, and was beaten for the time. At the same time Davis' party had a majority (21 to 11) in the senate, and Foote's a majority (63 to 35) in the house. The anti-Davis party had a popular majority of 28,402 to 21,241 on the question of a state convention.

— RECONSTRUCTION. The close of the war of the rebellion found very little semblance of government in the state, which had suffered enormously during the war. Preparations had been made to aid Gov. Clarke in reorganizing civil government, when his functions were suspended by the appointment of Wm. L. Sharkey as provisional governor, June 13, 1865. Under his guidance the reorganization was completed, Gov. Humphreys was elected Dec. 2, and the whole state government began operations Dec. 16. Its functions were again suspended by the act of March 2, 1867. (See RECONSTRUCTION.) In no state was congressional reconstruction more relentlessly opposed than in Mississippi. Maj. Gen A. C. Gillem, military governor of the state, succeeded in forming a convention, but the constitution which it formed contained so many severe restrictions upon the rights of suffrage and of office holding by those who had taken part in the rebellion as to intensify the opposition. The state appealed in vain to the United States supreme court against the reconstruction acts, and a majority of its voters rejected the constitution. Adelbert Ames was then appointed provisional governor, Humphreys' functions being suspended. At the beginning of 1869 four years had been lost, the state was in about as bad a plight as in 1865, and there seemed to be little hope for the future adoption of the obnoxious constitution. The act of congress of April 10, 1869, therefore ordered a new election in the state, and authorized the president to submit the disfranchising clauses and the test oaths to a separate vote, but required the new legislature to ratify the 15th amendment, as well as the 14th, before readmission. In the election, though the constitution was adopted by a vote of 76,186 to 38,097, and all the radical republican candidates for governor, state officers and congressmen were elected, the proscriptive clauses were struck out by very heavy majorities. The new legislature, in which the republicans had majorities of 26 to 7 in the senate and 82 to 25 in the house, ratified the amendments, and the state was readmitted Feb. 17, 1870. March 10 the governor was inaugurated. — The republican majority in the state, mainly colored, was unbroken for five years. For a time the democrats made a peaceable but very apparent inroad upon it. In 1871 they came within two votes of a tie in the house, and in 1872 they carried one of the six congressional districts. In 1875, however, driven to desperation either by the peculation and fraud of negro officials, or by the pent-up wrath of a five years' peaceable struggle on even terms with a former slave race, the white democracy resorted to what was elsewhere called "the Mississippi plan." Open violence seems to have had little or no share in it. Midnight rides by companies of red-shirted horsemen, an occasional volley from harmless pistols, and the careful dissemination of startling rumors among the black population, furnish a combination of influences sufficient to explain the sudden decrease in the negro vote. At the election of Nov. 2, 1875, the republican party of the state went by the board. The democrats carried five of the six congressional districts, and, what was of more importance to them, both houses of the legislature; their majority in the senate was 26 to 11 and in the house 97 to 20. Feb. 25, 1876, the new legislature, after getting rid of the other state officers, impeached Gov. Ames for "inciting a war of races" in several specified instances. March 28 the governor offered to resign if the impeachment was dropped. This arrangement was carried into effect, and J. M. Stone, president of the senate, became governor Since that time the state has been democratic in all elections, and in 1880–81 there was but one republican in the senate out of thirty-seven and seven in the house out of 120. (See INSURRECTION, II.) — A new element of opposition, the national party, or greenbackers, has developed in the state, and under that organization it has been possible for white voters to make head against the dominant party without becoming identified with a negro party. In 1880–81 this new element had two members in the senate and fourteen in the house, and polled a considerable vote in three of the congressional districts. In 1881 it combined with the republicans, and was only defeated in the state election by a very narrow majority. Its possible future results are only a matter for speculation. The republican party of the state, however, is by no means dead. In 1880, it is alleged, it carried the notorious "shoe-string district" (see GERRYMANDER), and was only "counted out" with great difficulty. — Jefferson Davis (see his name) is the only citizen of the state who has become notably prominent in national politics. Among the other leaders of the state are the following: William Barksdale, democratic representative 1853–61, killed at Gettysburg; Albert G. Brown, democratic representative 1839–41 and 1848–53, United States senator 1854–61, and confederate states senator 1862–5; Henry S. Foote, United States senator 1847–52, and governor 1852–4 (see TENNESSEE); L. Q. C. Lamar, democratic representative 1857–61 and 1873–7, and United States senator 1877–83, George Poindexter, democratic representative 1817–19, governor 1819–21, and United States senator 1830–35; Sergeant S. Prentiss (see WHIG PARTY), whig representative 1838–9; John A. Quitman, major general in the Mexican war, governor 1850–52, democratic representative 1855–8; Jacob Thompson, democratic representative 1839–51, and secretary of the interior under Buchanan; and Robert J. Walker, democratic United States senator 1836–45, secretary of the treasury under Polk, governor of Kansas in 1857, and financial agent to Europe under Lincoln. — See 1 *Stat. at Large*, 549, 2:70, 3:348, 472 (for acts of April 7, 1798, May 10, 1800, March 1, 1817, and Dec. 10, 1817, respectively); 2 Poore's *Federal and State Constitutions;* Monette's *History of the Mississippi Valley* (to 1846); *Tribune Almanac*, 1838–81; *Nine Years of Democratic Rule in Mississippi* (1838–47); 10

Democratic Review, 3, 365; J. Thompson's *Speech in the House of Representatives* (Jan. 10, 1842); *Report of Committee on Union Bank Bonds to the Legislature* (Feb., 1842); Walker's *Slavery, Finances and Repudiation;* Claiborne's *Life of Quitman ;* authorities under DAVIS, J.; H. S. Foote's *Casket of Reminiscences* (1874); 3 *Reporter*, Nos. 43–46; McPherson's *History of the Reconstruction*, 239, (see also index under Mississippi).

ALEXANDER JOHNSTON.

MISSOURI, a state of the American Union, formed from the Louisiana purchase. (See ANNEXATIONS, I.) — BOUNDARIES. When the territory of Orleans, afterward the state of Louisiana, was organized (see LOUISIANA), the entire remainder of the new purchase was organized, by act of March 3, 1805, as the territory of Louisiana, and its name was changed to Missouri territory by act of June 4, 1812. (See also ARKANSAS.) March 6, 1820, an enabling act was passed (see COMPROMISES, IV.), authorizing the formation of a state government by the people of Missouri, within the following boundaries: "Beginning in the middle of the Mississippi river on the parallel of 36° north latitude; thence due west to the Saint François river, and up that river to the parallel 36° 30′ north latitude; thence due west to a point where the said parallel is intersected by a meridian line passing through the middle of the mouth of the Kansas river, where the same empties into the Missouri river; thence due north to the intersection of the parallel which passes through the rapids of the river Des Moines; thence east to the middle of the channel of the main fork of the Des Moines river, down the Des Moines to the Mississippi, and down the Mississippi to the place of beginning." The northern boundary line of the state was long undecided. Iowa claimed that the rapids in the Mississippi, called by the French explorers *La rapides la riviere Des Moines* were the point through which the parallel above referred to was to pass; Missouri argued for certain rapids, or ripples, in the Des Moines itself, some twenty-five miles farther north. In the dispute between the two states military force was repeatedly threatened, and once employed, and a Missouri sheriff was arrested and imprisoned. Acts of congress, for the purpose of ascertaining the true boundary line, were passed June 18, 1838, July 20, 1840, March 3, 1841, and June 17, 1844; but all were unsatisfactory and unsuccessful. Another act of Aug. 4, 1846, referred the whole question to the United States supreme court. Its decision was in favor of Iowa, and this was confirmed by act of Feb. 15, 1848, and ended the dispute. On the other hand, by the act of June 7, 1836, congress extended the state on the west to the Missouri river, thus giving it, says Benton, "an addition equal in extent to such states as Delaware and Rhode Island, by its fertility equal to one of the third class of states." By the Missouri compromise this was to have been forever free soil, but this act made it part of a slave state. — CONSTITUTIONS. The state's first constitution was adopted by a convention at St. Louis, June 12–July 19, 1820. It forbade the legislature to pass emancipation laws without consent of owners, or to prevent immigrants from bringing slaves with them; it ordered the legislature "to prevent free negroes and mulattoes from coming to and settling in this state under any pretext whatsoever"; it fixed the governor's term at four years; and it directed the permanent seat of government to be located on the Missouri river, within forty miles of the mouth of the Osage. The capital was laid out accordingly, and named Jefferson City; and the legislature held its first session there, Nov. 20, 1826. — The constitution was presented to congress at its next session, and the "free negro clause" revived the excitement which had been allayed by the Missouri compromise. The bill for the state's admission passed the senate; in the house a proviso was added that Missouri should abolish slavery; and the two houses disagreed. Another compromise was finally adopted, March 2, 1821, by which Missouri was to be admitted on the fundamental condition that the legislature should pledge the faith of the state that the "free negro clause" should never be executed. June 26, 1821, the legislature passed a "public and irrevocable act" in the terms required; but a long preamble declared that the action of congress was palpably unconstitutional and grossly insulting to the state, that the people of Missouri did not intend to respect or be bound by the condition, but that the act was passed as the only means of securing immediate admission. President Monroe chose to consider this measure of compliance as sufficient, and declared Missouri admitted by his proclamation of Aug. 10, 1821. — The amendments to the constitution of 1820 were mainly in the direction of an entirely elective judiciary. A new constitution was framed by a state convention, Nov. 7, 1845 – Jan. 14, 1846, but was rejected by popular vote. — The state convention which was called in 1861, with the hope of securing an ordinance of secession, proved to be the most extraordinary convention in the history of any state. It held five sessions, Feb. 28–March 22, 1861, July 22–31, 1861, Oct. 10–18, 1861, June 2–14, 1862, and June 15–July 1, 1863. Circumstances (see political history below) made the convention a revolutionary governing body for the state, even when the legislature was in session; it abolished or suspended state offices, abrogated state laws, disfranchised voters unable to take a test oath of past loyalty, changed, suspended or forbade elections by the people, and even abolished slavery after July 4, 1870. — After the close of the war within the state a new constitution was framed by a convention at St. Louis, Jan. 6 – April 10, 1865. It abolished slavery; it excluded every person who had "ever been in armed hostility to the United States," or who had ever committed any one of a long list of offenses against the government, from the right of suffrage, from holding any office of honor, trust or profit in the

state, in any corporation, or in any school; it provided for a registration of "qualified voters"; and it ordered a comprehensive test oath of past loyalty to be taken by all applicants for registration or aspirants to office. All these provisions were the result of a deep-seated resentment against the politicians who in 1861 had endeavored to hurry the state into secession against the wish of its people, and had thus made it the theatre of an unusually savage and desolating warfare. Nevertheless, the popular majority in favor of it was only 43,670 to 41,808. — All the disfranchisement clauses were wiped out by an amendment ratified Nov. 8, 1870. A new constitution was framed by a convention at Jefferson City, May 5 – Aug. 2, 1875, and was ratified Oct. 30, by a popular vote of 90,600 to 14,362. It increased the governor's term to four years; it forbade special legislation on a great number of specified subjects; it forbade the contracting of debt by the legislature for more than $250,000 in any one year, unless the act should be approved by a two-thirds majority of the qualified voters of the state, at an election for that purpose; it forbade the creation of corporations except by general law; and it made a residence of one year in the state, sixty days in the precinct, or declaration of intention to become a citizen, the only restrictions upon manhood suffrage. — GOVERNORS. Alexander McNair, 1820–24; Frederick Bates, 1824–8; John Miller, 1828–32; Daniel Dunklin, 1832–6; Lilburn W. Boggs, 1836–40; Thomas Reynolds, 1840–44; John C. Edwards, 1844–8; Austin A. King, 1848–52; Sterling Price, 1852–6; Trusten Polk, 1856–60; Claiborne F. Jackson, 1860–61; Hamilton R. Gamble, provisional, 1861–4; Thos. C. Fletcher, 1864–8; Jos. W. McClurg, 1868–70; B. Gratz Brown, 1870–72; Silas Woodson, 1872–4; Chas. H. Harding, 1874–6; John S. Phelps, 1876–80; Thomas T. Crittenden, 1880–84. — POLITICAL HISTORY. The state entered the Union during the "era of good feeling," and struggles for office were at first rather personal than political. The governors, senators and congressmen were fully in sympathy with the Monroe and Adams administrations, and the electoral vote of the state was cast for Monroe in 1820 and for Clay in 1824. Since that year the state has been democratic in all general elections, except during the period 1862–70, referred to below, including the two presidential elections of 1864 and 1868, when the state was republican. Until 1860 all the governors and legislatures were democratic, the proportion of the state vote being very steadily about 55 per cent. democratic and 45 per cent. opposition (whig until 1855, and American or know-nothing thereafter); the only exception was in 1852, when, after forty-eight ballots, a coalition of free-soil democrats and whigs elected the speaker of the house. — In the early history of the state there is little of general political interest until about 1849–50, when the disruption of the state democratic party took place, and the leadership of it was wrested from Senator Benton. Benton's followers had for some half dozen years been known as "hards," mainly from the "hard money" ideas of their leader, while his democratic opponents were called "softs." In 1849 the "softs" carried through the legislature the "Jackson resolutions of '49," which pledged the state to co-operation with the other slaveholding states against any attempt to exclude slavery from the territories. Benton denounced the resolutions as secessionist and treasonable, refused to obey them, and appealed to the people. His party in the state was led by F. P. Blair, B. Gratz Brown, Richard A. Barrett and Arnold Krekel; the "softs" by Sterling Price and Claiborne F. Jackson; and the whigs by Samuel Woodson and Thomas Allen. The result was that Benton was beaten, lost his senatorship, and, after serving a term in the house of representatives, was beaten in the election for governor in 1856, polling a smaller vote than either the "soft" or the know-nothing candidate. From that time the whole party machinery was in the hands of the "softs," or pro-slavery party. — A state convention met at Jefferson City, Feb. 28, 1861, to "consider the relations" between Missouri and the federal government. The act calling the convention had stipulated that no ordinance of secession should be valid until ratified by popular vote; but this was needless, as the convention proved to have a Union majority. March 4 the convention again met at St. Louis, listened to a secession commissioner from Georgia, and refused to join in the secession movement. But, though the convention and the popular majority were unionist, the state officers, the legislature and the leading "soft" politicians were strongly secessionist. Preparations were busily made to levy war against the United States; these were defeated by the energy of the federal general, Nathaniel Lyon; and in May the state became the theatre of open war. When the state convention reassembled, July 22, 1861, at Jefferson City, it found the state government suspended. The governor, the lieutenant governor, the president of the senate, the speaker of the house, a majority of the legislature and a part of the convention itself, including its president, Sterling Price, had fled the state, after an unsuccessful attempt at armed revolution. The convention, therefore, as the only representative of the people of the state, assumed the powers of government. July 30 it declared vacant the offices of the governor, the lieutenant governor and the members of the legislature, and appointed a provisional governor, Hamilton R. Gamble, and a provisional lieutenant governor, Willard P. Hall, who retained their positions until 1864. Aug. 5, 1861, Gov. Jackson, by proclamation, declared the independence of Missouri; and Nov. 2 the secession remnant of the legislature, at Neosho, voted the state into the southern confederacy and elected senators and representatives to the confederate congress. (See CONFEDERATE STATES.) The legislature which

met Dec. 29, 1862, had a majority in both branches in favor of the abolition of slavery in the state, and the state convention passed an ordinance of gradual abolition in 1863. (See ABOLITION, III.) By this time the forces of the state had been disciplined so thoroughly that they were able to defeat a rebel army under Shelby; and the state convention finally adjourned and left the ordinary state government in operation. The electoral vote of the state in 1864 was given to Lincoln by a popular vote of more than two to one, and the "radical republicans" elected the governor, the other state officers, a heavy majority of the legislature, and eight of the nine congressmen. — A new state convention met at St. Louis, Jan. 6, 1865, finally abolished slavery (see ABOLITION, III.) and formed a new constitution. Its most noteworthy features were the disfranchisement of any person who had taken part in any manner in the rebellion, the establishment of a rigid "oath of loyalty" and the provision that no person could vote, hold any state, county or municipal office, teach in any school, preach, solemnize marriage or practice law, unless he could take the stipulated oath that he had never committed any of the long list of offenses for which disfranchisement was made the penalty. The attempt to carry this test oath into effect was resisted throughout the state by ministers of all denominations, by teachers, lawyers and others, and before the end of the year the oath itself was pronounced unconstitutional by the United States supreme court, as an *ex post facto* law. The attempt to enforce it was then abandoned, except in the registration law of 1868, which empowered the registrars to reject the names of persons guilty of enumerated offenses, even if they offered to take the oath. In 1868 the "radical republicans" again elected their state ticket, presidential electors, a majority of the legislature, and six out of the nine representatives in congress. — In 1870 the feeling against the disfranchising clauses of the constitution had become so strong that it split the dominant party. The "liberal republicans," headed by Senator Carl Schurz and B. Gratz Brown, desired "universal amnesty and universal enfranchisement," both of negroes and former rebels. In the republican state convention, Sept. 2, the majority of the committee on resolutions made a report conveying the views of the "liberal republicans." It was rejected by a vote of 349 to 342, whereupon 250 of the delegates withdrew, organized a separate convention, and nominated Brown for governor and a full state ticket. The liberal ticket, supported by the democrats, was successful by a popular vote of 104,771 to 62,854. The liberals and democrats also elected a majority of the legislature, and six of the nine congressmen. At the same election an amendment to the constitution was ratified, abolishing the test oath and disfranchisement clauses. (For the national development of the liberal movement see LIBERAL REPUBLICAN PARTY.)—In 1872 the fusion of liberal republicans and democrats elected the state ticket, the Greeley presidential electors, a majority of the legislature, and nine of the thirteen congressmen. Since that time the state has been democratic in all elections, and in 1874 the republicans even dropped their party name, assuming for the time that of the "people's party." In 1876 and 1880 the electoral vote of the state was given to the democratic candidates by heavy popular majorities. In the congressional elections of 1880 the democrats elected eight congressmen, four of the others being "republican greenbackers" and one republican. In almost all the congressional districts the struggle at this election was very close and doubtful: one of the representatives received a majority of but two votes out of 41,552, and the majorities of several others were exceedingly meagre —Among the citizens of Missouri who have become prominent in national politics are Thos. H. Benton, F. P. Blair and Carl Schurz. (See those names.) The following also should be mentioned: David R. Atchison, United States senator 1843–55, and a prominent pro-slavery leader in the Kansas struggle (see KANSAS); Edward Bates, national republican representative in congress 1827–9, afterward prominent as a whig politician in the state, president of the whig national convention in 1856, and attorney general under Lincoln; Henry T. Blow, minister to Venezuela 1861–2 and to Brazil 1869–71, and republican representative 1869–71; James O. Broadhead, a whig leader until the downfall of that party, an active union leader during the rebellion, and provost marshal of the state; B. Gratz Brown, United States senator 1863–7, governor 1870–72, and liberal republican candidate for vice-president in 1872; John B. Clark, democratic representative 1857–61 (expelled), and senator in the confederate congress; John B. Clark, Jr., democratic representative 1873–83; F. M. Cockrell, United States senator 1875–87; John B. Henderson, one of the Douglas democratic leaders in 1860, and United States senator 1862–9; Lewis F. Linn, United States senator (democratic) 1833–43; Jos. W. McClurg, republican representative 1863–8, and governor 1868–70, Sterling Price, democratic representative 1845–6, brigadier general in the Mexican war, governor 1853–7, and confederate major general; Jas. S. Rollins, whig candidate for governor in 1848 and 1856, and republican representative 1861–5; and David Wagner, chief justice of the state supreme court 1865–80.— The name of Missouri was given from that of its principal river, an Indian word, said to mean "muddy water," the original form of the word being Minneshoshay.— See 2 *Stat. at Large*, 331, 743, and 3 *Stat. at Large*, 545, 645 (for the acts of March 3, 1805, June 4, 1812, March 6, 1820, and March 2, 1821, respectively); 6 Benton's *Debates of Congress*, 711; 6 Bioren and Duane's *Stat. at Large*, 666 (for Missouri's assent); 7 Benton's *Debates of Congress*, 129 (for the president's proclamation); Cutts' *Treatise on Party Questions*, 73; 1 Benton's *Thirty Years' View*, 8, 626; 2 von Holst's *United States*,

143; authorities under COMPROMISES, IV., and ELECTORS, III.; Gale's *Upper Mississippi* (1600–1867); Monette's *History of the Mississippi Valley;* 1 Draper's *Civil War*, 349; and 2 :227; Shepard's *Early History of St. Louis and Missouri;* Münch's *Der Staat Missouri* (1859); 21 *Atlantic Monthly* ("Free Missouri"); Davis and Durrie's *History of Missouri* (1876); Porter's *West in* 1880, 296.

ALEXANDER JOHNSTON

MODUS VIVENDI. The law of nations formulates the laws, rules and usages in force among the different states. But that these laws, rules and usages may be considered as in force, it is necessary that the states should have recognized each other, that is to say, it is necessary that they should mutually consider each other as states. Now, it may happen, for one reason or another, that a government does not wish to, or can not, morally, recognize a given state; if this state is situated at a distance, it has only to be ignored; it is treated as if it did not exist. There may be then, it is true, some difficulties for such subjects of the government as are obliged to visit such a country, and who have to put themselves under the protection of another state, but there is no difficulty between the two governments. The case is not the same when the two powers are contiguous. It is then impossible for them to ignore each other, they must live together, and then it may be desirable to establish a *modus vivendi.* Generally such a situation is settled by a war, but when Cavour first used this expression in 1860, war between Italy and the pope was morally and politically impossible. After the installation of the Italian government at Rome, it was necessary to seek a *modus vivendi* for the relations between the king and the pope. — This expression, of which we find no trace in treatises on international law yet published, is of quite frequent use at present, and, the word being found, the situation would appear to be more frequent than during the past, the more so since war is not so easily decided upon, when it is necessary to put millions of men on foot and expend billions of money.

MAURICE BLOCK.

MOHAMMEDANISM is the most recent of the great religious creations of humanity.* Instead of the mystery in which the other religions hide their origin, this one was born in the full light of history; its origin is visible. The life of Mohammed is as well known to us as the lives of the reformers of the sixteenth century. The fundamental principles alone of Islamism will be presented here, with the political or social revolutions which it has produced. — Islamism has in reality but two dogmas: the unity of God, and the prophetic office of Mohammed. Mohammed was no more the founder of monotheism among the Arabs than he was of their civilization and literature. The worship of the supreme Allah seems to have always formed the basis of the religion of the Arabs. The Semitic race has never conceived the government of the universe in any other form than that of an absolute monarchy. Numerous superstitions, tainted with idolatry and varying from tribe to tribe, had changed, however, among the Arabs the purity of the patriarchal faith, and after coming into contact with more firmly organized religions all the better minds of Arabia aspired to a higher worship. In the sixth century that country, till then inaccessible, was thrown open on every side. The Syrians introduced letters. The Abyssinians and the Persians reigned alternately in Yemen and Bahreïn. Whole tribes had embraced Judaism; Christianity had large churches at Nedjran, in the kingdoms of Hira and Ghassan. A species of vague toleration and syncretism of all religions was finally established; the ideas of one God, of paradise, of the resurrection, of the prophets, spread by degrees even among pagan tribes. The Caaba became the Pantheon of all the worships, and when Mohammed excluded images from the holy house, in the number of the exiled gods was a Byzantine madonna, painted on a column, holding her son in her arms. The cere-

* The data which we possess for even an approximate estimate of the number of the followers of Islam are altogether inadequate In one place we find the Mussulman population stated at 270,000,000; in another it is reduced to 120,000,000. On account of the total absence of statistics and of serious censuses in Mohammedan countries we are unable to decide between numbers so different. Islamism has made very great progress in the interior of Africa and in China. There are no documents to show the number of these new followers, which increases every day. Strange phenomenon! Islamism is the religion which in the nineteenth century makes the greatest conquests. Mussulman missionaries setting out from Cairo and Muscat enter every part of Africa and find the most cordial reception among the negro populations. The favor which the monotheistic belief finds in certain parts of China, and the change which it effects in the minds of the population, are astonishing. — The great division of Islamism (Shiites and Sunnites) seems at first sight to arise merely from a disagreement concerning an historical question; the Sunnites admit the authority of the first three caliphs, Abou-Bekr, Omar and Othman, while the Shiites admit the rights of Ali alone, and reject the legitimacy of all the dynasties which took the place of the descendants of Ali. But this division is in reality more serious. The rights of Ali were merely a pretext taken up with avidity by the more independent portions of Islam, to escape from what they considered unendurable in orthodox belief The Persian provinces especially embraced the worship of Ali with eagerness, since it offered them an occasion to hate the Arabs, to turn their maledictions on them for the murder of Hussein and Hassan, and to develop the mystical and mythological side of the Iranian imagination On close examination we shall find that a Shiite is not a real Mussulman, in the Arabic sense of the word, and, if I may say so, in the Semitic sense. He allows images; he delights in an epic literature, full of exploits of ancient pagan heroes, a species of demigods; the legend of Mohammed, as related by him is more like a poem on the Hindu-Krishna than the history of a prophet of God. In future this difference will no doubt become more marked. The Shiite world is swarming with sects tinged with Sufiism, the basis of which is a pantheistic unbelief, summed up in these words: "Of a truth we come from God, and shall return to him." It has long been observed that Persia is not seriously Mussulman; under the mantle of official hypocrisy nearly every Persian hides a sectarian attachment, a secret thought, which in a way has its source in the Koran

monies of the Caaba, the processions, the sacrifices in the valley of Mina, the belief in purgatory (Arafat), were established in all their details long before Mohammed. The prophet merely consecrated these ancient usages and sanctioned them by a strict proclamation of the doctrine of future rewards and punishments. The symbol of Islamism, at least before the relatively modern invasion of theological subtleties, scarcely went beyond the simplest elements of natural religion. "There is no God but God, and Mohammed is his prophet." This is the whole Mussulman dogma. — Islamism being the least mystic of religions, its influence must be studied especially in the civil and political sphere. The new religion was an advance, so far as Arabia was concerned. It is true, that nothing could equal the charm of that society shown us by the Kitab el-Agâni and pre-Islamite poetry; never has human life been freer, more joyous, more noble, for a few. But it was a terrible anarchy. The weak children and women were scarcely protected. Although there were women at that time in Arabia who were their own mistresses, choosing their husbands and having the right to send them away whenever they pleased, no idea of an equality of rights existed. Mohammed established the right of women to inherit from their parents, restrained polygamy, even represented monogamy as a state of life agreeable to God. He recommended humanity toward slaves, advised their emancipation and abolished a multitude of inhuman practices. He desired each of the faithful to give one-tenth of his goods in alms. The Koran has become the text and the only source of the new law. It is at once a book of theology and a civil code—a collection of common law. Hence the fatal consequence, as we see, that in Islamism the civil law can never be separated from religion. No order, no methodical plan existed in the drawing up of this fundamental book. The Koran is a collection of Mohammed's discourses and orders of the day. Nothing could be more dissimilar, more contradictory. Entrusted at first to the memory, the surats (chapters of the Koran) were collected during the caliphate of Abou-Bekr, and underwent a second revision under that of Othman. This text has come down to us without essential variations. — It does not appear that Mohammed's vision extended beyond the horizon of Arabia, or that he thought his religion might suit others besides Arabs. The conquering principle of Islamism, the idea that all the world should become Mussulman, appears to have originated with Omar. Governing after the death of Mohammed under the name of the feeble Abou-Bekr, at the moment when the work of the prophet, scarcely outlined, was on the brink of dissolution, he arrested the defection of the Arab tribes, and gave the new religion its universal character. He was the Paul of Islamism. In the circle of the primitive believers, among those of Mecca who had followed the prophet to Medina, and those of Medina who had aided him, the faith was almost absolute, but if we leave this little group, which did not exceed a few thousand men, we find in all the rest of Arabia nothing but very thinly disguised incredulity. The Mussulman faith had met, among the rich and proud families of Mecca, a centre of resistance which it could not entirely overcome. The other tribes of Arabia embraced Islamism only through force, without troubling themselves about the dogmas which they had to believe, and without attaching much importance to them. Certain parts of Arabia became completely Mussulman only at the beginning of the present century through the Wahhabite movement. — The party of sincere Mussulmans found their strength in Omar; but after his assassination the opposing party triumphed by the election of Othman, nephew of Abou-Sofian, the most formidable enemy of Mohammed. The entire caliphate of Othman was a violent reaction against the friends of the prophet, who saw themselves excluded from affairs and violently persecuted. They never gained the upper hand afterward. The provinces could not endure that the little aristocracy of Medina and Mecca should arrogate to itself alone the right of electing a caliph. Ali, the true representative of the primitive tradition of Islamism, was, during his whole life, an impossible man, and his election was never seriously considered in the provinces. Persia alone espoused his cause through opposition to the Semitic spirit, and rendered to the least pagan of men a worship full of paganism. — The accession of the Ommeyads brought these tendencies into full play. This family, which had become Syrian in habits and interests, was welcomed on every side. Now the orthodoxy of the Ommeyads was greatly suspected. They drank wine, practiced the rites of paganism, cared nothing for tradition, nor for the sacred character of the friends of Mohammed. Thus is explained the astonishing spectacle of the first century of the hegira altogether occupied in exterminating the real fathers of Islamism. By all ways we arrive at this singular result, that the Mussulman movement was produced almost without religious faith. Hence the state of uncertainty in which all the dogmas of the Mussulman religion are found till the twelfth century; hence that bold philosophy openly proclaiming the sovereign rights of reason; hence the numerous sects bordering sometimes on the most open infidelity — Karmathians, Fatimites, Ismailites, Druses, Hashbishins, secret double-meaning sects, joining fanaticism to unbelief, license to enthusiasm, the boldness of the freethinker to the superstition of the devotee. It was only in the twelfth century that Islamism really triumphed over the undisciplined elements which were seething in its bosom; this it did through the advent of the Ascharite theology which was more severe in its methods, and by the violent extermination of philosophy. This philosophy presents the example of a very high culture suppressed almost in-

stantaneously and nearly forgotten by the people who created it. The caliphs of Bagdad, in the eighth and ninth centuries, had the glory of opening that brilliant series of studies which holds so large a place in the history of civilization, through the influence which it exercised on Christian Europe. The caliph Hakem in Spain renewed this noble spectacle. The taste for science and fine arts established in this favored corner of the earth a toleration of which modern times can scarcely show an example. Christians, Jews, Mussulmans, spoke the same language, chanted the same poetry, took part in the same studies. All the barriers separating men were thrown down; all labored with one accord at the common civilization. The mosques of Cordova in which students were numbered by thousands became active centres of philosophic and scientific studies. The schools of Kaïroan, of Damascus, of Bagdad, of Bassorah, of Samarcand, initiated, on their part, the Mussulmans into that liberalism of manners and thought which people deprived of political liberty often demand of high intellectual culture. — No great dogmatic idea presided at the creation of the Arab philosophy. The Arabs merely adopted the entire Greek encyclopedia such as the world accepted it toward the seventh and eighth centuries. At that time Greek science played among the Syrians, the Nabatians, the Harranians, the Sassanide Persians, a rôle very similar to that which European science played in the east during the last half century. Though developed on a traditional basis, Arabic philosophy reached, especially in the eleventh and twelfth centuries, a real originality, and the intellectual growth represented by Arabic scholars till the end of the twelfth century was superior to that of the Christian world. But it was unable to pass into institutions; theology in this direction opposed an impassable barrier to it. Mussulman philosophy always remained an amateur or a court functionary. As soon as fanaticism alarmed the sovereigns, philosophy disappeared, its manuscripts were burned by royal command, and Christians alone remembered that Islamism had had its scholars and its thinkers. Islamism revealed by this circumstance how incurably narrow its genius was. Incapable of transformation, or of admitting any element of civil or citizen life, it tore from its bosom every germ of rational culture. This fatal tendency was combated while Islamism was controlled by the Arabs, a keen and intellectual race, or by the Persians, a people very much given to speculation; but it had unlimited sway as soon as barbarians (Turks, Berbers, etc.) assumed the guidance of Islam. Then the Mussulman world entered that period of ignorant brutality from which it issued only to fall into the gloomy agony in which it is struggling before our eyes. — Mohammed invented nothing either in politics or religion. He established that unity of the nation which included all the Arab tribes, and which the aristocrats of Mecca had commenced for their own benefit. The creation of an executive council superior to the council of elders, the collection of alms destined to support pilgrims, the keeping of the keys of the Caaba, the management of the waters, and the discovery of the wells of Zervzen, had given the Coreishites an undisputed hegemony over Arabia, but the political bond was still lacking. Mohammed united the tribes in a sacred group. He proclaimed absolute equality among his disciples, and said, "My assembled believers can not err in a choice." Thus sovereignty departed from the oligarchy of the Coreishites and the assembly of the allied sheiks; it entered, by divine inspiration into the Mussulman church, into the assembly of the saints of Ismail. This was theocracy in the etymological sense of the word—the government not of priests, but of God himself. This political equality found its exercise in the election of the chief who was to lead the Mussulmans to the holy war, but it stopped there. Of all democracies this was the most disposed to settle into a military dictatorship, and besides there was no question of legislative power in this society; the law was already framed, and bound to be eternal. — When Abou Bekr appeared in the assembly to recite the prayers, after the death of Mohammed, he did not ascend the pulpit; he remained some steps lower. So did Omar and Othman. The caliphs (vice-prophets) never looked on themselves as inspired. The title emir-almouminin, which Omar took, indicated clearly what he wished to be: the prince of the faithful, the commander of the holy war. The first caliphs, however, were not distinguished from the last of the Arabs except by authority. The distinctions which then existed among the Mussulmans were altogether moral; the degree of relationship with the prophet and religious merit were the titles which determined the order of inscription in the divani (census-list of the faithful) for the division of the fruits of conquest. — The Ommeyads created a more formidable aristocracy; the divani became in their hands the list of military rewards; in return, the holders of these benefices insured them the right of succession to the caliphate. The chiefs of Islam then exchanged the democratic dictatorship of the earliest vicars of the prophet for the despotism of the kings of Persia and the exarchs of Byzantium. The Mussulman like the Roman republic perished from extension. This second Roman people could not escape the slow and invincible influences of the conquered races. Twenty years after Mohammed, Arabia was humiliated, overshadowed by the provinces; a century later, the Arab genius was almost completely extinct; Persia triumphed through the accession of the Abbassides; Arabia disappeared forever from the world's stage; and while its language was to bear civilization from Malaysia to Morocco, from Timbuctoo to Samarcand, forgotten, pressed back into its deserts, it became again what it had been in the days of Ismail. — Liberty took refuge in the colonies of Africa and Sicily, far from the

presence of the hereditary caliph, though under the menace of his Valis. The Arab colonies had elective magistrates, municipal assemblies, which decided on peace and war. This political civilization, troubled, however, by factions, by the endless anarchy of the Arab character, lasted till the invasions of the religious conquerors, the Fatimites and the Almoravides. — In Asia the inability of the Arabs to form regular armies, and the consequent introduction of Turkish guards, the concentration of all powers in the hands of the *emir el-Omra* reduced the caliphate to the most deplorable degradation. The revolt of the feudaries and the Mongol invasions filled the Mohammedan world with blood. When the power of the Osmanli Turks had absorbed all others, peace was established, and Turkey was dangerous only to Persia and Europe; but this centralization soon brought on that terrible corruption which has reduced the Ottoman empire to a state of debasement out of which no human effort can raise it. — Under the caliphate as well as under the dynasties which rose "like clouds of dust from his feet," one guarantee alone remained to the Mussulmans, the law sent down from heaven. This law, which, for the Shiites, adherents of Ali, is reduced to the Koran, includes, in addition, for the Sunnites, the traditional sayings of the prophet, collected by his intimates, the decisions of the first four caliphs and the four great Imams. The legislation of the Turkish epoch is further increased by the decisions of 200 jurisconsults assembled under Mohammed II., and by the code of Soliman. The articles of faith of Néséfi define supreme power as follows: "It is the right and the duty of the Imam to see to the observance of the precepts of the law, to enforce legal penalties, to defend the boundaries, to raise armies, to collect the tithes, to put down rebels and brigands, to preside at the public prayer of Friday and the feasts of Bairam, to judge citizens, to settle misunderstandings among subjects (rayahs), to receive legal proof in legitimate cases, to arrange the marriage of minors of both sexes who are deprived of natural guardians, and to settle the partition of lawful booty." This power is exorbitant, but it is not absolute. Even in Persia Saadi wrote: "The cadi obeys the vizier, the vizier the sultan, and the sultan the law which the people themselves obey." Some canonists deny the sultan the right of making organic laws to assure the execution of the sacred law. The latter is placed under the guardianship of judges and jurists, who form the first two orders of the Mussulman clergy, and are superior to the ministers of worship. These interpreters of the law have often obeyed the precept of the Koran: "Oppose the violation of the law," and the sheik-ul-islam has frequently been as great by his resistance as a prætorian prefect under the Roman emperors. — The public law of the east seems to have always conferred on the monarch an unlimited power over his functionaries, and in general over all who have the misfortune to approach him. Other citizens are usually safe, and in many respects freer than Europeans. This cruel law of exception originated in the condition of the ancient ministers in the east, chosen from among the slaves of the seraglio, and in the situation itself of the monarchs, strangers to everything in the realm; "first prisoners of the palace," as Montesquieu says, and servants of the hatreds of their ministers so long as their own ignorance continues, and they are incapable of mastering their rage when they discover that they have been deceived. This deplorable policy has governed all the monarchies of the east, and Islamism has changed it in no regard. — The perpetual interference of the sovereign in affairs of inheritance has caused Europeans to suppose that Mussulman princes were owners of all the real property, or that they could not maintain their luxury except by confiscations, after the manner of the first Cæsars. Other authors have solved the question in a more mystic sense, and assured us that according to the Koran the land belongs to God. The origin of Mussulman property must be found in the special code of the holy war. The ownership of lands possessed by the Arabs before the conquest, the ownership of lands abandoned by infidels and divided among believers, is as secure as the title to land can be in the west, and is transferred by sale, donation or inheritance. The Koran and the Sunna recognize, besides, complete ownership of desert lands recovered by labor. "If any man brings dead land to life," says Mohammed, "it belongs to him." In every country buildings and trees are the objects of a true and complete ownership; but it is not the same with the soil on which they stand. Entire tribes, as the Metnalis of Syria, are merely usufructuaries; the sultan in such cases is the great landed proprietor. As to the Christians, former owners of the soil, they enjoy a tenant right which is almost equivalent to ownership. Once out of Arabia and launched into the world, the Arabs would have become faithless to the holy war if they had settled down permanently. It was necessary to deprive them of the pretext. The hereditary possession of land was left to the vanquished on condition of laboring and paying tribute. Abandoned land was given by the state to new settlers. As the choice between conversion and extermination was given to idolaters, and between conversion and tribute to the "people of the book," (that is, to nations having a revelation—Christians, Jews, Sabians), the former were converted, and the latter paid tribute. This tribute included a land tax and poll tax, the ransom of their lives and the price of their personal safety. The newly converted did not enjoy immediately the same rights as their conquerors, and were treated as subjects at first. The original inhabitants were thus riveted to the soil under the supervision of the victorious army. These warriors, collectors of taxes, organized in a hierarchy, lived on domains, which were frequently extensive, and mistaken by Europeans for feudal

estates, though they were merely financial districts. But one essential thing was really wanting to make this a feudalism: property in land.— While the Arabs were the leaders of Islamism, sciences, letters, philosophy, and even arts to a certain point, were able to unite the conquerors and the conquered. But under Turkish rule all fusion became impossible. The Turks took Islamism much more seriously than the Arabs had. The prescriptions of the law and of jurisprudence against tributaries were enforced in all their rigor. The rayahs were obliged to distinguish themselves from the Osmanli by their dress, to yield them the inside of the walk, to pay the tribute without delay and with deference, under pain of "being taken by the throat and treated as enemies of God." They retained their religion, it is true, their communes, their civil laws and the right to be judged by priests of their own nation; but all the vexations which conquerors could inflict on the conquered without threatening their lives or violating the pact of settlement were heaped on the heads of the rayahs. This treatment was called *avaniah*. Such abuse of power did not prevent the aristocratic race, however, from showing many examples of probity in intercourse with men, of devotion to the country, of modest dignity and noble politeness. Strangers to arts, to sciences, and frequently to every exercise of thought, they despised those industrious nations which were unable to conquer, while the enslaved, descended from superior races, from nations which had held the sceptre of three continents, retained the consciousness of their ancient nobility, of their present activity, and gave the conquerors contempt for contempt. — Once settled in a country, the Mussulmans have always disdained to convert the inhabitants. The proselytism and fanaticism of the Turks and Berbers themselves were but a frightful revenge for the crusades and the expulsion of the Moors from Spain. The Israelites and tributary Christians have only suffered persecutions when the Mussulmans thought themselves insulted or menaced; at such times they felt the whole fury of apathetic and ignorant masters whose toleration was exhausted. It must even be admitted that this situation has become still more critical since Europe has begun to exercise a pressure upon the internal government of Turkey, and by imposing on Mussulman society reforms opposed to the spirit of Islamism, has asked it to commit suicide. The indissoluble and fatal union of religious law and the civil law is the greatest obstacle to every political innovation. The law, equal for Mussulmans alone, can regard infidels with disdainful tolerance only, and can not fill the abyss between the children of God and their enemies which divides the reprobate from the elect. — Islamism is evidently the product of an inferior, and so to speak, mediocre combination of human elements. This is why it has been a conqueror only in the middle stage of human nature. Savage races have not been able to rise to it, and, on the other hand, it has not sufficed for peoples who possessed the germs of a more vigorous civilization. Its too great simplicity has everywhere been a bar to a really fruitful development of science, of lofty poetry, of delicate morality. — If it be asked what the future of Islamism will be in presence of an essentially aggressive civilization, and destined it seems to become universal as far as may be permitted by the infinite variety of the human race, it must be confessed that nothing enables us to form precise ideas on this subject. If, on the one hand, Islamism loses, not its existence, for religions do not die, but the moral and intellectual government of an important part of the world, it will not succumb to the attacks of another religion, but to modern sciences with their modes of reasoning and criticism. On the other hand, it seems—if we consider only its dogmas and constitution—to possess in its simplicity hidden powers of resistance. It has neither popes, nor councils, nor bishops divinely instituted, nor a well defined clergy; it has never sounded the formidable abyss of infallibility. What can criticism attack? it is sometimes asked. Its legend? This legend has no more sanction than the pious beliefs which may be rejected in the bosom of Catholicism without becoming a heretic. Its dogma? Reduced to its real limits Islamism adds nothing to natural religion but the prophetic office of Mohammed and a certain conception of fatalism which is less an article of faith than a general turn of mind susceptible of proper direction. Its morals? In morals it offers the choice between four sects equally orthodox, among which the moral sense has a fair share of liberty. As to worship, when freed from accessory superstitions, it can be compared for simplicity only with some of the purest sects of Protestantism. Have we not seen in the beginning of the present century, in the very country of Mohammed, a sectary call forth the vast political and religious movement of the Wahhabites, by proclaiming that the true worship of God consists in prostration before the idea of his existence, that the invocation of any intercessor with him is an act of idolatry, and that the most meritorious act would be to raze the tombs of the prophets and destroy the mausoleums of the Imams? — Symptoms of a much graver nature are revealed at Constantinople and in Egypt. In those places the contact of science and European manners has produced a libertinism which is concealed only to avoid shocking the people. Sincere believers who feel the danger do not hide their alarm, and denounce European books of science as containing fatal errors and subversive of all religious faith. We may persist, however, in believing that if the east could succeed in overcoming its apathy, and pass the limits which to this time it has been unable to pass in the matter of rational speculation, Islamism would not oppose a very serious obstacle to the progress of the modern spirit. The absence of theological

centralization has always left Mussulman nations a certain amount of religious liberty; and Mussulman orthodoxy not being defended by a permanent autonomous body, self-recruited and self-governed, is vulnerable. But it must be confessed also that, in certain parts of the Mussulman world, in Syria for example, ignorance and fanaticism are extreme; and it can not be conceived how minds so narrow can ever be opened to a broad idea or a generous sentiment. — It is superfluous to add that, if a religious reform should appear in Islamism, Europe should not interfere except by its influence in the most general manner. It would ill become her to wish to regulate the faith of others. While propagating actively her own dogma, which is civilization, she should leave to nations the infinitely delicate task of accommodating their religious traditions to their new wants, and respect the most indefeasible right, as well of nations as individuals, that of presiding over the revolutions of their own conscience in the most perfect liberty. ERNEST RENAN.

MONARCHY. The time is past when the word republic appeared necessarily to mean liberty, and monarchy, slavery. We have no longer to learn that there are tyrannical republics and free monarchies. Consequently, the preference to be given to a republic to a monarchy, or to a monarchy to a republic, no longer appears to us with the same absolute character as to some publicists who have gone before us, and to several generations which preceded us. As soon as it is a question of men placed in very different conditions of enlightenment and virtue, of political skill, of physical circumstances and social condition, the problem becomes altogether relative. It is reduced to the single point, of knowing which of the two forms of government, in the given situation, gives better protection to the liberty of citizens and the safety of property; which is best fitted to make the country great. It is a question which the instinct of nations seems to solve more surely than political science. Not that the reasons indicated by the latter to determine one choice or another are devoid of force. But if they are separated from each other, it will be found perhaps that there is not a single one, taken alone, which is absolutely decisive. Thus, Montesquieu, when he affirms that vast territories require a monarchy, maintains what is generally true, but very far from being an absolute truth, since two examples, gigantic, so to speak, the Roman republic and the United States of America, contradict him. Neither does the species of relationship which is established between centralization and monarchy, appear to rise to the height of necessary and universal law. In addition to the contrary example of the Roman republic, it would be necessary to admit that the converse is not absolutely true, since England is at once a country of decentralization and constitutional monarchy. If with the author of *l'Esprit des lois* we lay down the principle that virtue is necessary to a republic, it may be answered with many commentators that it is necessary to all governments. And still we think that Montesquieu's view was correct, and that his thought, true when applied to aristocratic republics, becomes still truer when applied to democratic republics, which require for self maintenance a particularly large amount of energy, moderation, political capacity on the part of the people; all or very nearly all of whom are called to take part in the government. Without drawing a regular comparison between a republic and a monarchy, we may say that the republic presupposes more confidence in human nature, and the monarchy less. Monarchy itself is a precaution taken against the sum of error and evil contained in societies which it proposes to protect against the outburst of ambitious and disorderly passions. Moreover, we do not intend to make this study a plea, but an examination. We shall interrogate both publicists and facts. We shall seek for the foundation of monarchy, and under what exceedingly varied aspects it was presented to nations who adopted it, and to writers who discussed it. It is only after this attempt, purely experimental and historical, that we shall try to say what this form of government may and should be among modern nations. — *Origin of Monarchy.* It is not to be doubted that historically, royalty has its roots deeper in the past of the human race than any other form of government. Several of its partisans have gone so far as to see in it the only natural government, because one God governs the universe, and one sun illuminates our world. They have also produced examples from the animal kingdom, such as that of the bees. We attach little importance to these analogies which are sometimes puerile, and often deceptive, for it can not be clearly seen why, if bee-hives are on the side of monarchy, ant-hills, elephant troops and beavers should not be summoned in support of a republic. There is much more force in the opinion which considers that royal power finds its primitive type both in the family which admits only one chief, and in the unity of military command; that it has its origin in a superior capacity which may impose itself by force, or be accepted without effort, in case of necessity, or even obtain the sanction of a positive election. Whichever one of these origins presided at its cradle, it is by inheritance that the image of royalty is in a certain sense rounded and finished. When royalty had taken possession of nations, it was forced to abandon the temporary form which made of it, to use Aristotle's word, merely an "irremovable leadership." Thus it was able to produce those powerful dynasties of the Egyptians, Medes and Assyrians. Hereditary royalty supposes generally a state of society already formed, for example, ownership in land transmitted in families, that is to say, conditions of stability. The ideal and tradition of inheritance appears to us attached to power in virtue of the following reasons: 1, natural assimilation of authority with

property in material things, which pass from the father to the children, an assimilation which in the feudal period went so far as to confound proprietorship with sovereignty, 2, the innate desire of heads of families to transmit their dignities and the enjoyment of their powers to their children or their relatives; 3, the prestige which in the eyes of certain nations surrounds certain names consecrated by habitual respect; 4, the political fortune of other chiefs who in a certain way are grouped around and connected with the royal establishment; 5, finally, the military force aiding all these causes. It would be difficult to say what part in the establishment of hereditary royalty was taken, in those remote ages, by social foresight, which finds in the permanence of supreme authority, in the bosom of a single family, a guarantee of good order, to such a degree that this consideration at last appears as the most decisive argument in favor of the monarchic form. It must not be supposed, moreover, that the idea of divine right, which has played so great a part in the history of royalty and which is held in such high esteem by certain modern apologists of this form of government, was foreign to the formation of hereditary royalty in those remote ages. The theory may be new enough; the idea is very old. Not only did it not await Bossuet, and de Bonald, but it was far earlier than the anointing of Pepin and of Charlemagne, as well as the benefit which their successors were to draw from it. As far back as we go, we find that religion surrounds the cradle of royalty with a mystic halo. The kings of Homer descended from gods or demigods, and are the objects of a sort of religious veneration. The same was the case with the kings of Rome. Many barbarous peoples appeared convinced that the families of their kings were descended from the families of their gods. Odin passed as the father of an entire royal race. Without doubt other governments besides those of royalty have placed themselves under the cover of religion. If Numa pretended to be inspired by the nymph Egeria, Lycurgus laid claim to be inspired by the oracles, and Solon had his laws consecrated by the Delphian Sibyl. But if this applies to all legislators, it is true, in a still higher degree, of royalty, whose age, which seems lost in the dimness of the past, and whose perpetuity, which seems to repeat eternity itself upon earth, render it peculiarly venerable. In every land, therefore, the belief appears that kings are the images of gods or of God upon the earth. This is not a purely Christian but a universal idea, and old as the world. — Among the origins as well as among the conceptions of royalty, we shall not omit that in virtue of which the king appears as the living law, as the very personification of the state, which is an advance of the same idea, as the image itself of the sovereign people. All nations have beheld in the sovereign the living law, but the idea of seeing in him a delegate and a representative of the sovereignty of the people is a Roman idea. It is the theory of the imperial monarchy which jurists applied to the monarchy of France, and which several publicists have repeated. "The Abbe Dubos," writes Montesquieu, who opposed his system, (*Esprit de lois*, book xxx., chap. xxiv.), "wishes to remove every kind of idea that the Franks entered Gaul as conquerors. According to him, French kings merely put themselves in the place and succeeded to the rights of the Roman emperors."—It is evident that the temptation to base the legitimacy of the monarchy on one or another of these origins has exercised a mighty influence on writers occupied theoretically with royalty, and especially with modern royalty. Some have insisted on its characteristics of antiquity and hereditariness. They held that what was oldest in power was necessarily the most legitimate. Others dwelt upon what they called its divine character. Still others, remembering the royalty of barbarous times, were especially struck by the fact of election. Beginning with the sixteenth century, a period in which the doctrine of the sovereignty of the people appeared most prominently in speculative and even in active politics with the Protestants and members of the league, there is an entire class of minds for which popular election becomes the title itself of legitimacy and the only foundation of royal power. An entire collection of books might be cited which testify to the predominance of this theory. The "Treatise on Political Power," by John Poynet, bishop of Winchester; *De Jure regni apud Scotas*, by George Buchanan; the *Franco-Gallia* of the jurisconsult, Hotman; the *Vindiciæ contra tyrannos* of Hubert Languet, and so many other Protestant works which found an echo among the Catholic publicists and preachers in their struggle against Henry III., exhibit this thought most clearly: that election is the original and real title to royalty, and that the sovereignty of the people, from which it emanates, may withdraw the powers granted and crush wicked princes. Whatever may have been the interest of these controversies about the origin of royalty and the historical basis which gives it legitimacy, we think there is no value in their common claim of establishing the legitimacy of the monarchic order which has its real title in its necessity. National sovereignty, beyond a doubt, has the right to rise up and depose kings and reigning families. But national sovereignty itself has no power over what is good, just, proper and expedient according to places and times. It has no power over the nature of things. It must come to an agreement with good sense, reason, justice, experience, the laws of necessity. Otherwise it will build upon sand. It can no more give life to an impossible republic than it can give morality and usefulness to a tyrannical monarchy. Above election, as well as above the right of succession, there is a certain thing, the necessity of a power strong enough to protect society against the conflict of discordant forces, and to which unity is indispensable in order to make itself promptly and surely obeyed. When monarchy renders

this service, and renders it better than any other form could, its legitimacy is beyond a doubt. What is more legitimate than a power, the necessary protector and depository of public order, of general justice, of public interest? What is more legitimate than a great magistracy, the centre and connecting bond of society? Now, these are the features under which "modern royalty has appeared to the eyes of nations," and through which it "has acquired their power by obtaining their adhesion." — Criticism has rendered such complete justice to the legitimacy of a monarchy founded on divine right, a theory by which the pretension is raised of making power the inalienable property of a royal race, said to have received it from the hands of God himself, that there is no need of dwelling on it here. Besides, history shows that the claim of divine right has never saved a dynasty. Let royal families proclaim that they reign *by the grace of God*, as well as by the will of the people, there is no exception to be taken to this, as soon as it is understood that there is not a single form of government which can not place itself under the words: *Omnis potestas a Deo*. All power not issued from brute force contains a divine element; this element is justice. In this sense and from this point of view it is sacred. It ceases to be sacred only in becoming unjust and oppressive. "God," writes Pufendorf, "who certainly wishes that men should practice the moral law, has commanded the human race, through the lights of reason, to establish civil society, and, consequently, a sovereign power which is the soul of that society. In other words, he wishes an end without indicating at the same time the necessary means to arrive at it." In this sense, just power representing justice is divine, as the objects of men and of society are themselves divine. But if the end is immutable, the means are changing and various. It is of small import that a family was necessary at a certain time in history, or even during a succession of centuries, if it is no longer needed, if it is merely the worn-out instrument of accomplished designs. De Maistre himself, such a resolute partisan of legitimacy, seems to recognize this in the following significant passage in one of his letters: "If the house of Bourbon is finally proscribed, (de Maistre means by God and not by the people), it is well that the government should be consolidated in France; it is well that a new race should commence a legitimate succession; whether it is this or that race is of no importance to the universe." — In conclusion: reigning families, like royalty itself, draw their origin from that force of things which is made up of circumstances above the will and purely free choice of nations. Kings are not chosen by chance. The reasons which elevated in turn the Merovingians and the Capetians in France were not arbitrary. Later, when age has consecrated a family, it is not easy to supplant it. A people does not invent its dynasties, it finds them. — *Forms and Various Kinds of Monarchies.* The classification of the various forms in which a monarchy may appear has sensibly varied with publicists who wrote on this subject. Each one of them has had its partisans and its detractors. Aristotle, who first applied an analytical genius to the accurate observation and strict classification of governments, placed royalty among the good governments, though he preferred, as did almost all the political writers of antiquity, and Plato, his master, aristocracy, on which he founds the perfect city. He recognizes five kinds of royalty. ("Politics," book iii., chap. ix.) The first kind, whose type is presented to him by the Spartan royalty, appears to be, he says, the most legal; it is not absolute mistress. It may be sometimes hereditary and sometimes elective. The second species is the royalty established among certain barbarous nations, especially Asiatics, with the characteristics of absolute power, though legitimate and hereditary. The third kind of royalty is an elective tyranny, for a term of years or for life, of which the ancient Greeks offer us more than one example. "A fourth kind of royalty," continues Aristotle, "is that of heroic times, accepted by the citizens and hereditary by law. The founders of these monarchies, benefactors of nations, either by enlightening them through the arts, or in guiding them to victory, by uniting them or winning for them permanent states, were called kings out of gratitude, and transmitted their power to their sons. These kings had supreme command in war, and offered all the sacrifices in which the ministry of the pontiffs was not indispensable; besides these two prerogatives, they were sovereign judges of all disputes, sometimes without oath, and sometimes with. The formula of the oath consisted in lifting the sceptre." There is finally a fifth kind of royalty, where a single chief is master of all. "This royalty has intimate relations with family power; as the authority of the father is a sort of royalty over the family, so the royalty of which we speak here is an administration of the family type applied to a city, or to one or more nations." Aristotle declared that he would stop to examine this last form; in it he recognized the pure image of monarchy, finding, like Hobbes (*Imperium*, chap. vii.), of a later time, no real royalty except absolute royalty. The Greek philosopher found no difficulty in condemning this form of government after such an examination, although he supposes the monarch to whom this power is given to be as virtuous as enlightened. He proves the superiority of fixed equal, impartial laws, over the arbitrary will of a single man; he claims for the majority, even when composed of individuals inferior to that eminent individual, the honor of a greater safety in judgments and superior incorruptibility. The great political philosopher might, and even should, it would seem, not have neglected to discover whether royalty was by nature incompatible with that fixity of laws and those guarantees of liberty which he desires above all. The example of the constitution of Sparta

put him upon the way to do this. Why did he, in mentioning it with praise, not stop to analyze it? Besides, did Aristotle understand clearly the conditions of monarchy—he who, in order to put forward the elective system, absolutely condemned hereditary power, which he thought offered but few chances of bringing to the succession men worthy of the virtuous monarch, and capable of reigning after him? Experience, which the profound author of "Politics" habitually takes as guide, does not confirm this preference given to the elective monarchy. Is it not enough to recall that the elective system, applied to royalty in the Roman empire, and later in the kingdom of Poland, produced internal dissensions and degradation of the state? Is it not enough to recall the fatal events in unfortunate Poland, fatal to its nationality, in order to pronounce aloud its condemnation? Rousseau, who violently opposed hereditary royalty in the *Contrat social*, believed that he corrected the ordinary drawbacks of monarchic election in Poland, by proposing a drawing by lot among the life senators, of three names, from which the same assembly should choose the one they preferred, without adjourning the session. (*Gouvernement de Pologne*, chap. xiv.) It is more than doubtful whether such a means, which would have put all the chances on the side of mediocrity, would have succeeded in suppressing the defects of a system which it professed to correct. This strange mixture of chance and election would have succeeded only in creating a royalty of chance, without prestige and without permanence. — Machiavelli has not tried to classify different kinds of royalty, but the different species of *principalities*, a more extensive subject, since he includes even ecclesiastical principalities. He seems, besides, to pay more attention to distinguishing them by the means which were used to found them, than by their intrinsic characters. The author of "The Prince" treats in a special manner civil principalities, that is, those which are based upon the free suffrage of their citizens. This is the kind of monarchy which he prefers. The advice he gives such principalities bears the stamp of a remarkable elevation of character, and proves that the evil maxims, which he nowhere presents as the beau ideal of politics, but which he has the fault to give out with the culpable coldness of a man who subjects morality to politics, are addressed only to those who have become masters of sovereignty by treason and crime. Chapter ix. of "The Prince" is devoted to describing the duties of the monarch who has arrived at power through the free choice of his subjects. For Machiavelli, consequently, there are two kinds of royalty, independent of usurpation. In one case the nobility call a man to supreme power in order to resist the people; in the other, the people wish to have a protector against the insolence and the tyranny of the nobles. He prefers the last; but in the first as in the second case, he wishes the monarch to take up the cause of national interests, and set up, for this purpose, his sole and sovereign will. In reality, the power of the state is the constant thought of Machiavelli, his only idol is the unity of the nation rising above the ruins of anarchic forces. — A disciple of Aristotle, in many points, Bodin did not follow his master in his method of classifying the different forms of royalty, and however inferior he may be to him in genius, it may be said that on this point, as on several others, he is superior to him. Bodin distinguishes three forms of monarchy, ("Republic," book xi.): first, the monarchy of lordship, in which, he says, "the prince has become master of property and person, by the right of arms, and governs his subjects as the father of a family governs his slaves"; secondly, the tyrannical monarchy, "in which the monarch, disregarding the laws of nature, treats free persons as slaves, and the property of his subjects as his own"; thirdly, the royal or legitimate monarchy, "in which the subjects obey the laws of the monarch, and the monarch the laws of nature, *natural liberty and rights of property remaining with the subjects.*" This last trait, brought forward and discussed by John Bodin in twenty passages of the "Republic," shows in the happiest manner the characteristics or at least the conditions of modern monarchy. He recognizes it as legitimate, only on condition of becoming reconciled with the rights of liberty and property, and guaranteeing them. What a distance between this liberal theory and that which was current under Louis XIV. and Louis XV., which claims that kings are the owners of all property, the mere use of which is enjoyed by the subjects, through a sort of toleration or concession altogether voluntary! Bodin opposes the conception of a *mixed* monarchy brought forward by several publicists and particularly by Hotman, who stated that the best government is that which "associates and tempers the three elements, royalty, aristocracy and democracy." Sovereignty, according to the author of the "Republic," endures neither division nor limit. He attacks, therefore, in very precise terms, "*this sovereignty played for by two parties, of which sometimes the people and sometimes the prince would be master, which is a striking absurdity, incompatible with absolute sovereignty, and contrary to the laws and to natural reason.*" Bodin, nevertheless, is really a partisan of limited monarchy; he trusts in the barrier of parliaments, as well as the virtue of the prince in the exercise of his power; but he is ignorant of that which has been sought for so much since his time under the name of constitutional guarantees. In the last analysis Bodin depends on morality to moderate royalty; as Bossuet, at a later time, depended on religion. — It is surprising that Montesquieu, coming after Aristotle and the learned author of the "Republic," did not seek to establish any strict classification of the different forms of monarchy. Perhaps he was turned away from this by the error which he committed

in making despotism a government apart. He would have been obliged to classify despotism with monarchy, as a form of its abuse, and he would have then been obliged to renounce his classification of three governments which he gives as original· the republican, the monarchic and the despotic. But Montesquieu recognized a monarchy which he said had liberty as its direct object: that is, the English monarchy, and monarchies which "tend only to the glory of the citizens, the state, and the prince," (*Esprit des lois*, book xi., chap. vii.)—a somewhat vague statement. He explains exhaustively *why the ancients had no very clear idea of monarchy*. it is even the title of one of his chapters. "The ancients," he says (*Esprit des lois*, book xi.), "were not acquainted with the form of government founded on a legislative body made up of the representatives of a nation." And further on: "The ancients, who were unacquainted with the distribution of the three powers in the government of a single one, could not form a correct idea of monarchy." Thus, with Montesquieu, monarchy is moderate government *par excellence*. — If we combine the ideas put forth by the political writers just examined, and if we understand the spirit of what we see or of what exists to-day in monarchy, its different forms may be classed, we think, much more simply according to their fundamental characters. Doubtless there is, to begin with, a great and essential difference between elective monarchy and hereditary royalty. But this distinction would be too insufficient. The most essential would be that which recognizes two kinds of monarchies, absolute and limited monarchy. Absolute monarchy is not necessarily despotism (see ABSOLUTISM), but leads to it. We shall not, of course, for instance, commit the injustice of comparing the ancient French monarchy with an oriental despotism. Still, it is impossible for us to grant that before 1789 French monarchy was anything but absolute. Tempered in fact, that we admit, by parliaments, by the barrier of opinion, by tradition, by various powers which grew up at its side, French royalty was nevertheless absolute legally, because it was able to silence with a word all resistance, which it did more than once. The essence of absolute monarchy lies entirely in the more or less complete concentration of the three powers, executive, legislative and judicial, in the hands of the prince. The moderate monarchy is that which finds its limits in the distinction of these three powers, sanctioned by a positive constitution, and in the establishment of one or more bodies with rights apart from the monarch. Hence, moderate monarchy really appears only among representative governments. Whether it finds its limit in the aristocracy, in a democracy, or in a combination of both, it deserves to be called moderate, and may for this reason subserve liberty. — *The Marks and Part of Monarchy among Modern Nations.* Several important consequences follow, it appears to us, from the considerations which we have presented: it follows that monarchy can no longer, under the protection of a pretended divine right, be the object of a kind of superstitious worship, whatever may be the prestige inseparable from the exercise of sovereign power and royal personages; it follows also that force is not the only origin of royal power, and that it would be unwelcome in presenting itself at present as the title of monarchy in view of the universally admitted right of nations to dispose of themselves; finally, it follows that election, which does not create eternal legitimacy, is not a sufficient title to invest sovereigns with an absolute power, since there are, above the right of the people as well as above the right of the king, original rights, which we have reduced to two, the liberty of the citizen and the security of property. Order in a civilized society is synonymous with the maintenance of justice, which enforces the liberty of all, and makes one man respect the liberty of the other. Nations seek in monarchy a defense against the anarchy or the oppression which surrenders the weak to the strong. Monarchies, therefore, follow in their way, which, in a certain number of cases, is the best, the same end as republics and other governments of every class, which is to permit and assure the free development of all useful action, and to confine evil within the narrowest limits without curtailing legitimate and fruitful liberty. This, to our thinking, is the sense of the maxim, already old, that "Kings are made for the people"; a maxim which requires other guarantees than the purely moral obligation, imposed by duty on Christian princes, as Bossuet thought; a maxim which seeks its sanction in an organization of power, intended to make royalty a simple means of the public good. Between monarchy and peoples no other tie is conceivable than that which may be called an alliance of reason. Not that this tie should be devoid of affection, not that it should be necessarily reduced to the cold and formal relations between the sovereign and the nation, dictated by simple expediency, but it can no longer have its origin in a species of chivalric devotion. The only legitimacy of governments is the general interest. The only organ which gives expression to this interest is the national sovereignty. When the latter accepts the monarchic form, it does not intend to abdicate; it only wishes to regulate itself. It arms itself, so to speak, with precaution against its own errors, it condemns itself to prudence by foresight; it places a barrier before the disorder which it fears. No more, no less. — Notwithstanding this character of modern royalty, quite rational and subordinate to public utility, there are publicists who declare monarchy to be illegitimate in itself, we do not say merely, be it noted, who declare it fatal in its consequences, open to attack as a wrong combination, from which evil alone can come, but who declare that it is contrary of itself to justice, to law, and to reason. It is not long since we heard it maintained in the press and from the tribune that a republic is the only legitimate

form of government, while monarchy, even when accepted, can never be legitimate, because a people can not establish it, without alienating its will and disposing of future generations without having the right to do so. Such, in substance, is the creed of that school of which Rousseau is the mouthpiece and which goes further than its master, for Rousseau recognized, although with regret, that monarchy is fitted for certain nations. It appears to us that the most scrupulous devotion to the dogma of popular sovereignty and even the preference given republicanism do not imply such consequences. A nation does not surrender its will by establishing a monarchy for the sake of order, liberty, and national unity. It is a singular paradox to maintain that the national will is not expressed quite as clearly in allowing a form of government to continue, as by overthrowing it, quite as well by persistence as by caprices. Why should not a people wish, if it judges proper, to retain the monarchic form, one century, ten centuries, for all time? In what are the present generations of men slaves to those who established it? Is it sought to be denied that there are legitimate revolutions? Let us acknowledge the fact: the right of resistance is eternally implied in all the constitutions of this world. There have been glorious insurrections, there have been revolutions with which are connected the most beautiful memories of the human race. All peoples have placed some of these fearful and salutary crises among the greatest events of their history, and those who introduced and directed them in the number of their greatest men. All have dated from them their political regeneration, and a new era of prosperity and greatness. But wisdom forbids the declaration of a permanent revolution under pretext of national sovereignty. It forbids us to consider this necessary evil as a harmless expedient. It forbids fickle desires and an adventurous imagination, which end by creating a sickly want that is never weary of appealing to the emotions and to chance. The risk in revolutions is really terrible. If men do not issue from them more worthy and more noble, they become more degraded. If moral and political beliefs do not receive new life from them, they give way. If interests are not strengthened by them, they lose by them. Revolutions destroy the countries which they do not save. This is why it is wisdom in nations to detest and avoid revolutions, consenting to them only in cases of the most absolute necessity. The argument that monarchy is equivalent to an abdication of national sovereignty, can not bear serious criticism. — Publicists of the too exclusively republican school find hereditary monarchy to be an odious fiction, incompatible with the reason of modern nations, because it gives rights to mediocrity, stupidity, vice, and even crime. They maintain that heredity not only permits such an evil, but that it produces it by the corruption which is fatally connected with young princes. One would think they were commenting on the saying of the young Denys, to whom his father, while reproaching him for some shameful act, said: "Have I given you the example of such deeds?" "Ah!" answered the son, "your father was not a king." — Monarchic publicists, obliged now to address not feeling, but reason, do not deny these drawbacks of heredity. They do not injure their cause by attributing to the institution which they defend more perfection than it possesses, or than is compatible with human weakness They answer: Yes, heredity is a fiction, a convention; it has immense drawbacks, but what if it has greater advantages? Is not the existence of a family having the tradition of power a good thing? Charlemagne, Saint Louis, Henry IV. and many others were legitimate heirs. May not the existence of mediocre princes even have its advantages, either because they leave the government to able ministers, or liberty takes advantage of them to extend its conquests and strengthen its rights? — Hereditary royalty is the image and the consecration of perennial power. This is its object. Now, duration is one of the first elements of force. Only that is loved and feared which has a lengthened existence. The right of monarchical succession does away with the dangerous intervals left by election, and it has the inestimable advantage of withdrawing from elections this element of permanence which should be presented by the institutions of a great country. It gives, to home and foreign politics, that coherence and continuity, that mixture of strength and prudence, the condition of all greatness and repose, which republics produce only with much greater effort, whenever they do succeed in producing them. Finally, continue the defenders of monarchy, is it just, is it honest, to speak of the right of succession under constitutional governments in the same way as under absolute governments? Is it not the very object of constitutional governments to prevent bad princes from doing evil, to support the mediocre, to obtain as much as possible from the good, to prevent the greatest from becoming so powerful as to put themselves above the law? Doubtless there remain the drawbacks connected with minorities and regencies, but these are passing evils, and not of frequent occurrence. Constitutional governments, which create great powers by the side of royalty, thereby diminish the dangers to minorities so much to be feared under absolute monarchies. It is the merit of this form of government to endure, that royal authority should not have at all times the the same degree of intensity and energy. And, most important, it presents no breaks, and its ever present image is a barrier against anarchy and the claims of usurpers. To close the argument of the right of succession, sometimes add the partisans of the monarchic form, would not another consideration have weight which has never had more effect than in our day? Is not hereditary royalty, up to a certain point, the consecration and the safeguard of other hereditary rights still more sacred, that of the transmis-

sion of property for example? You speak in a tone of irony while pointing out a child subject to the most humiliating infirmities of nature: "There is a king!" Are you not afraid that others will appear, saying with the same contempt: "See that wailing child; that is a landlord!" — We have endeavored to sum up the arguments of monarchic publicists in their most striking and correct passages, dwelling only upon those which agree with the nature and conditions of modern society. We shall now indicate how the rôle of monarchy may and should be conceived in this society. — The royal power appears with two necessary characteristics in the new conditions created for European societies by the liberal spirit and the ascending movement of democracy: it should be limited and restraining. Neither powerful enough to pass its bounds, nor so disarmed as not to be able to accomplish its mission efficiently: such should it be and remain under pain of inevitable forfeiture. — There is no need of stopping for any length of time to show that monarchic power should be limited, and that it can not be otherwise than limited. The paternal monarchy of de Bonald is only a dream. Benjamin Constant, an almost contemporaneous publicist, stated very justly, "The direct action of the monarch decreases inevitably in proportion to the progress of civilization. Many things which we admire and which seem very beautiful in other epochs, are inadmissible now. If you imagine the kings of France dispensing justice to their subjects, at the foot of an oak tree, you will be moved by the spectacle, and you will revere this lofty and simple exercise of a paternal authority; but what would be seen to-day in a judgment given by a king without the assistance of tribunals? The violation of every principle, the confusion of all powers, the destruction of judicial independence." (*Du Pouvoir royal*, vol. i., p. 295, edition Laboulaye.) Another reason will prevent modern nations from yielding to absolute monarchy, and this reason is supported by experience. Centuries ago experience condemned simple governments through the mouth of Polybius, though he was far from possessing the numerous and terrible proofs of the dangers inherent in them which are at our disposal. It is a maxim of Polybius, that "every simple form based on a single principle, can not last, because it will soon fall into the defect which is peculiar to it." (Polybius, book vi., § 10, phrase cited by Barthelemy Saint-Hilaire in the preface of the "Politics" of Aristotle, p. 115.) The theory of checks and balances sanctioned by the great names of Plato, Aristotle, Polybius and Cicero, and supported by the practice of some of the greatest constitutions of antiquity, gains force from the nature of modern societies which are so complicated in their elements. Of course there is no perfect equilibrium in a state; a system of checks and balances always meets serious difficulties in application; but it is necessary to tend toward this system, or be condemned to the excesses of a single power, whether of a king, aristocratic clique, assembly, or popular dictatorship; this is an insupportable tyranny, after eighteen centuries of Christianity have shown us the limits of the state, and several centuries of philosophy have made us proud and exacting in regard to our rights, when also the habit of individual and political liberty has made the latter dear to us in proportion to the benefits which it is intended to secure. — Limited or constitutional monarchy was the desire of France as soon as she reflected on her destiny. This must be recognized as an historical fact, even when one's preferences seem to settle on the republican form. As soon as the notion of right is disseminated in a nation, as soon as its interests are multiplied and increased, the need of escaping from the absolute power of a single man and a single family, this need which has always exercised the upper class, descends from the aristocracy to the masses; and as the former demand privileges, the latter want liberties, with this difference, that a nobility may sell itself to royal power, while a nation does not yield itself up, at least for a long time. It is said, of course, that the assistance formerly given by royalty to the middle and lower classes against feudal oppression, that the admission of men of common birth to the highest civil and military dignities, reached such a point under the ancient monarchy that the duke de Saint-Simon characterized the reign of Louis XIV. as a reign of *vile bourgeoisie*, have themselves contributed to favor the establishment of absolute power. This can not be disputed; but how can it be disputed either that everything which increased the classes devoted to the professions called liberal or to industrial labor tended to liberate them? The more the feeling of their value was developed, the more considerable and prevalent became their attention to their affairs, the less were they tempted to yield their persons, their labor and their property to the oppressive action or to the capricious direction of arbitrary power.* If, from the fifteenth century, a Philip de Comynes was able to proclaim the principle, that "neither the king nor any one else has the power to levy taxes without the consent of his subjects"; if these positive maxims, which even then were not new, could be transmitted in the writings of publicists and in the documents of states; what must it have been in the eighteenth century, after an immense development of industry and enlightenment, and in view of a neighboring nation whose tempting example gave brilliant proof that the monarchic power might be limited without prejudice to order and to the great advantage of public liberty and general prosperity? In allowing the monarchy to remain, the revolu-

* "Arbitrary power," writes Benjamin Constant, "exercised either in the name of one or of all, pursues man through all his forms of repose and happiness." (*De l'Esprit de conquête et de l'Usurpation*, chap. xi.) See the following chapter of the same work on the effects of arbitrary power on morals, intelligence and industry.

tion of 1789 could only allow it tempered or limited in its powers, since it did not admit it for its own sake, but for its supposed service to national unity, liberty and order. And this was not the effect of a passing excitement. It was the fruit of long mental labor, and was the object of persevering and inflexible will. Even in 1804, when France, weary of the anarchy which had harassed her, took refuge in the arms of military power, surrounded with the most brilliant prestige of genius and glory, she stated, while doing so, what sort of a monarchy she wished to establish by raising a new family to the throne. "France," said the tribunate, from which originated the proposition to raise the first consul to the throne, "France is justified in expecting from the family of Bonaparte, more than from any other, the maintenance of the rights and the liberty of the people and all the institutions fitted to guarantee them." "The French have conquered liberty," said the senate in its message of May 4, 1804, in adopting this proposition; "they wish to preserve their conquest, they wish repose after victory. This glorious repose they would owe to the hereditary government of one who, raised above all, defends public liberty, maintains equality, and lowers his fasces before the sovereign will of the people which proclaimed him." This is the government which the French nation wished to give itself in the days of '89, the souvenir of which will be ever dear to patriots, and in which the experience of centuries and the experience of statesmen inspired the representatives which the nation had chosen. It is necessary that liberty and equality should be sacred, that the social pact should be safe from violation, that the sovereignty of the people should never be misunderstood, and that a nation should never be forced to resume its power and avenge its outraged majesty. The senate, in a memoir which it appended to this message, dwelt upon the dispositions which according to it seemed proper to give French institutions "the necessary force to guarantee the nation its dearest rights, while securing the independence of the great authorities, a free and intelligent grant of taxation, safety of property, individual liberty, liberty of the press and of elections, responsibility of ministers, and inviolability of constitutional laws." Ten years had not passed before these demands reappeared; they became the rallying cry of all France, which imposed them as a condition *sine quâ non* on all its governments. The first restoration, the hundred days, the second restoration, the eighteen years of the government of July, 1830, were attempts to satisfy these persistent demands; and if they have appeared to suffer some interruption on the morrow of revolutions, which profoundly disturbed minds as well as events, it was only to resume at once their career with a daily increasing force. We do not speak here of the second empire, whose constitutional changes are so near us, and therefore can not be discussed with the impartiality of history. — The necessity of a moderating power is a second truth, which seems little open to question. Let us not forget that the object to be attained is always this: not to allow the establishment of tyranny, neither the tyranny of an oppressive majority nor that of a minority, neither one in the name of a democracy nor one in the name of an aristocracy. Place all power in a single assembly, and experience shows the perils of this combination, which delivers, without guarantee, the rights of citizens to a power without check. If the assembly is dissolved, to what dangers are not liberty and order subject during the interval which separates this assembly from that which is to follow! If the assembly is excessively long-lived, what a number of other perils in case public opinion does not go with it! Place power in two assemblies, how are you to prevent a conflict between them from becoming envenomed and bringing on revolutions? How are you to hope that an executive power, itself very liable to change, and dependent as the ministerial power, would have sufficient authority? The necessity of a moderating power is such that republican states themselves do not always neglect to form it. Doubtless it is very weak in the United States. It is nevertheless true that the president is armed with a veto power. This veto, at least, forces the legislature to reconsider the question, and this time it can prevail only by a majority of two thirds. The veto, besides, is a sort of appeal to the people. The executive power then pleads its case and presents the reasons for its action. Besides this precaution, to which he refers, de Tocqueville points out, in the federal organization of the United States and in a peculiar combination of moral and political circumstances, the causes which serve, though imperfectly, as a counterpoise to the tyranny of the majority. The necessity of a moderating power appears still more urgent in a greatly centralized government. It is not enough to answer all difficulties by the sovereignty of the people. The people are not always assembled; do not govern directly. Even when it is admitted that the sovereignty resides in the nation, all difficulties are not settled by that answer. Powers are various, and from their diversity arises struggle. The great task of royalty in the eyes of modern nations is to prevent these struggles of powers and parties from degenerating into disorder and revolution. This is why representative governments leave an important share of power to royalty, while reserving the last word to the nation, which in grave questions pronounces by means of elections, and which divides political power. It is not true, then, that in making royalty chiefly a moderating power, its fall is proclaimed. On the contrary, much force is necessary to fill such a rôle. This neutral power, elevated above accidents and struggles, interfering only in great crises, at least in a visible and striking manner, should have lofty prerogatives. The first of these is to execute the law. But that is not enough unless there be added the power of co-operation

in framing it. The monarch does this by appointing one of the two legislative chambers; such at least is the order established by the different French constitutions; he co-operates by the appointment of ministers, who represent him in the chambers; he co-operates by the right of proposing the law, dissolving the elective chamber, or refusing his sanction. This right of absolute and not simply a retarding veto, has inspired one of the most remarkable discourses of a genius so profoundly political as Mirabeau. He was not afraid to surrender liberty in maintaining it. He thought that in spite of appearances liberty would gain by it, as well as the force necessary to the royal power. The same opinion was upheld by a no less jealous adherent of public liberties, Benjamin Constant. The participation of the monarchic power in the framing of laws is, in the eyes of this celebrated publicist, an essential part of this rôle of moderator which occupies us at present. "If," says he, "in dividing power you place no limits to legislative authority, it happens that one class of men make the laws without troubling themselves about the evil which they cause, and another class execute these laws while believing themselves innocent of the evil which they cause, since they did not contribute to make them. * * When the prince assists in framing the laws and his consent is necessary, their vices never increase to the same degree as when the representative bodies decide without appeal. The prince and the minister are enlightened by experience. When they are not guided by the feeling of right, they will be by the knowledge of what may come to pass. The legislative power, on the contrary, never comes in contact with experience. The impossible never exists for it. It only needs to will; another authority executes. Now, to will is always possible: to execute is not." (*Esquisse de Constitution*, chap. ii.: *Des Prérogatives royales*, p 183, Laboulaye.) The same writer afterward establishes that a power obliged to give its support to a law which it disapproves, soon finds itself without force or consideration; and that besides no power executes a law zealously which it disapproves; that the royal sanction aids free governments in preserving themselves from the danger of multiplying laws, which is the disease of representative states, because in these states everything is done by law, while the absence of laws is the disease of unlimited monarchies, because in them everything is done by men. — All publicists, as well as all constitutions, add to the prerogatives inseparable from monarchy the most touching and the most popular of all rights, the right of pardon. The right to make war, to conclude treaties of peace and alliance, are naturally connected with the executive power. This right, besides, is generally limited by discussions of the chambers, by the power which they have of voting taxes, and in a parliamentary government by ministerial responsibility. Up to recent times, this responsibility of ministers to the assemblies appeared to the legislator as one of the most essential conditions of a free government. He had thought that in representative monarchies the irresponsibility of a monarch is a consequence of his inviolability, and important both to liberty and public order. If the monarch is responsible, it was said, what is the use of the right of succession? Is not his moderating power destroyed? Royalty becomes a party. It descends into the arena. It is no longer a judge and arbitrator in the combat. It is exposed to all the chances of the struggle, the end of which may be an overthrow. Besides, it is added, to whom is the monarch responsible? To public opinion? But what absolute prince is not? To revolutions? But what sovereign of the east is not? Is there the slightest difference between such a responsibility and the irresponsibility of former sovereigns? — We do not intend to trace in full the programme of a monarchy which might suit modern nations, for this does not enter into our subject. It was enough to indicate its essential traits in a work intended to place before the eyes of the public the elements of politics. We have merely undertaken to show once more that if there is a monarchy founded on prejudice, there is one which rests on reason and which is capable of bearing examination. For a still stronger reason we shall not discuss the assertion, so often put forth, that representative monarchies are merely compromises between principles long at variance—compromises destined to disappear one after another, and give way, with the exclusive triumph of democracy, to the universal establishment of the republican form. Now we have either shown nothing, or we have shown that republics themselves, if they are to exist, can not dispense with certain limitations, and that a people has not fewer precautions to take against the excesses of democracy than against those of any other principle. Otherwise there would be no stop on the incline till the direct government of the people by itself was reached; the tyranny of numbers would be introduced in the name of popular sovereignty. Who knows the secret of the future? If European nations should arrive at such a degree of political maturity as to solve, under the republican form, better than has hitherto been done, the difficult problem of reconciling order with liberty, who could regret it? The great question before us is, not whether the future will be called republican or monarchic, but whether it will be free. (See ABDICATION, ABSOLUTISM.)

HENRI BAUDRILLART.

MONEY AND ITS SUBSTITUTES. After the discovery of gold in California, and before the government had established a mint there, private parties manufactured coins of the weight and fineness of American gold coin, and even of subdivisions as low as twenty-five cents. These were not counterfeit, the inscriptions upon them being different from those upon the coins manufactured by the government. They denoted ex-

pressly that they were made by private individuals; and, being so, they were, of course, not legal tender. Yet, as they contained the same amount of gold as the government coins, and as the public had confidence that the makers would not cheat by putting in a less quantity, they passed as readily as the money coined by the government, and were in fact worth as much, not merely in California, but in every part of the world. Prior to the issuing of these coins, the California miners and merchants conducted their exchanges by means of "dust"; that is, gold in the form in which it was found in the *placer* diggings and river washings. This gold passed from hand to hand by weight or by guess-work. A sack of flour was worth so many grains, a barrel of sugar so many, a quarter of beef so many, a pair of boots so many, etc. Obviously, it was a great convenience to dispense with the trouble of weighing gold every time a man wished to buy or sell anything. The government was a long way off, and busy about other things, and knew little of its newly acquired possessions on the Pacific. It had received as yet but slight information of the needs of the settlers. It allowed them to go their own way, and do pretty much as they pleased; and, in fact, no harm resulted from this private coinage. Whenever a want arises in human society, somebody will come forward to supply it. California wanted coins to take the place of "dust"; private individuals got the necessary machinery together, and established a shop to manufacture coins. They naturally adopted the forms and weights to which the public were accustomed. If California had been an English colony, they would have adopted the form and weight of English coins; if French, they would have taken those peculiar to that nation. But, in fact, the forms and subdivisions of the metal were of no importance to the value of the coins: this depended wholly upon the weight and fineness of the substance coined. In due time the government set up its own mint in California, and the private coiners disappeared because there was no further use for them.—Now, it is a perfectly scientific use of terms to call these early California coins and dust packages "money"; and the illustration serves our present purpose as well as a hundred examples which might be drawn from the pages of ancient history. The literature of the subject is overwhelming in extent and variety; but reading the whole of it would give no clearer idea of what money is, in the scientific sense, than observing the successive processes by which the isolated settlers of California carried on their exchanges with each other: first, dust; second, private coins; third, government coins. It is scientifically accurate to say that all three were money; although in the modern acceptation of the term a distinction is made between coin and bullion, the word "money" being more commonly applied to the former. — *Different Kinds of Money.* Now, supposing that California, instead of being rich in gold, had been equally rich in furs or tobacco, and had possessed no gold at all, all the other circumstances of her early settlement being the same: how would trade have been carried on? We need not resort to any abstruse chain of reasoning to answer this question, since we know, from the history of our own country, exactly what was done in like circumstances. Our ancestors in Maryland and Virginia, before the revolutionary war, and for some time after, in default of gold and silver, used tobacco as money, made it money by law, reckoned the fees and salaries of government officers in tobacco, and collected the public taxes in that article. It is a curious instance of the survival of old customs, that certain fees of court officers in the District of Columbia are computed in tobacco money to this day.* — Coon skins, beaver skins, musket balls, and almost everything else possessing value, and not too difficult to handle, have been used at various times in our own country as money; in some cases being legal tender, and in others not. Furs and skins of various sorts are still employed as money at some of the trading posts of the Hudson's Bay company. Chevalier tells us, that as late as the year 1866 hand-made nails were used as money in certain secluded villages in France. When Cortez invaded Mexico, he found the people using grains of cacao as money for small transactions. Salt, leather, olive oil and dried fish have been employed as money in modern times. According to some writers, cattle serve the purposes of money among the tribes of central Asia now, although others maintain that they merely constitute a standard of value; that is to say, a camel is reckoned to be worth so many head of cattle, a horse so many, a tent so many, when camels, horses and tents are bartered against each other, the cattle themselves not being used as a medium of exchange, or brought into the transaction, except for purposes of reference. — *Evolution of Metallic Money.* Following the observed course of trade from the earliest times and through all stages of civilization, it will be seen that money must needs have some utility and exchange value of its own; it must be serviceable to human wants, and must be the creation of labor. Anything possessing these attributes may serve the purpose of money. Some things will serve these purposes better than others. Some are more durable, more portable, more

* This anachronism in finance was discovered by the writer in the course of an examination of the laws of Maryland relating to tobacco currency. In October, 1780, a law was enacted fixing the rate of tobacco fees at 12s. 6d. per hundred weight. In 1806 all tobacco fees were abolished in Maryland, and federal money substituted for them. But meanwhile the District of Columbia had been ceded to the United States; and the old Maryland laws continued in force there, except as specifically changed by congress. Changes were made in the District by piecemeal; and it so happens that the fees of the clerk of the supreme court of the United States, in cases where the government itself is a party, are still computed in pounds of tobacco, and settled at the treasury by the old statutory valuation of tobacco. The fees of the marshal of the District of Columbia were computed in tobacco down to a recent period.

divisible, and steadier in value, than others: in a word, some things are more convenient than others to answer the needs of mankind as instruments of exchange. Mankind have experimented upon nearly all the substances in nature to ascertain what things are the most convenient. They have held no general congress to decide the question by voting; nor would such congress, if held, have been able to decide anything. They have experimented precisely as they experimented with stone, bronze and iron as cutting instruments in their daily life, discarding the worse instrument and adopting the better, from time to time, as the inferiority of the one and the superiority of the other became manifest. Although the early American colonists used tobacco, coon skins, beaver skins, musket balls and other inconvenient things as money, they did so from no want of knowledge that gold and silver were far preferable. They had no gold and silver, or not sufficient for their needs. What little they had they were obliged to send abroad to pay for indispensable articles. As soon as they became rich enough to buy gold and silver, or to retain what they produced, they abandoned the tobacco and coon-skin currency. Generally speaking, it is accurate to say that mankind have educated themselves by slow degrees to understand what substances and things are most suitable to answer the purposes of money. The precious metals came into use in the earliest historic period. Silver was employed as money in the time of Abraham, and then passed by weight. Iron, lead, tin, copper and bronze were successively used by the Greeks and Romans, but were displaced at an early day by gold and silver, except for very small transactions. It would require more space than we have at our disposal to go into the history of these changes. We may say, briefly, that the human race learned by experience that metallic substances were better adapted to serve their needs as money than other substances, and that gold and silver were better adapted to this end than any other metals. The reason why they are so may be explained in a few words.—*Attributes of the Precious Metals.* 1. These metals possess much value in little weight; they are portable; they can be carried in one's pocket in sufficient quantity to answer ordinary needs. Their superiority in this regard over tobacco, beaver skins and the other kinds of money we have mentioned, including the baser metals, is apparent at a glance. 2. These metals can be divided and subdivided to any extent without losing any part of their value, whereas most of the other things we have described lose very much of their value by being cut in pieces. Ten gold dollars are always equal to an eagle, and can be converted into an eagle, or the eagle can be converted into ten dollars, at a trifling expense. 3. These metals are not subject to loss by exposure to the atmosphere or by the lapse of time, and to very little wear and tear by handling. They do not rust or decay, and very few substances in nature produce any injurious or corroding effect upon them by contact. 4. They are susceptible of receiving a fine impression in letters and figures denoting their value, and are not easily counterfeited; that is to say, they are well fitted to be coined. 5. They are homogeneous—always of the same character. There is no such thing as inferior gold or inferior silver. There is good iron and bad iron, good tobacco and poor tobacco. Cows were once receivable for taxes in Massachusetts, and Professor Sumner remarks that the poorest cow was always tendered to the tax gatherer; and thus the public treasury became the owner, eventually, of nearly all the scrawny cattle in the colony. Nothing is well suited to answer the purposes of money if there are degrees of goodness in different lots of the same article. 6. These metals possess value apart from their utility as money. They are useful in the arts and for purposes of ornament. Undoubtedly their use as money stands for the larger part of their value at the present time. If they should cease to be used as money, and the whole existing mass of both metals be thrown upon the market to sell for what the gold and silver smiths could afford to pay for them, they would fall enormously, and the further production of them would cease. But because these metals are so well adapted to serve as instruments of exchange and measures of value, their use as money will continue; although, as the world advances in civilization, the actual handling of coin or bullion tends to diminish rather than to increase. Although their use as money now constitutes the chief part of their value, it was their utility for other purposes which caused them to be first selected and employed as money. It is quite impossible to conceive that mankind would choose, as their measure of all values, an article which was itself of no value, and to which they attached no importance. Gold and silver have been chosen to the office of money by the process of natural selection. We might say that they have been self-elected, and we might add that no money which is not self-elected is good money. Anything which requires the aid of the sheriff to make it go, is emphatically bad money.—*Stability of Value.* These metals are also very stable in value—a circumstance which arises from the fact that there is so large a stock existing in the world at all times in comparison with the quantity annually yielded by the mines, or lost by wear and tear. The amount of gold in the world, coined and uncoined, may be assumed to be equal to $5,000,000,000, and of silver nearly as much. The annual addition to this stock is about $150,000,000, or, say, 1½ per cent. of the whole. The loss by abrasion is supposed to be not more than 1 per cent. in twenty-five years. The loss by fire and shipwreck, and other accidents, is probably greater than the loss by abrasion; but there are no data for determining what the aggregate amount may be. It is evident that the existence of so great a mass of these metals, with so little disturbing force

in the way of increase or diminution, must (other things being equal) give them great steadiness of value as compared with articles of which the quantity is susceptible of great variation of supply. It is not denied that variations in the value of these metals do occur, measured by the amount of commodities they will buy; but these variations are so small that they can only be detected in long periods of time. The value of an ounce of gold is the average amount of other things, useful or necessary to mankind, which it will buy; and this average must be ascertained by taking a sufficiently long period to exclude errors arising from the elasticity of prices—the alternation of what are called good times and bad times, periods of speculation and periods of panic. In striking this average we must also make allowance for the progress of mankind; that is, for the cheapening of production by new inventions and discoveries: for, although a given weight of gold or silver will now buy only one-eighth as much food or labor as it would five centuries ago, it will buy a much greater quantity of clothing, fuel, books, iron, transportation, light, and other comforts brought into existence by the ingenuity of successive generations of men; that is to say, the value of the precious metals as compared with food is much less than it was in the year 1400, but is greater as compared with nearly everything else. — *Supply and Demand.* The law of supply and demand governs the value of these metals as of other things. The two principal events in modern times which have affected the value of gold and silver were the discovery of America in 1492, and the discovery of gold in California and Australia in 1848–9. The annual production of the precious metals before the discovery of America, according to Professor Soetbeer, was less than $1,000,000 per annum. In the sixteenth century it rose to $11,000,000, in the seventeenth to $22,000,000, and in the eighteenth to $55,000,000, per annum; but this increase, great as it was, was surpassed in the years immediately following the discoveries in California and Australia. The annual production of the two metals rose to more than $200,000,000 in 1852, of which $174,000,000 was gold; and the average production from 1849 to the present time has been not far from $160,000,000 per annum. There was a great and permanent rise in general prices during the century following the discovery of America. The amount of gold and silver in circulation in the year 1600 was probably four or five times as great as it had been a century earlier, and the prices of agricultural products in western Europe rose in a corresponding ratio; that is, they quadrupled in 100 years. Difficult as it is to trace cause and effect in dealing with the prices of commodities and the quantity of money existing at different times, there is a general agreement among economists and historians that the great and permanent rise of prices in Europe in the sixteenth century was produced by the influx of the precious metals from America, and that it was proportionate to such influx. Mr. J. S. Mill, writing in 1847, considers this the only case in which a rise of prices up to that time could be shown to be due to an increased supply of the precious metals. The progressive advance in prices was checked in the seventeenth century, probably by the great increase of trade, which, beginning in Holland, extended to Germany, Sweden, England, France, India and America, and which is supposed to have counteracted the influence of the new supplies of money by an increased demand for it. Adam Smith says that the rise of general prices consequent upon the influx of silver from America ceased about the year 1636, and that during the remainder of the century there was a decline of prices, taking the average price of wheat as a standard, and that this decline continued during the first half of the eighteenth century. This decline in prices must have been much greater but for the introduction of bills of exchange and other substitutes for money, the nature of which will be explained hereafter. — Notwithstanding the increasing use of bank facilities and bank paper to effect the exchange of property without the intervention of the precious metals, the growth of trade outran the supply of money during the first half of the present century to such a degree that general prices declined, according to Prof. Jevons, 60 per cent. between 1809 and 1849. The production of gold in California and Australia arrested the downward movement, and caused a reaction, and a rise of prices estimated by statisticians at 20 to 40 per cent. Prof. Jevons estimates the rise from 1849 to 1857 at 31 per cent. Mr. W. L. Fawcett ("American Handbook of Finance") concludes that the advance of prices due to the new supplies of gold has been equal to 40 per cent. — *Definition of Money.* We are now prepared to give the scientific definition of money. Money is a substance possessing attributes which fit it to serve as a common measure of value, and which make it, in the estimation of mankind, an equivalent for all other kinds of property. We can conceive of other measures of value which are not in themselves valuable; as, for instance, a scale of prices in which all kinds of property are compared with each other, showing how many sheep ought to be given for a horse, how many pounds of coffee are equal to a barrel of flour, etc. But such a scale of prices would not be an equivalent. It would not be rendering an equivalent if I should obtain a beefsteak from my butcher, and tender him in return nothing but a scale of comparative prices, showing him how much sugar he ought to be able to procure in exchange for a beefsteak. Again: we can conceive of other equivalents which are not good measures of value; we have already described some of them. The house in which I live is the equivalent of some thousands of bushels of wheat; but it is not a good measure of value, because it is not divisible or portable, and because it is liable to decay and eventually to become worthless. It is a mistake to say that money is only a sign or representative of

value. This is true of the various substitutes for money; but it is not true of money itself, whether the kind of money employed is a piece of gold, a beaver skin, a block of salt, or a dried codfish. Each of these things possesses its own utility in the way of serving human wants. The piece of gold serves human wants by answering the need of men for an instrument of exchange and a measure of value as effectually as a beaver skin does by protecting his body from the cold. True, you can not eat gold, or wear it on your back, neither can you eat or wear a paving stone; yet the paving stone is valuable in the way of promoting human intercourse and traffic, and so is the gold. It would be just as absurd to say that a paving stone is a sign of value as to say that gold is a sign of value. It is sometimes said, that, if mankind would come to an agreement to accept some other thing as a universal equivalent and measure of value, that other thing would be just as good money as gold. The answer is, that mankind will not come to any such agreement. Mankind have already come to an agreement upon this subject, not by treaty, not by convention, not by the action of their governments, but by tacit consent founded upon experience. They have brought into requisition various substitutes for money which are of vast and increasing advantage to trade and industry; and so far as these have come into use by tacit consent, founded upon experience, they will prove lasting and beneficial. None of these substitutes, however, possess the character of equivalency, nor do any of them serve as measures of value. The bill of exchange, the bank check, the bank note, which I give to my creditor, is in itself nothing but a piece of paper with ink marks upon it. Its original value as paper is destroyed by the ink marks. It gives to him the right to obtain a sum of money, or goods equivalent to that sum; but it is not money. We are not now stickling about the names of things, and drawing distinctions where there is no difference. As the subject of this paper is money and its substitutes, it is necessary, first, to obtain a clear idea of what money is, in order that we may the better obtain an idea of what its substitutes are, and how great a service they have rendered, and are capable of rendering, to human society. — *The Unit of Value.* We have seen that mankind have tentatively and experimentally used a great number of things as money, and have finally chosen gold and silver as the best, and have come to such a world-wide agreement upon this point, that all men act upon it as readily and unconsciously as they draw atmospheric air into their lungs. Every operation in life that is not purely intellectual is an operation of dollars and cents. I can not walk down town without wearing clothes and shoes, and these are matters of dollars and cents. I can not sleep without a bed to lie in and a roof over my head, and these are matters of dollars and cents. Dollars and cents are the measure of the exertion I must put forth to supply my daily wants. Under both law and practice in this country, the dollar is twenty-five and eight-tenths grains of gold nine-tenths fine; and, however numerous and multifarious may be the existing substitutes for money, however vast may be the exchanges effected by banks and clearing houses and by paper instruments of every kind, twenty-five and eight-tenths grains of gold nine-tenths fine is the measure of every dollar in the whole mass. The amount of labor required to produce this dollar at the mines is equal, in the average, to the amount required to produce a dollar's worth of wheat, cloth, iron or other commodities. — While, strictly speaking, nothing should be called money which is not in itself an equivalent and a common measure of value, the word has a much wider signification in common usage, being employed to designate anything which possesses the efficiency of money. Thus it is used to describe not only gold and silver but bank notes, government notes (redeemable or irredeemable), checks, drafts, bills of exchange, bank deposits and wealth generally. We say that a man has a great deal of money when we mean that his possessions would realize a large sum if converted into money. When we speak of the money market we mean not the market for gold and silver considered as metals—that is quite a different affair—but the demand and supply of loanable capital. The London money market is said to have £120,000,000 in ready money available for loans, although the whole amount of gold and silver within reach is not more than one-fifth of that sum. Such use of the word money includes the scientific definition of it and much more. The custom of calling these various things money because they possess all the efficiency of money is fortified by a certain amount of reason, and is at all events too firmly rooted in popular acceptation to be dislodged. It is only needful to point out in what respect the scientific definition of the term differs from the language of everyday life. — *Other Definitions.* The word most commonly employed to signify metallic money is *specie.* The word *cash* is used to signify ready money as distinguished from one's potential resources or from future payments. The word *currency* is properly used to designate that which is current as distinguished from that which is uncurrent. It is equally applicable to specie or to paper. Dollars, whether of coin or of paper, are *current* in the United States, but pounds sterling, francs and marks are not. Before the national banking system came in force in this country there was a vast deal of "uncurrent funds" floating about in the shape of bank notes redeemable at their place of issue, but nowhere else. Wherever these notes were accepted at par by banks they were current. At all other places they were uncurrent, and could be converted into current funds only by returning them to their place of issue for redemption, or by submitting to a "shave" equal to the cost and trouble of so returning them. Here again

custom has made a definition of its own of the word currency. As commonly used in the United States it means the paper circulation as distinguished from coin. Bankers frequently tell us that "currency is scarce," meaning that bank notes and greenbacks are scarce, although gold may be plentiful. We often hear of the "demand for currency to move the crops," which signifies that the paper circulation is in request for this purpose in preference to coin, on account of the greater ease of handling and transporting it. Such use of the word is clearly a perversion of its original and derivative sense, and is objectionable upon that ground, but is probably too firmly fixed in the vocabulary of commerce in this country to be uprooted. *Money of account* is the commercial unit of value at any particular place. It may or may not correspond with the legal unit of value, and may or may not be legal tender. The gold dollar of twenty-five and eight-tenths grains nine-tenths fine is the money of account in the United States at the present time; anything which is the equivalent of it, or is resolvable into it at par, being accepted by all banks and clearing houses. Silver dollars are legal tender, but are not money of account, although they are commonly accepted in small transactions. During the war and the suspension of specie payments, the greenback was money of account and gold was a commodity, notwithstanding the fact that the gold dollar was then, as it is now, the legal unit of value. The government establishes the legal unit of value, and declares what shall be legal tender; commerce, through the instrumentality of banks and clearing houses, declares what shall be money of account. It is as little in the power of government to prescribe a money of account for the business community as it is in the power of the business community to declare what shall be legal tender. — *Bi-Metallism.* We have thus far classed silver and gold together under the common designation of "the precious metals," as constituting one instrument selected by mankind to serve as a measure of value and an equivalent in exchange. But it follows from what has been said, that, unless these metals bear a fixed ratio of exchange with each other, they can not both be a correct measure of value. If they vary with respect to each other, one of them will be chosen as the standard, and the value of the other will be reckoned as so many units or parts of the standard. Which one of them shall be chosen will depend, not upon the action of governments, but upon the preference of the people as exhibited in their daily practice. All that government can do is to declare what shall be legal tender in settlement of past debts. As to the trade which goes on from day to day, and as to future contracts and undertakings, it can do nothing to change or modify the practice which the convenience of business may dictate. Government can enable me to pay my last month's grocer's bill in silver, paper, leather or anything which it sees fit to make legal tender; but it can not compel the grocer to sell me another bill of goods, except for gold or the equivalent of gold, if he chooses to demand it. Usually governments will conform their legal-tender laws to the practice of business, departing from it only under a real or supposed necessity, as when, for instance, they desire to make forced loans from their subjects by issuing their own notes in exchange for the property of citizens. — For a period of about 200 years prior to 1872 silver and gold were used in most parts of Europe and America indifferently and alternately as money, in a ratio between fifteen and sixteen of silver to one of gold. The public convenience was served by such use. If we are asked why the public convenience was served by the two metals then, and is not equally served now, we can only say that it was probably because trade had not then assumed such proportions as to make the weight and bulk of silver felt as a serious inconvenience to business, and because the variations in the market value of the two metals were comparatively slight. The largest variation in the period mentioned was that caused by the great gold production of California and Australia, viz., an advance in the gold price of silver equal to 1.656 per cent., the ratio of the two metals having fallen between the years 1851 and 1859 from 15 46 to 15.21. In 1861 the ratio again stood at 15.47. It is immaterial, in a practical point of view, whatever be its scientific interest, to inquire what has caused civilized mankind to prefer the single gold standard to the double standard—as immaterial as it is to know whether the north pole is surrounded by solid ice or by an open sea. As a matter of scientific concern, it is undoubtedly important to investigate these questions. It would be an addition to the sum of human knowledge to know exactly why our forefathers liked silver well enough to use it as money of account, that is, money in terms of which all other things are reckoned, and why we do not. I have my own opinion as to these reasons. I look upon the transition from the double standard to the single gold standard as a step in the world's progress brought about by natural selection, by the same process which led to the adoption of iron in place of stone implements for cutting, the same which led men to adopt the precious metals as money, instead of the more bulky and perishable articles which were formerly used. I hold that all arguments which do not address themselves to this point of view are a waste of breath. Volumes upon volumes have been written to show that it would be better for mankind to return to the double standard. Two international conferences have been assembled at Paris to consider the question, and a third is now talked of. These conferences are and will be useless; because they can not persuade the commercial world to do what its interests are opposed to, or to desist from doing what its interests favor. That its interests do favor the single gold standard is sufficiently proved by the fact that the single gold standard

has come to pass. Most of the arguments for the double standard go upon the presumption that there is some virtue in legal-tender acts to compel people to keep their accounts and make their trades in a kind of money which they do not like. But really a legal-tender act, as already said, exhausts itself upon what is past and gone: it exerts no force upon the present or the future. During the whole period of suspension of specie payments in this country (from Jan. 13, 1862, to Dec. 18, 1878), the business of ascertaining the gold value of greenbacks was carried on daily and hourly in the New York gold exchange, except during the brief period when congress attempted to close the gold room by law, with the disastrous result of putting up the premium much higher than it would otherwise have been. — In 1873 silver began to decline rapidly in value, as compared with gold, partly by reason of its demonetization in various parts of Europe, partly in consequence of increased production in the United States, and partly in consequence of a falling off in the demand for silver in India. The decline since 1873 has been equal to 15 per cent. So great a decline was well calculated to stir up doctrinaires and busybodies to put things to rights by printing essays and passing resolutions. But it is equally well calculated to confirm all other people in the notion that a metal so liable to depreciate is not a good recompense for their labor, or a fair equivalent for their property. I have yet to see the bimetallist who governs himself in his daily business by any different principles from those of the mono-metallist. Both act as though they considered gold money preferable to silver money. It is only in academic discussions, on the lecture platform, in congress, and in Paris conferences, that you learn that silver is as good for trade as gold. Elsewhere, perfect unanimity exists that gold is better for trade than silver, and better than silver and gold together. It is this conjoint, simultaneous, involuntary preference of civilized men, expressed, not by words, but by acts, day by day, year in and year out, for gold money as against silver money, that has brought about the single gold standard in the commercial world. Nothing short of a like preference expressed in like manner will ever bring back the silver standard or the double standard. If the bi metallists in the Paris conference had set about persuading the public *not to prefer gold*, instead of trying to bring the sheriff to the aid of silver, they would have been pursuing their end by rational means, whether the end was exactly rational or not. By following the opposite policy, they kept the cart before the horse all the time, and of course made no headway. — It would take more space than we have at our disposal to go over the heads of the dispute between the bi-metallists and their opponents. It is worth remarking, that none of the evils prophesied to flow from the general adoption of the gold standard in the commercial world have come to pass. It was said that the United States could not possibly resume specie payments on the single gold standard; but, if we could do such a wonderful thing, they said that it would put such a strain on the gold resources of the world, that prices would be greatly and permanently lowered, and severe distress would be inflicted upon mankind. Yet the United States did resume specie payments on the gold standard, and now Italy has got herself in readiness to do the same thing; and general prices have not declined, but, on the contrary, have been rising continuously since 1878. — *Substitutes for Money.* It has been already remarked, that, as civilization progresses, the actual handling of coin and bullion tends to diminish rather than to increase; its place as a medium of exchange being filled by other and more convenient instruments, while its function as a measure and standard of value remains in force all the same. This brings us to the second part of our theme, the substitutes for money. Mr. W. L. Fawcett very pointedly says, that "the proportion of actual coin money in use in the traffic of any country is the measure of the imperfectness of its banking system."— Exactly at what period in the world's history bills of exchange came into use is not known. Operations having some resemblance to banking can be traced in the history of ancient Greece and Rome; and there is abundant evidence that the governments of the ancient world— Greek, Roman, Carthaginian and Chinese—knew how to obtain loans by the issue of representatives of money made of leather, iron or tin, upon the same principles that modern governments obtain them by the issue of paper. Bills of exchange were used to a limited extent in the fourteenth and fifteenth centuries: they came into extensive use about the beginning of the seventeenth century, and their employment has increased progressively and prodigiously to the present time As money is a labor-saving machine to avoid the inconvenience and uncertainty of barter, bills of exchange are likewise a labor-saving machine to avoid the use of money. It was found in practice that the goods sold by Germany to Sweden, for instance, would pay for the goods sold by Sweden to Germany—the one would offset the other without the employment of money, provided the individual sellers of German goods could find the individual buyers of Swedish goods, and swap their claims and obligations. A common place of meeting for such buyers and sellers would in due course have led to the establishment of banks to adjust these transactions by the simple process of writing debit and credit here and there in a set of books. And, in fact, this came to be and still is the principal function of banks. But banks had their beginning, historically speaking, in another set of causes. The old banks of Venice, Genoa, Sweden, England and France were established, in the first instance, to extend financial aid to their respective governments. The banks of Barcelona, Amsterdam and Hamburg were founded for purely commercial purposes.— The multifariousness of the coins of the middle ages, and their uncertain value, were the

plague of commerce. They consisted of crowns, florins, ducats, pounds, dollars, etc., more or less debased by the action of monarchs, and more or less worn and clipped. The main object of the early banks was to receive these heterogeneous coins from traders, and give in return the full-weight money of the locality; so that a bill of exchange drawn on Venice, for instance, for so many ducats, might be readily paid in ducats, instead of a miscellaneous assortment of coins, good, bad and indifferent, which must needs be examined and certified by an assayer before the payee would accept them: in other words, the early banks of Venice, Amsterdam, etc., created a "money of account" in their respective localities; or, if they did not actually create it, they preserved it. Bank money, in those times, always commanded a premium over street money, because its value was always guaranteed, always fixed, never variable. The miscellaneous coin deposits of merchants were credited to them on the bank's books at their ascertained value in ducats; and they could draw out the corresponding sums in ducats at pleasure, or could discharge their own debts by turning over to others the sums standing to their credit on the bank's books, without drawing out any money whatsoever. — *The Evolution of Banking.* We have not time to recite the history of banking development; but one can see how natural the transition would be from the sort of bank we have described to the modern bank. Thus, for instance, the merchant who had made a deposit of coin would soon perceive that the bank's certificate of deposit was more convenient to handle, and less exposed to robbery, than the coin itself; and so bank notes would come into existence. The first bank notes were merely certificates issued against a corresponding amount of coin or bullion: they were like warehouse receipts, issued against grain, cotton or other property taken on storage. The bank itself would soon perceive that a certain portion of the deposits would always be on hand, since some persons would always be sending in as much as others were drawing out, and that this average amount on hand could be profitably employed in the way of loans, for which interest could be obtained. Experience would show that these loans must be secured by pledges of property, in order to guard against loss; and inasmuch as bills of exchange are brought into existence by the sale of property, and are in fact title deeds to property in transit, they would constitute the best security for such loans. Consequently the discounting of bills of exchange—that is, furnishing ready money to the seller of the goods, and collecting it from the buyer at the agreed time of payment—would be the most natural employment of the banker's balance of deposits on hand. Then, seeing that the bills of exchange were regularly paid at maturity, and that new lots were coming in as the old ones were going off, it would be very natural to regard the bills themselves as deposits, and to credit them as so much money to the accounts of the merchants sending them in, and to call them, in a general way, "money." For all the purposes of the banker they are money, because he can send them to the places where they are payable, and either get money for them, or pay his own obligations with them. For all the purposes of the merchant they are money, because he can draw his checks against them, and pay his debts with them. What really happens here is, that the various bills of exchange arising in all parts of the country, or of the commercial world, representing goods bought and sold, offset each other. Barter is going on, as it must have gone on before any money whatever was invented, but with this difference, that, instead of men swapping directly a stone hatchet for a dozen arrow heads, or a day's labor for a haunch of venison, they now swap by a recognized standard of value (viz., the gold dollar of twenty-five and eight-tenths grains), but do not bring the dollar itself into requisition, or only to a very limited extent. The dollar is the common denominator, but the denominator is used only for purposes of reference. Thus it happens that the balances settled at the New York clearing house in one week may amount to one thousand million dollars—a sum larger than the whole amount of gold, greenbacks and national bank notes in circulation in the United States. All the checks, drafts and bills of exchange that go to the clearing house are loosely termed "money," because they answer nearly all purposes for which money is ever used. They are really the signs and evidences of commodities bought and sold. The only difference between the three kinds of paper instruments here named—checks, drafts and bills of exchange—is a difference of locality or territoriality. The check is usually payable in the same town or city where it is drawn; the draft is payable in a different town or city in the same country; and the bill of exchange is payable in some other country. Checks are usually payable at sight; drafts and bills of exchange may be at sight, or a certain number of days after sight. These differences are unimportant as regards the principle we are considering. — *Primitive American Banks.* It is seen, therefore, that a bank is really a place where swapping is done by wholesale, where merchants and producers, buyers and sellers, meet to exchange their various goods and services without the use of money. The subject is somewhat complex, and perhaps an illustration will serve to make the facts clearer. In my younger days, which were passed in a small town in the then territory of Wisconsin, there was a country store at which all the new settlers did their trading. Money was very scarce, what little the people had being sent off to the government land office at Milwaukee, to pay for the land which had been entered under the pre-emption laws. The country store sold dry goods, groceries, etc., and bought wheat, pork, butter, eggs, and whatever was produced for sale in the neighborhood. A rude warehouse was attached to the store to hold the

bulkier products; and a line of teams was in motion, carrying the surplus farm products from this store to Milwaukee, some eighty miles distant, and bringing back to it the goods required by the community. Each head of a family in the town had an account on the books of the storekeeper, where he received credit for what he brought in for sale, and was debited for what he took away. And so things went on from year to year. After a while other stores were established which did business in the same way, giving people the benefits of competition. In course of time money became more plentiful in consequence of the community sending more wheat, etc., to Milwaukee, than the value of the goods they brought back; and gradually the stores were enabled to buy wheat and pork, and sell molasses and other things, for cash, or on short time. Now, the store we have described united the functions of a merchant and a banker. It was the place where all the buying and selling in the community was done by writing debit and credit opposite each man's name, according as he brought in one kind of property, and took away another kind, without the use of money. This is the simplest representation that can be given of the sort of business transacted by a modern bank. There are hundreds and thousands of these country stores in the west to-day, whose proprietors would probably be amazed to be told that they are bankers, but who are performing, unconsciously, all the functions of bankers, except that of issuing circulating notes. In the case of which I have spoken, remittances to Milwaukee by individuals other than the storekeeper were commonly made by buying the storekeeper's drafts on his correspondent in that city, just as we now buy bank drafts. — It will be seen that there was a circulation of the goods and products of the community carried on by means of the store, and that the store itself furnished the capital needed to set the business going, and tide over the interval between seed time and harvest. Now, what does the modern bank do other than this? The modern bank does not deal directly in merchandise. It furnishes capital to merchants, and settles their balances exactly as the country storekeeper settled those of his customers. The bank, instead of having a warehouse in the rear to receive grain and provisions, and shelves to hold dry goods and hardware, and a lot of teams carrying things here and there, intrusts these functions to warehousemen and merchants, to railways and steamships, holding paper instruments which are the warrants and certificates of the property itself. We need not trace the various ramifications of banking. They are all resolvable by the principles of the country store. The bank's deposits are composed mainly of these warrants and certificates, called, in the language of commerce, "checks," "drafts," and "bills of exchange." — *The Genesis of Bank Notes.* As mankind progress in civilization, the tendency and unconscious effort is always going on to dispense with the use of money, and to carry on trade by swapping. It is thus that bank notes come into existence. Farmer A, we will suppose, sells to miller B a thousand bushels of wheat, and receives a check for one thousand dollars. If farmer A wishes to pay off a mortgage to C, or to buy a hundred sheep from D, he can turn over this check in payment, and the swap will be complete. No money will be used, but each of the parties will have obtained what he wanted just as effectually as though a bag of gold had been passed around from one to the other, and even more economically; but if A wishes to pay the wages of his farm hands, and to send his son to college, and to go on a journey himself, he must receive pay for his wheat in something that will circulate from hand to hand in small sums. Swapping must come to an end, and money must be brought into requisition, unless the miller draws, say, two hundred checks of five dollars each, and unless the miller's credit is so well and widely known that everybody will accept his checks. But this very rarely happens. What does happen is, that the farmer takes his check to the bank, and the bank gives him its notes for the amount. These notes will be accepted universally, because everybody knows they will be paid on demand. Thus swapping is still carried on, notwithstanding the subdivision of the check into a number of small checks, or bank notes, or tickets—it makes no difference what we call them. The miller, in this case, has deposited his draft on New York, or his bill of exchange on Liverpool, for the last lot of flour he sent forward into the world's circulation; the bank has credited him the amount; and, when his check came in, it issued a lot of tickets saying, virtually, that "the bearer of this ticket is entitled to the value of one two-hundredth part of a lot of flour, in existence somewhere, and can receive that value whenever and wherever he chooses. He can receive it at this bank's counter in gold, or he can receive it in property at any store, hotel, railway office, or other place of business, where the standing of this bank is known." — "*Credit Money.*" Much confusion has been introduced into this subject by the use of the phrase "credit money," as applied to bank loans, bank deposits and bank notes. Many people, and even some writers on political economy, use this phrase as though it had a definite signification, whereas it would puzzle the best of them to define it, or to tell what they mean by it. The only credit money in this country is the legal-tender greenback. This has nothing behind it but credit — the government credit, a good credit, but credit pure and simple. It may be said the government has a lot of gold somewhere to redeem these greenbacks with: so it has (since Jan. 1, 1879); but the fact remains that the greenback is based upon credit, and not upon property. So is the bank of England note, up to fifteen million pounds. This amount of notes the bank of England puts out on the credit of the government.

But bank notes, ordinarily, are not credit money: they are property tickets, representing the swapping of goods and services, as already shown. Of course, we are now speaking of good banking, not of swindling or slovenly banking. The history of this country furnishes a great many examples of bad banking, to which the phrase "credit money" might be properly applied; but these cases are now rare. Still less is the phrase "credit money" applicable to bank loans and deposits. What is loaned and deposited under the conditions of good banking is property in circulation. I repudiate utterly the phrase "credit money," as applied to other money than greenbacks or government issues. — Few words in the English language have been more vilely abused than this word "credit." If I have a wagon that I do not wish to use for a year, and I lend it to my neighbor at an agreed rate of hire, I have extended to him a credit. If I have no wagon, but have the money to buy one, and lend this money to my neighbor, who buys a wagon, agreeing to repay me with an agreed rate of interest, I have equally extended to him a credit. What I have done in either case is to lend him a wagon. He could make better use of it than I could for the time being; and therefore the world is better off. It is all the same, whether I lend the wagon or whether a bank lends it. Range the world over, and you will find nothing different from this, in point of principle, in the nature and employment of credit. Credit never brings a cent's worth of property into existence, except by putting tools and implements already existing into the hands of those who can make use of them, and who could otherwise not obtain them; but, by accomplishing this, it becomes a mighty engine of human progress. All notions implying that credit of itself, in any form whatever, calls wealth into existence by prestidigitation, are fantastic and mischievous. "Credit instruments," which we hear spoken of so frequently, are instruments for facilitating the transfer of tools and other reproductive capital from the hands of those who have them, but can not use them, to those who have them not, but can use them. A savings bank is a credit instrument of this sort; an ordinary bank of deposit and discount is such an instrument; a draft, a bill of exchange, a bank note is not such an instrument: it is, as shown, a ticket for circulating property, entitling the holder to such and such a share of the world's existent consumable commodities. When these commodities are consumed, and cease to exist, the corresponding tickets cease to exist also, and new ones only come into life as new commodities are produced. The drafts and bills of exchange are paid and canceled, and the bank notes come home to be redeemed. The notes may not be actually canceled. In order to save the cost of printing, and the trouble of signing a new lot, the old ones may be reissued, when called for, by the same kind of business needs which led to their first issue. It obviously makes no difference, except in a mechanical sense, whether, in the case of a second issue, the old notes are again used, or new ones are put out. — *Bank of England Note System.* It has already been remarked that the only credit money in existence is government money—greenbacks in this country; bank of England notes, up to the fifteen million pounds' limit, in Great Britain, etc. It has been shown how the greenbacks are entitled to be called credit money, and how bank notes differ from them as to their origin, the causes which bring them into life, and which lead to their ultimate extinction. Bank of England notes are of two kinds as to their origin, although, in external appearance, there is no difference between them. In the year 1844 it was estimated, or rather ascertained, by the public authorities, that eleven million pounds of bank notes, of the denomination of five pounds and upward, would circulate in the hands of the people at all times—in bad times as well as good times—performing the ordinary functions of internal traffic. The government owed the bank eleven million pounds, borrowed a long time before. It said to the bank, "You may issue this amount of notes without any gold reserve whatever, because experience shows that gold will never be demanded so long as the issue is not in excess of eleven millions, and so long as the public have confidence in your ultimate solvency; and, of course, you will be solvent to this extent, because we owe you that amount. We will not pay you any interest on the amount we owe you (this eleven millions), because you will get interest from the borrowers of these notes. If the business requirements of the country call for more than eleven millions at any time, you may issue them to any extent, provided you have five gold sovereigns in your vaults for every five pound note so issued in excess of the eleven millions." This is the famous "currency principle" which is identified with the name of Sir Robert Peel. Eventually, the amount of uncovered issues was raised to fifteen million pounds by the dying out of country banks then in existence, which were issuing notes of their own, and which it was deemed best not to disturb. But the principle was not altered in any way by turning over their note issuing privileges to the bank of England. — This so-called "currency principle" proceeded upon a totally different plan from that which we have described as the natural mode of creating and issuing bank notes; which latter is commonly called the "banking principle." The banking principle, as shown, is simply the swapping of property by retail, the swapping by wholesale being carried on by checks, drafts and bills of exchange. The banking principle requires that an equivalent of every bank note shall be in existence, circulating through the community in the form of pounds of sugar, barrels of flour, legs of mutton, etc. The currency principle requires nothing of the sort: it merely says, that, "since people prefer paper to gold for ordinary use, when they are satisfied of the goodness of the paper, we (the government) will give them paper up to the amount of their average requirements, and take

the corresponding amount of gold or property unto ourselves." This is virtually what our government has done in the case of the greenbacks. — The bank of England act has been much lauded; and so high an authority as Prof. Jevons esteems it "a monument of sound and skillful financial legislation." It appears to me to be plausible and specious rather than scientific. What is to be said in favor of it is, that the government gets the profit on the sum represented by the uncovered notes, and that the security to the note holder is always perfect. But the government could equally get the profit on the notes by taxing them when issued by banks, and it could furnish equal security by requiring the banks to deposit government bonds or consols, as is done in the case of our national banks. What is to be said against it is, that it does not conform to the natural course of things; the evolution by which bank notes, as swapping instruments, are brought into existence, forbidding any swapping beyond fifteen million pounds, unless done by means of checks and bills of exchange. For all above this sum it requires that gold be first bought. It is arbitrary and rigid. It proceeds upon the theory that human wisdom (the wisdom of the year 1844) is a better regulator of the circulation than the silent and unperceived course of trade which creates its instruments of exchange as it goes along. It is not a sufficient answer to say that the bank act has worked well; since human society readily adapts itself to its environment, whether good or bad. Deprived of the use of the bank note, which arises naturally in the mode described, British trade has availed itself of the check system to a prodigious extent. In London but little more than 2 per cent. of the business done is transacted by means of coin and bank notes together, the remainder being represented by checks and bills of exchange. — *Greenbacks and National Bank Notes.* Our greenback system is akin to the issue department of the bank of England, so far as relates to the fifteen million pounds of bank of England notes. Congress having recently passed a bill to authorize the issue of gold certificates, in small denominations, to persons depositing gold in the treasury, the parallel is still closer as regards the issue of circulating notes. An illustration used by Mr. George S. Coe, president of the American Exchange bank, New York, showing the unphilosophical character of the "credit money," embodied alike in the greenback and the uncovered bank of England note, seems to me perfectly conclusive as to the point we are considering. Bills of exchange, says Mr. Coe—want of space compels me to condense his argument—bills of exchange are the world's international currency, drafts and checks are the currency of domestic wholesale traffic, and paper notes are the currency of retail trade. How absurd it would be to draw a lot of bills on Liverpool without sending any equivalent property to Liverpool to balance them! Suppose a syndicate of bankers in New York, about whose solvency there could be no question, (or the government itself), should draw three hundred and fifty millions of such bills, and sell them to the public without sending a cent's worth of wheat, cotton or other property abroad to correspond with them: the bills would go to England in due course, and be paid, and the proceeds would come back to us in the shape of English goods. Under the circumstances, the English bankers would be obliged to draw back on the American bankers for an equal sum. But suppose the American bankers, instead of paying the English drafts, should tender the holders of them a fresh lot of bills of exchange on Liverpool: what would be the effect of this on the trade of the two countries? Obviously it would throw the whole traffic into dire confusion. We should have received three hundred and fifty million dollars' worth of property without rendering any equivalent. We should simply owe that amount of money to England. Undoubtedly England is able to lend us that amount in the usual way in which time loans are negotiated, but not, by any means, in this way. Perhaps we should be able to invest that sum advantageously in our new country, after due consideration; but this is not certain. At all events, we could not do so in a hurry. Clearly the trade of the world would be subjected to a wrench like that caused by throwing a stone into a delicate and complicated piece of machinery.— Apply this analysis to the drafts and checks floating about in our own country, and the same result is reached. Apply it to the paper currency, and it comes to the same thing, so far as this currency is not backed by property circulating alongside. It is not necessary to follow any particular note around, and see what course it takes, how long it stays out, and when it comes back to its place of issue. When trade is brisk, the notes, if issued according to the banking principle, will be plentiful: when trade is slack, they will find their way home for redemption. This is as it should be. But, if there is no property in circulation corresponding to the notes, the currency will be rigid and inelastic. It will bear no relation to the wants of trade. — *The Future of our National Banking System.* The bank charter extension act passed by congress in the summer of 1882 makes no considerable change in the national banking system. But a great change is impending, to be brought about by the payment of the national debt, which now constitutes the security of bank note issues. Whether other adequate security can be provided when the bonds are paid off, is still an unsolved problem. It is certain that other bond security is not obtainable. Good state bonds are even scarcer than national bonds, and are, like the latter, in the course of redemption, so that even if we were to consider that class of bonds admissible as a substitute for those of the United States, they could not be had in sufficient amounts. Other sorts of bonds, municipal or corporate, are out of the question, as security for bank notes. Not only

do they not, even the best of them, enjoy the stability of market value requisite to insure perfect confidence; but since the selection of securities would rest with officers of the government, it would eventually become a part of the political dispensation, and the choice would be more or less governed by "influence" and "pressure." Nothing would more surely undermine and destroy the system than to admit politics and favoritism into the category of forces prescribing what particular bonds of cities, towns, railways, gas companies, or what not, should be received. — The conclusion is inevitable that when the national bonds are paid off, or when they become so scarce that the banks can not obtain them, or so high in price that no profit can be made in issuing circulating notes upon them, the national bank-note system must end unless the capital of the banks themselves, and the responsibility of the shareholders, can be relied upon as sufficient. It is plain that if the bank has in its own vaults the capital heretofore invested in the United States bonds which it has deposited in the treasury, its ability to redeem its notes will be perfect. The question is, how to insure that it shall always have this capital within reach. It would be quite reasonable to provide that the liability of bank shareholders should be unlimited as to circulating notes. This would insure watchfulness on the part of all solvent shareholders over the loans and discounts and other investments of the bank's capital. It would be reasonable also to make note holders preferred creditors of failed banks, giving them the first lien on the assets. The unlimited liability of shareholders has always served to prevent depreciation of the notes of Scotch banks, and an examination of the cases of bank failures under our national system would probably show that no loss would ever have resulted to note holders if these two requirements had been in force, even without the bond security held at Washington. — It is necessary, however, not merely to insure the solvency of the bank notes, but to so convince the public of the fact that no doubt shall ever arise, so that in cases of failures, few or many, the notes shall continue to pass freely, without question and without examination. To attain this end it would be necessary that all the national banks should agree to receive at par the notes of all other national banks under the same terms and conditions of central redemption which are now prescribed by law, or perhaps with some improvement upon existing methods of redemption. With such a guaranty and balance wheel, added to the reasonable safeguards previously mentioned, there would be no need of bond security for bank notes to be held in pledge at Washington. But the mutual insurance system could not be forced upon the banks by law. It would not be just to make one bank responsible for another bank's debts against its will. The system must be entered into voluntarily or not at all. It is for the bankers of the whole country, through their central organization, to find the ways and means to preserve the excellent system which we now have, so immensely superior to the old state system, or to any possible state system. The problem is not so difficult as it seems. We have been so long accustomed to bond security for bank notes that any other system is to most people unthinkable. But, in point of fact, it exists nowhere else in the world, although the bank of England system has points of resemblance to it, as already shown. At all events, it would be a great mistake for us to perpetuate or prolong a national debt merely to furnish security for bank notes. While the debt exists, while the government has not the means of paying it off, and relieving the tax payers of the annual interest charge, it may be usefully employed as security for the holders of bank notes, but to tax the people longer than is necessary for this purpose would be indefensible, and would furnish good ground for the charge made against the national banks that they oppress the community. That charge is now without foundation. The banks have neither created nor protracted the national debt. So long as the debt exists, it is immaterial who holds it, whether national banks, savings banks, trust companies, life insurance companies, or private persons. In a paradoxical world, nothing more whimsical can be found than the unpopularity of the banks arising from the fact that their notes are secured by government bonds. Before the war their notes were either not secured at all, or were less perfectly secured; yet they were exposed to no such loss of popularity. They were always popular so long as their notes were good. — The comptroller of the currency, in his annual report for 1882, strongly opposes the plan here suggested for continuing the national bank note system after the public debt shall have been paid off, believing, as he does, that it is impracticable to secure any general concurrence among the banks to receive, and thus mutually insure, each other's notes; and believing, also, that the popularity of the present system would be made use of to perpetrate extensive frauds upon the public. Better would it be, he thinks, that the system should perish when the debt is extinguished, than that the admirable features which have given it such a hold upon public confidence should be seized upon by swindlers as a means of defrauding the people. His views are entitled to great weight, by reason of his personal authority, as well as for the intrinsic force of his argument. It can not be doubted, however, that with the extinguishment of the national bank system the old state bank system, or systems, would be revived. We have therefore to choose between the latter and some modification of the former, and we must make our choice before the expiration of many years. HORACE WHITE.

MONGOLS. In ethnology, the Mongolians include those races of men after the Aryans, Semites and Hamites, numbering nearly half the human race. They are characterized by easily

recognizable physical traits: the lateral projection of the cheek, and depression of the nasal, bones; broad and flat faces; imperfectly arched eyebrows and oblique eyes; tawny skin; and lank and thin hair, especially on the face; though in certain states of civilization these traits are modified or disappear. Under the general classification of Mongolians are included the variety of races included in the Chinese empire, Burmese, Siamese, Japanese, Turks, Magyars, Lapps, Finns, Esquimaux and Samoieds. In history they are known as the founders of the Median and early Chinese empires, as Scythians and Huns, and as Mongols, Tartars (Tātars) and Turks. The original home and place of departure of the Mongolians is central and eastern Asia, between the fortieth and fiftieth degrees of north latitude. More than any other division of mankind they are nomads, though in many instances they have forsaken their pastoral habits to found nations and empires.—The history of the Mongols proper begins with Genghis Khan (1162–1227), who, as the leader of a small horde in the region southeast of Lake Baikal, speedily united many tribes, and then moved to the conquest of China. His sons and grandsons continued the work of conquest until, by 1250, the whole of central Asia and part of Europe, from the Pacific ocean to the frontiers of Germany, were united under one empire. Though this empire soon broke up, a second tide of Mongol invasion, under Tamerlane, in the fourteenth century, overflowed Persia, Turkistan, Hindostan, Asia Minor and Georgia. This new empire soon in turn disintegrated; but the Mogul empire in India was in the sixteenth century founded by a descendant of Tamerlane. Though the Mongol power in Europe was broken up, and most of the Mongol tribes driven out, yet the Turks, true to the spirit of their progenitors, maintained the energy of conquest for centuries, and then "camped out" in Europe, instead of settling on the soil to improve it. The Magyars are, perhaps, the only people of historic Asiatic origin who have been thus far converted to Christianity and become European in their tastes and habits. The Mongolian peoples of central-western Asia are being gradually subdued by the Russian arms and made subjects of the czar; these military movements being but the continuation of a policy begun four centuries ago. The Mongolians of Mongolia proper number about 2,000,000, and are governed by chieftains who claim descent from their great founder Genghis Khan. Though subjects of China, they are allowed great freedom. In religion the peoples of Mongol origin are followers of Confucius, Lao Tszê, Buddha, Mohammed and Christ. Their languages are now usually classified under the head of "Turanian." See Howorth's *History of the Mongols*, London, 1876–80. W. E. G.

MONOPOLIES. Until political economy had established as a fundamental truth, and political science accepted as a rule of action, that each individual in a community is naturally free to pursue his own happiness as in his judgment he may deem most expedient, limited only by the like right on the part of his neighbor, it was almost impossible to arrive at any clear ideas upon the subject of monopoly. Roman jurists as well as English common law lawyers, after magna charta, formulated declarations of rights, which vitiated claims of monopoly and declared them to be contrary to natural justice; yet so long as government was arbitrary and unlimited in its sovereignty—the very fountain and source of all power over the individual subject, without restraint and limitation—it certainly was difficult to establish axiomatically and philosophically any limitation upon the right of the government to create monopolies. It is only when terms are set to the power of encroachment by the government itself over individual enterprise or the pursuit of happiness, that the principle can be invoked, that that impairment of individual liberty which government itself can not justly work it can not authorize others to bring about. For instance, the constitutions of the several states all contain provisions that the public burden shall be borne equally, and that no man shall be deprived of his life, liberty or property except by due process of law, and some of the state constitutions contain, in express terms, the provision of magna charta that "no man shall be deprived of his free customs and liberties," in other words, he shall not be deprived of the right to devote himself to any legitimate occupation, and to reap the natural reward of success therein. It is, therefore, clearly incompetent for a government so limited to create an artificial organism, or to permit the growth of an artificial organism, which would in effect distribute the public burdens unequally, or which in its practical effect and working prevents persons from reaping the natural reward of industry and superior intelligence in any vocation which they may have chosen. In modern times, beginning with magna charta, government thenceforth became, as to English-speaking people, not an arbitrary imposition upon a people, but a trust to be exercised for the benefit of the citizen, within the terms of limitation set by the people to the power of government. That there were great interregnums of arbitrary power exercised in England is not to the purpose, because English lawyers have long regarded the expressions of judicial opinions during the reign of the Tudors and some of the Plantagenets as non-authoritative common law doctrines as to the rights of English citizens.—We can only get rid of much loose talk which ordinarily surrounds the subject of monopoly and anti-monopoly by defining what is meant by a monopoly. The derivation of the word shows that its original meaning implied the exclusive right to sell a commodity. Its derivative meaning can no longer be strictly defined, but is applied to many forms of social manifestations, which all come under one or the other of the following heads, or under several of them. 1. Any grant by law to an in-

dividual or combination of individuals, to perform a particular service or supply a commodity, and the exclusion of others from performing or supplying the same. 2. Any grant by law to any particular person or combination of persons, to perform a particular service which in its nature makes it impossible for others to render a like service or an equally efficient service. 3. Any legal exemptions of natural or artificial persons from the burden or duties which are imposed upon other persons or corporations in the commonwealth. 4. Trade marks, copyrights and patents. The foregoing are legal monopolies. — Qualified or incidental monopolies, arising from the organization of modern society, are: 1. The engrossing of a business by an individual or combination of individuals, who, by means of the vastness of the capital invested, drive out competitors, not by a superior service, a better commodity or lower normal price which is the operation of the natural law of competition, but by losses deliberately incurred which they can bear and the competitor can not, to be recouped by excessive charges when the competitor is made harmless. 2. The exclusive possession or occupation of certain peculiarly favorably situated portions of land. 3. All industrial enterprises of a community involving expenditure of large capital for plant used in the supply of any article which is consumed or devoted to service rendered at the place and in connection with the plant or machinery by which it is supplied, and the supply of which article or convenience or service can be indefinitely increased without a proportionate increase in plant and capital. 4. The natural or cultivated aptitude or faculty to supply a commodity or render a service so far superior to others that the competitive standards of price are no longer applicable. Great artists, orators, lawyers, actors, etc., come under this head of personal monopoly. 5. What may in course of centuries grow into a monopoly, and that of an extremely burdensome character, is the individual ownership of land. — At the very outset we must recognize the fact that the greatest monopoly of all existing in society is the monopoly of government. This monopoly arises from the primal necessity of human beings for security, and government is the only furnisher of security, and allows no one else to attempt to meet the same want. It levies its own remuneration on its own conception of right, in the shape of taxes for the service performed by it; questioning its authority is deemed to be treason; and, in addition to furnishing security, government seems to have a standing option to perform whatever other services it sees fit for the community, at such prices as it may see fit, and in many instances, even in the United States, avails itself of this privilege. Thus, in addition to rendering the service of security which involves the establishment of executive and legislative offices, the organization of a judicial and police system, the building of forts and the maintenance of an army and navy, it undertakes to facilitate the opening of intercommunication between people by the building of highways and canals, deepening harbors, carrying letters and packages, and furnishing educational facilities. It claims and exercises the right to be the exclusive supplier of coined money and currency, and by tariff, bounty and tax regulation and impositions, rearranges and readjusts all the commercial and industrial occupations of the people, and for many peoples supervises and regulates the religious beliefs and institutions as well as their temporal interests; and yet all governments are frequently compelled to extend their own monopoly into new fields, for the purpose of diminishing corporate and personal monopolies which exist in the community, the pressure of which may be more burdensome because less equally distributed than that which is exercised by governments. — Although theoretically the people of the United States are masters of the situation, and determine upon the objects and expenditure of government, the will of the people is acted and reacted upon by so many influences, and is expressed by so many volunteer spokesmen upon the rostrum and in the press, and political parties that claim to be composed of the whole people are so viciously organized, that what is the true will of the people can as yet not accurately nor even approximately be ascertained. The will of the people is so often entrapped, misconstrued and misstated by interested parties who find their profit in explaining public opinion by manufacturing it or vending a spurious article, and our political methods are so defectively organized, that there is as yet no way to arrive in a populous community at a veritable expression of the popular will. It becomes, therefore, of much importance to consider, in the case of any particular movement against an industrial or natural monopoly, whether it will result in the destruction of the monopoly, or in its becoming changed into a governmental monopoly, which is as yet, even in the United States, a very different thing from giving back to the people the power which theretofore had been absorbed by the monopoly — Monopolies were instituted originally as part of the prerogative of the sovereign, either to reward favorites or as a means to replenish the exchequer. Even the grants to municipal corporations of courts-leet and the right to raise their own taxes, "to pay scot and bear lot," were frequently granted in return for a mere money remuneration. Frequently the grants arose to humble the power of some great nobleman in whose territory the burgh or city securing municipal rights was located, not because his exactions pained the royal heart, but because it made the lord of the manor too powerful a subject. Trade monopolies were granted during the middle ages because, in the first place, arbitrary regulations were the rule. All mundane as well as religious matters were supposed to require regulating. Liberty was regarded as the most baneful of influences, and wherever it existed it was immediately

eliminated, and the persons who theretofore exercised some free trade or free calling were subjected to stringent regulations. In that way every avocation was subjected to artificial bands; the number of persons permitted to pursue it was limited, and the governments of Europe down to the middle of the eighteenth century far surpassed our modern trades unions in the minuteness and unreasonableness of the regulations they constantly prescribed and enforced. Another reason for regulating trades by monopoly grants during the middle ages, was because the persons following them could thus be subjected to a stricter inquisition as to their modes of life and their habits of thought; and as ecclesiasticism was the most potent stimulant of governmental activity during the middle ages, the regulating of the trades was a correlated part to the regulating of the faith. These restrictions, however, being universal, almost wholly lost the nature of monopolies, because, in a nation where all is regulated and all circumscribed, though there is an immense waste of energy and probably stagnation in enterprise and a checking of the growth of wealth, monopoly conditions can scarcely be said to exist, except in so far as certain special trades or avocations may be more remunerative than others, and a limitation of the number engaged therein result in extraordinary gains. A survival of such trade regulations is the limitation of the number of persons who are permitted in France to follow the calling of stock brokers. And likewise in Germany surviving limitations in exceptional employments and functions indicate what was the universal condition during the middle ages. — Of trade monopoly Bentham says, "I know of but one opinion relative to it: oppression in the instance of the individuals excluded from the occupation thus engrossed, and excessive earnings in the instance of the partakers of the privilege; whence the alternation of penury with excessive plenty in a rank of life where sensual excesses supply the demand for occupation in a vacant mind, and enhancement of prices in every article connected with the subject matter of the monopoly; such appear to be the consequences to the several parties interested, to individuals excluded, individuals favored, and the community at large." — Notwithstanding the general justice of Bentham's criticisms of trade monopolies, it must nevertheless be conceded, when viewed historically, that their existence for a limited period is not only explicable but justifiable. At the times when the seas swarmed with pirates, and the navies of Europe had not yet successfully made head against them, it required extraordinary inducements to venture capital in trades beyond the high seas; and nothing short of a monopoly or exclusive privilege would tempt men, in international commerce involving shipments by sea, to take risks which can scarcely be realized by business men in these days of bills of exchange and commercial bills of lading, of insurances and steamers, and safety upon the high seas from all possible attack except that of the elements. — It must also be remembered that the merchants' companies opened at the outset their corporations to all who were willing to bear with them equal risks, and that therefore, while trading was prohibited, in such cases as the Dutch and East India companies, with the countries over which their dominion extended, to all persons not members of the merchants' companies, yet as they extended the benefits of their operations to those who were willing to share with them their risks, it was scarcely in the nature of a monopoly. It was necessary that all trades should be done under the merchants' flag because, notably in the case of the East India company in England, the company protected its traders by an army, and considerably contributed toward the expenses for the maintenance of a fleet to protect merchandise on the inward and outward passages. — The greatest abuse connected with monopolies of a trading character were those which arose from the necessity for revenue on the part of kings. Precisely as offices were sold to the highest bidders, trade privileges were sold to the highest bidders, and numberless monopolies arose and continued long after the period of necessity that had given them birth had passed away, eating out, by exactions and taxations, the commercial life of the people. The East India company had become in time so powerful, so many of the returned rich India merchants interested in the profits of the India company were sent to parliament, and the influence of their wealth permeated so many different strata of society, that the struggle to deprive that company of its exclusive privileges and to throw the empire of India open to free trade lasted almost a hundred years. The Hudson's Bay company still exercises, in a modified form, the privileges that have been granted to it, on the theory that such exclusive privileges were necessary; they doubtless were, at first, to induce men to venture their lives and their capital in so desperate an enterprise as the trapping and capturing of fur animals in the inhospitable territory of British America, thousands of miles from the protection of the British fleet or British soldiers, among hostile Indians and savage animals. — Under the head of grants by law to an individual or combination of individuals to perform a particular service, and the exclusion of others from performing or supplying the same, may be enumerated such industries of a country as are fostered and "protected" by means of a tariff so high as to exclude foreign competition. Although the inhabitants of the country as to which such a system of protection prevails are free to engage in such industry, yet exclusion by law, of sources of supply from countries more favorably situated for production, operates, as to the increase of price in the protected article, as a monopoly, in the same manner as a patent or a positive prohibition against the non-protected from purchasing the same commodity at a lower rate. In time, competition between the protected manufacturers or producers tends to

lower prices, but this is an incident which is true of almost all monopolies, however onerous, not confined to a single individual. The Paris stock exchange, limited by law to sixty members, produces the same result as to competition between those members in enabling persons who desire to deal in stocks to get their business done at a rate that is not so exacting as to deter them from making operations. Monopolists scarcely ever charge what it is possible to charge even when in combination, simply because they would thus destroy the source of their business, because substitutes for their protected article or service would come into existence, or people would be content to do without it. — Under the second class of grants by law to persons or combinations of persons, to perform a particular service or supply a commodity which in its nature makes it impossible to others to render a like or an equally efficient service, many disguised monopolies are granted in all countries. If a company or combination of individuals is organized for the water supply of a city, for gas supply, or for the building of warehouses along the river front, with special privileges to condemn land for such purposes, the possession of the field in the case of water and gas companies, and the power to select at the outset the most favorably located points for warehouses of which there may not be many at the river frontage of a city, may each in itself give to such persons or company an exclusive right, although in terms the law does not make it exclusive. The same would be true of a bridge company, if there were but one or two eligible points along the river where such a bridge or bridges could be constructed. Although other companies might come into the field, they would do so after the first company had possession of the more eligible sites, and under such disadvantages that the first company, unless properly controlled by law, has a perpetual monopoly in having that power of oppression which the second or other company can not enjoy. — A legal exemption from the burdens that all citizens naturally should bear, such as taxation, the bearing of arms, or the performance of other duties as citizens, operates precisely in the same manner as a grant of special privileges. It is immaterial, in fact and in principle, whether the person has the special privilege of taxation either through the power of charging more for a commodity than it is worth or for a service than can be obtained for it under the law of competition, or whether the person or persons or corporation is exempted from the duty which others are called upon to bear, because in either case an inequality is created which gives to the privileged class opportunities for development and for the acquisition of wealth which others do not equally enjoy, and which is counter to the fundamental principle as embodied in magna charta, that "no man shall be deprived of his free customs and liberties." In this country such exemptions have been granted in years past to banks, and more recently to railway corporations, and are most generally granted to educational and religious institutions. That there is no difference in principle between a direct grant of money and such exemptions is capable of mathematical demonstration, and yet in many states where the requirement of the constitution is that taxation shall be equal, that there shall be no state church, and that there shall be no privileged class, such exemptions have been held to be constitutional exercises of power, either from want of courage on the part of the judiciary to offend the powerful interests which enjoy such immunity, or from want of sufficient politico-economical knowledge to enable the judicial mind to see that such immunities are in point of fact of the nature of monopoly grants. — In the case of trade marks, copyrights and patents, the state grants legal monopolies on an entirely different theory from the grant of monopolies of a trading character. A trade mark is a property which even at common law has been recognized as a matter capable of individual ownership on the part of him who has created a good will therein; and although copyright (the right of an author to the exclusive possession of his intellectual product) is supposed to exist by virtue of law alone, yet even in such a case it is doubtful whether a careful analysis would not show that while the thoughts embodied in the author's works are, from the instant they are divulged, the common property of mankind, yet that form in which the author sees fit to put those thoughts is the special property of him who has given those thoughts that form. Kant insists most ingeniously that there is a natural right of property in an author's work independent of law, on the ground that a man has a right to make his speech to the community and that he alone can make it, and that no man may make it for him. When he prints that speech he simply multiplies his message to society, but he does not change the nature of his right. He alone is authorized, no matter in how many copies, to make that speech; and the publisher to whom he deputes that right is his mere agent in the multiplying of the speech; and while others may make speeches of a similar nature, no man can put the author's name to a speech that he did not make or did not authorize the making of; and therefore there is a natural right of property in the author to the speech as long as the author's name is connected therewith. Hence, if Kant's position is correct, copyright is the mere giving of legal sanction to a natural right of property, and does not partake of the nature of monopoly. — Patents, while they give a monopoly of the process or device to the inventor, on the other hand, destroy monopolies to a much greater degree than they create them. A man's right to his secret or trade is a well-recognized common law property right. In the absence of patent laws, every one making an invention would swear his employés to secresy, and would attempt as long as possible to keep the advantage of his process or his invention within the

knowledge of those only on whose loyalty he can depend. This right he has at law; the inadequate protection, however, that the law can afford to such secrets of trade, and the injurious effects upon the industrial progress of the world which the maintenance of such secrets has had, have induced society almost everywhere in the civilized part of the world to say to the inventor, "Publish your discovery to the world to the fullest possible extent; if you tell the whole truth as to your discovery we will secure to you the exclusive right to its use for a certain number of years, so that the world may have the benefit of the knowledge of the discovery or invention." Though doubts have been entertained at times as to the wisdom of patent laws, their utility, weighed as against the inconvenience of their absence, has on the whole been conceded by the leading publicists of the world. — As to all monopolies created by law, whether created in terms by the law or incidental to the law, it is the duty of the state to see to it that they do not become oppressive. An adherent, be he never so blind a one, to the *laissez-faire* doctrine of political economy, can not insist that in case of monopolies created by law the state shall let such monopolies alone. It is the constant duty of the law-making power to circumscribe the special organisms which it calls into being, for the purpose of keeping them within proper bounds and to prevent their too rapid and mischievous growth. Cases of greater difficulty, however, arise as to how society shall deal with monopolies which are qualified or incidental, and arise from the social organization. Where a business has grown to such proportions in the hands of certain individuals or combination of individuals that they can crush out competition by losses deliberately incurred by them, and which they can easily bear by reason of their enormous accumulation of capital, and which, therefore, drives out of business those who, though equally capable of rendering the service of supplying the commodity, are incapable of bearing the losses thus imposed, presents a problem which has not as yet been solved by modern society. The most flagrant and at the same time the most conspicuous example in this country, is that which is known as the "Standard oil combination." Originally a corporation with a capital not larger than that of many of its competitors, its managers, by securing special freight rates from the great trunk lines to the seaboard for their crude petroleum and the refined article, which was then manufactured by them at Cleveland, Ohio, obtained so great an advantage over their competitors that they had, on the one hand, the producer in their toils, and, on the other, so effectually destroyed their rivals in the business of refining that 90 per cent. of the enormous business done in refined petroleum in the United States, and which amounted in 1880 to 367,000,000 gallons, representing a value of $31,000,000, was engrossed and monopolized by the Standard oil combination. It is idle, because it is wide of the truth, to say that they were either superior refiners or superior producers. They simply were less scrupulous or more alert than their neighbors in making combinations with the railways, who, in violation of all proper business interests connected with transportation, and of their duty to the state, entered into a compact with them to deprive of a market others equally favorably situated for production and refining, so that the Standard oil company could purchase other refineries at any price they saw fit to pay for them, and in numerous cases purchased them simply to dismantle them so as to prevent production. When this combination, by such methods, became so powerful as to control a capital variously estimated at from ten to twenty millions of dollars, and now estimated at something like fifty millions of dollars, they openly dictated terms to the railways which prior to that time they had been in collusive combination with, and obtained exclusive control over their transportation facilities from the producing points to the seaboard. Not content with that condition of affairs, they determined to abandon the railways altogether, and constructed their own pipe lines to tide waters. Here is an industrial monopoly not created by law, which has no legal sanction for its performances or exactions, but which, nevertheless, operates precisely in the same manner as though a law had been passed placing the producers of oil in their possession, to be taxed at their own will, requiring the railway companies to charge them but such rates as they see fit to pay, prohibiting other people from engaging in the business that they are engaged in, and dismantling and destroying the works of those already engaged therein. Were such a law proposed to be enacted, the community would cry out that it was monstrous, far exceeding, in tyrannical outrage upon the community, anything that had ever been attempted by the Tudors. Yet in this free country, where all trades and occupations are supposed to be open to competition, this mischievous result has been achieved. It is clearly, therefore, the duty of the law-maker, under the principle of *salus populi suprema lex*, to insist that it is no part of the law of competition that men shall use their capital deliberately to ruin other people, and the legislator should prevent the existence of conditions which enable such unfair advantages to be obtained, to check them when they are likely to be obtained, and to undo the mischief if, by reason of the neglect of the law-maker, it has been permitted to be created. The state has a right to step in, and does step in, to protect all classes of the community who are supposed not to deal on equal terms with those with whom they are thrown in contact: clients as against lawyers, wards as against their trustees, infants as against persons of full age. Therefore some kind of protection must be afforded by law to industries which are likely to be subjected to an influence, under the guise of competition, so baneful and sinister as the one which has been exercised by the Standard oil company.

—Many other sinister combinations have existed and do exist in this and other countries. That of certain chemical manufacturers may be instanced, in which by losses deliberately incurred they have driven competitors out of the field and have maintained for a great number of years the monopoly of a market and extraordinary prices for their products, simply because they had incidentally acquired so vast a capital before their competitors came into the field that that which was a small percentage of loss on their whole business for a given year would result in utter ruin and bankruptcy to such competitors. In the rapid growth of capital in modern society these sinister forms of the exercise of its power must be carefully watched, and should become the subject of preventive legislation. — An exclusive possession of certain peculiarly favorably situated portions of land is one of those monopolies which it is extremely difficult to deal with under the modern theory of absolute ownership in land, modified only in so far as the right of eminent domain may justify its being taken for public use. The owner of a piece of property in Wall street or Broad street, New York, or upon the river frontage, has a perpetual monopoly in higher rentals, of the enjoyment of which it is difficult to deprive him without shaking one of the very foundations of society—the recognition of property in land. In most instances the burden borne by the community for the rental of such favorably located spots of land does not appear onerous, because the landlord adjusts the burden somewhat to the profits which can be made by occupation, whole or partial, of such bits of land. It is easy, however, to imagine a case where a peculiar spot of land may give its individual owner such power of exaction over the community that it is not to be borne. Should the harbor of New York fill up in such a manner that but few docks are accessible to ships of heavy draft, and those few docks belong to private individuals, it might then become necessary, for the purpose of preserving the commerce of the country or the city, for the community to step in and exercise right of eminent domain, take the land at a valuation and give it to the public at a moderate rate, or to apply the doctrine laid down by Lord Ellenborough, in a case decided in 1811, where the question of "reasonable charges" came before him on the part of the warehousemen on one of the London docks. Lord Ellenborough in that case determined, that wherever a man had so peculiarly favorably situated a piece of property that he had power to exact monopoly rates, it was part of the doctrine of the common law to limit him to reasonable rates so as to prevent him from taking an undue proportion of other men's wealth, because the policy of the English law frowned upon monopoly and favored freedom. — That enterprises such as railways have a tendency to become monopolies, although their building is quite free in the United States, arises from the nature of such enterprises. The proportion of fixed charges to mere operating expenses dependent upon the rate of business is so great in the railway, that it may almost indefinitely increase its business without at all in proportion increasing its expenses after it has once been constructed. The existing line can, therefore, almost always outbid a competitor for business as to the rate at which it sees fit to do it. As the service is consumed at the spot where it is created, and is rendered without a relative increase of expenditure for the purpose of rendering it, there is in such a case, in the nature of things, a monopoly created which demands the constant exercise of legal restraint. Although railways may be increased in number from given points, yet even when an active competition for a time prevails, the number of those railways will necessarily be so few that their interest to combine, as against their tendency to compete, will outweigh competition, and combination becomes the general result of almost all competitive railway building. After combination has been effected, the community is confronted with the fact that its service is no cheaper than it was before; that its business is done by two or three lines instead of one which previously rendered the service; that one line would have sufficed to have done the whole business, and that there is a loss of capital to the community represented by the building of the second or third line. This capital is lost because the community has failed to do its duty to limit the charges of these transporting corporations, which are enabled to earn extravagant rates of charge by the growth of the community, upon a limited business; and so large is the income, as compared with the cost of the same, that new capital is tempted into the same field for the purpose of dividing the business with the existing line, not because there is any necessity for the rival line because the existing line is incompetent to perform the work, but simply because of the profit made by the existing line upon the work performed by it; so that upon a given amount of business yielding on an expenditure of ten millions of dollars a million and a half a year profit, it will pay capitalists a fair rate of interest to expend another ten million dollars for the purpose of taking seven hundred and fifty thousand dollars net profits out of the existing line and dividing it upon the ten million newly invested. If the community were to reduce the profit of the existing line, by legal enactments, it is clear that the ten millions of dollars invested in the building of the second line would not be so invested, but would be available to the community for other purposes. No service is done to the community by the building of the new line between two given points, if prices remain the same to the community, and the business is subsequently divided between the two roads, but the ten millions of capital are diverted from other employments. If in consequence of competition between the two lines the price of carriage is reduced, the community is the gainer to the extent of such reduction; but if, after the new line

is built, a combination is made between the two roads to maintain prices so that both may earn dividends upon their capital, the community has lost for other purposes the ten millions unnecessarily invested—a very serious loss indeed. This has so frequently been the case that it is no longer a hypothetical illustration, but one taken from facts within the knowledge of every man who has observed the course of railway construction and railway wars and railway combinations in the United States; and while it is true that a competing line does touch, at intermediate points, territory which is not touched by the line previously existing, and thus incidental benefits are conferred, those incidental benefits by no means outweigh the enormous waste of capital which has been occasioned by railway construction for mere purposes of dividing business, with combination as to rates. — Gas companies and water companies stand precisely in the same relation to the community as railway companies. They have the power to exact monopoly rates simply because the plant once supplied gives to the persons or corporation who supply it an extraordinary power over others who propose to come into the business. Those who come into the business, come not to supply a superior article at lower rates as in ordinary businesses, but to divide the field; and they soon discover that to divide the field profitably they must maintain rates, and therefore two mains are frequently laid side by side in large cities by gas companies where one would suffice to supply all the necessary gas. The community is no better served; the same rates are maintained as to gas that have existed theretofore, and the same poor commodity furnished, because the individual householder does not stand in a position of equality with the corporation that supplies him, and the injustice to which he is subjected is so small to him individually, although amounting in the aggregate to great profits to the corporation, that it scarcely pays him to conduct a fight. The community, therefore, in such cases is generally the loser, as to capital, of all that portion of plant which occupies the same field that is already occupied with means of abundant supply on the part of the existing corporation before the competitor came in — The same rule applies as to water supply. Hence, in all such cases it is the duty of the community, through its law-making and judicial powers, to prevent waste of capital. This can be accomplished by regulation as to price and regulation as to quality of commodity or service to be supplied. The ground of such regulation is not simply that some of these corporations exercise the right of eminent domain, but is based on the principle well recognized at common law from its earliest development, that where parties do not stand in equal position to make a contract it is the duty of the state to see to it that the contract is fair, and where parties who do not stand toward each other in equal position, from the nature of circumstances are compelled to make a contract, it is the duty of the state to prescribe the terms of such contract. A trader along the line of a railway is compelled to make his contract with the railway corporation from the nature of his business and the nature of the business of the railway. It is the duty of the state to see to it that he is not unjustly discriminated against, and that others do not obtain terms which he himself does not get. — During the great railway investigation in the state of New York the one underlying principle as to traffic charges which the managers of the two great leading railways of this country insisted upon during the whole course of that investigation was, that they had a right to charge what the traffic would bear; in other words, that they had a right to charge all that they could under the given circumstances enforce the payment of. Throwing aside all question of the fact that the railway corporation exercises the right of eminent domain, and that it is a common carrier, it is peculiarly and specially subject to legal restraint on the grounds mentioned by Lord Ellenborough in his decision already referred to, that its position is one of advantage toward the person dealing with it. The parties do not stand in equal relation as to contract. This is a doctrine which, even in private businesses where the parties do not stand on equal ground at the time when the contract is made, prevents contracts from being enforced in favor of the superior who made the most of his situation. In the middle of the night a citizen needs the service of a doctor to save the life of his child. There is but one physician within miles, and before he can secure the services of another his child may die. He is a rich man. Were the doctor to exact, as the condition of his leaving his house, half of the wealth of the man, "because that is what that service might bear" under those peculiar circumstances, and the victim were willing to make a contract to give it to him, any properly constituted court of equity would give him relief, and if he had paid the exorbitant demand he could recover it back. But so little restraint have industrial and carrier corporations in the United States been subjected to that not only have they in the past but they even now claim that they are to be regarded as entirely private enterprises to be left free from legal interference, and that as the basis of their treatment of the traveler and freighter they will, when they can, apply the monstrous doctrine that they have the right to take advantage of their position as against them, and exact the last farthing of the amount that the traffic will bear. — Monopolies of this industrial character are more difficult to deal with in the United States than in any other part of the civilized globe. Not only have they already attained such proportions that the legislative machinery of many states is under their control, but they also have extended their influence into the business of politics, and so largely control the politicians of the country that every attempt to subject them to proper supervision has, because of that overshadowing influence which they have already acquired, proved thus far well nigh fruit-

less. Their influence does not rest, however, only in the fact that they have the machinery of politics under their control. The public press, particularly in metropolitan centres, is in part owned or controlled by persons holding large interests in such enterprises, and thus public opinion is vitiated upon these subjects to a degree not easily understood. Another difficulty in subjecting them to proper control and exercising the right of the public upon these subjects, is the well-grounded suspicion of the community that the monopoly of the politician is one not less dangerous than that of the industrial and carrier enterprises, and that to subject to governmental control the great corporations in the state, involving hundreds of millions of dollars of capital, is simply to substitute a master no more scrupulous without capital in the place of one which is at least restrained and made conservative by the possession of capital. One of the reasons why the reform of our civil service, reform of our methods of legislation, and reform in our representative system, are so imperatively demanded, is because such reforms lie at the basis of all other reforms, and that under existing conditions the public will not and can not trust its law-making, executive and judicial powers so long as there is a feeling that they are not free from corruption, and that the power that they exercise will be exercised for their personal ends and not for the public weal. There is scarcely a state in the Union in which the adjournment of its legislative body is not hailed with delight, nor its convening regarded with dread by the citizens of the state, and so long as this feeling is justified, it is almost hopeless to clothe such legislative bodies with power sufficiently great to hold other sinister powers in check. Such a transfer of power is quite fairly regarded as making a leap into the dark. — Another difficulty in the United States, in dealing with the existing industrial enterprises, is fundamental. Railways extending from state to state, from one side of the continent to the other, overleaping state lines and disregarding them, renders each state powerless to deal with corporations of this character as a whole, and it can only deal with the section it happens to have control over, and the power of the United States has as yet not been sufficiently concentrated to deal with the subject adequately. In our loose organization of government—intentionally made loose at the time of the adoption of the constitution of the United States—as the monopoly power that was then to be apprehended was that which arose from government itself, government was, therefore, intentionally and deliberately weakened, and it has therefore become a prey to almost any powerful interest that sees fit for the time being to capture it; and thus while the framers of the constitution took great care that there should be no laws of primogeniture, that perpetuities shall be prohibited, that no nobility should be created, so that capital, honors, fame and even distinguished services shall give to their possessor only a temporary benefit, and that such capital, honors and fame shall all be again distributed by the natural process of death into the body of the community, they did not foresee that the great moneyed corporations of the community would prove more attractive than patents of nobility, would be more potent than the fame of leaders of armies, would concentrate capital more powerfully and continuously than by the process of mortmain and perpetuities, and would be more dangerous to the body politic as to its freedom than an aristocratic class. — With power to exact monopoly rates incident to that kind of superior personal ability embodied as to oratory in a Webster, as to art in a Meissonier, as to acting in a Rachel, as to forensic ability in a Choate, no quarrel can be made. These phenomenal abilities commanding phenomenal prices for their services are entitled to what they earn, because no man is required to pay who does not think he will obtain what he deems an equivalent service or pleasure. Monopolies which arise from natural advantages we can therefore dismiss from the purpose of this article. With the exception of trades union regulations we know of no human society or class of men who object to the remuneration which these masters receive in their respective professions. Of course these advantages are of infinite gradation; exist between two bricklayers as well as between two lawyers; but it is only in the case of great special aptitudes that command attention that these distinctions become so characteristic that they partake of a monopoly element, and as the monopoly dies with the individual who possesses the power, and frequently exists but for a short span of years, it is one, as we have said, with which we can find no fault and which does no harm. — As to the subject of ownership in land, which has recently again come up for discussion as a monopoly, by the revamping of arguments which Proudhon presented with most *esprit*, suffice it to say that the individual monopoly in land is in the present organization of society the only possible condition on which land can safely be held. The only alternative which is or can be presented by those who object to the monopoly in land on the part of the individual, is that of the ownership by the community. The ownership by the community means the ownership by the government. The ownership by the government means substantially the control of such ownership by those who have for the time being possession of the reins of government; and government is as yet so utterly defectively organized, so little even in free countries does it represent either the will or the interests of the whole people, and so far are the incumbents of official positions from subordinating their own personal interests and the interests of their families and friends to that of the public weal, that such ownership by the public, which in other words means control by the politician of all the landed property of the community, would create a tyranny so burdensome and so intolerable, and cre-

ate unequal taxation so monstrous, that nothing in modern history would at all form a parallel. Imagine Tweed and his gang of thieves, when they had control of the treasury of the city of New York, at the same time controlling every lot of land in the city of New York as to who was to occupy it and at what rental, and picture the utter impossibility of dislodging him and them from power, and how such ownership by the state or community as represented by Tweed and his junta would have been exercised. Indeed it appears to the writer to be the vainest of occupations during any period of time about which we need to give ourselves any concern, in a country where land is still so easy of attainment, and at so cheap a price, to speak seriously of monopoly of land as being likely to become burdensome; and to suggest public ownership as an alternative, against the monopoly of private property, before an entirely different condition of political morality will prevail, seems puerile. It may be conceded at the outset that the ownership of land is a monopoly, but it is a monopoly which society is compelled to recognize from the necessity of the case so as to prevent a much worse monopoly from taking its place. We need not, therefore, shut our eyes to the fact that in the remote future the time may come when individual ownership in land may become a burdensome monopoly. It is to be hoped, however, that when that time does come, those who then are uppermost in the field of politics and of government will be so vastly superior in character and mind to the present prevailing politicians and so-called statesmen that the ownership in land may then safely be transformed from a personal into a governmental monopoly.

SIMON STERNE.

MONROE, James, president of the United States 1817–25, was born in Westmoreland county, Va., April 28, 1758, and died at New York city, July 4, 1831. He was graduated at William and Mary in 1776, served in the continental army, studied law with Jefferson, and was a delegate from Virginia to the continental congress 1783–6. He was a democratic United States senator 1790–94, minister to France 1794–6, and governor of Virginia 1799–1802. He was again minister to France in 1803, to Great Britain in 1803, and to Spain in 1805. In 1811 he again became governor, and thence became secretary of state during the rest of Madison's two terms. He became president in 1817, and was re-elected in 1820, coming short but one of a unanimous electoral vote. In 1831 he removed to New York city. (See X. Y. Z. MISSION; ANNEXATIONS, I.; EMBARGO; QUIDS; CAUCUS. CONGRESSIONAL; INTERNAL IMPROVEMENTS; MONROE DOCTRINE; DEMOCRATIC PARTY, IV.; ELECTORAL VOTES; UNITED STATES.) — In his earlier political life Monroe was decidedly more ultra than the more conservative Madison, and his "View of the Conduct of the Executive" shows him to have been a democrat rather than a republican. In 1808–9 he was Madison's unsuccessful rival for the presidency, but afterward entered his cabinet and succeeded to his office in due course. His presidency was marked by a disappearance of old political issues. (See ERA OF GOOD FEELING.) — Monroe's correspondence is still in the department of state at Washington, inedited; but it has been used by Schouler, as cited below. See Monroe's *View of the Conduct of the Executive, The People the Sovereigns,* and his messages in the *Statesman's Manual;* Adams' *Life of Monroe;* Waldo's *Tour of President Monroe in* 1817; 2 Schouler's *United States;* and authorities under articles above referred to.

ALEXANDER JOHNSTON.

MONROE DOCTRINE. Soon after the overthrow of the empire of the first Napoleon, the rulers of Russia, Austria, France and Prussia formed an alliance for mutual protection, not against aggression from foreign powers, but against revolutionary movements within their own states. At a congress held by the allied powers at Troppau (1820) it was agreed that the main purpose of the alliance should be to maintain the principle of the legitimacy of the existing dynasties; and that if this principle were threatened in any country in Europe the allied powers should preserve it by actual and armed interference. Popular risings having taken place in Piedmont and Naples, they were put down by the armed forces of Austria, in pursuance of measures taken at the congress at Laibach (1820), and the revolution in Spain against Ferdinand VII. was suppressed by French armies, in consequence of resolutions taken at the congress of Verona (1822). — At the first two congresses the English government, then represented by Castlereagh, had, although not strictly one of the allied powers, participated in and sanctioned the proceedings. But at the point of starting for Verona Castlereagh committed suicide, and George Canning, becoming secretary of state, disapproved of the Spanish intervention. After the restoration of the Spanish king, Canning thought he had reason to believe that the principle of intervention would be also applied to the reduction of the American colonies of Spain, which ever since 1810 had been successively drifting into open revolt. These colonies had freed themselves from the colonial bondage which fettered their trade with the outside world, and England had largely profited by their independence. That independence had already been recognized by the United States, and both interest and sympathy made the latter strongly opposed to any effort toward reconquest on the part of Spain. — In the summer of 1823 Mr. Canning mentioned his suspicions to Mr. Rush, the American minister in London, and expressed his great desire to have the United States join with him in endeavoring to thwart the object of the allied powers. Speaking of a cabinet meeting held in September, 1823, Mr. J. Q. Adams, then secretary of state to Mr. Monroe, says: "The subject for consideration was the confidential proposal of Canning, secretary of

state, to R. Rush, and the correspondence between them relating to the project of the holy alliance upon South America. The object of Canning appears to have been to obtain some public pledge from the United States ostensibly against the forcible interference of the holy alliance between Spain and South America, but really or specially against the acquisition by the United States of any part of the Spanish possessions." ("Memoirs of John Q. Adams," by Chas. F. Adams, vol. vi., p. 177.) For Mr. Rush's dispatches of Aug. 23, 1825, see "The Court of London, 1819–1825," by R. Rush, republished by his son, London, 1873. Mr. Adams thought lightly of the matter, (see his diary of September, October, November, 1823, *passim*), but Mr. Monroe and other members of the cabinet, particularly Mr. Calhoun, were, as Mr. Adams says, "very much in fear that the holy alliance would restore all South America to Spain." Upon long and careful consideration it was finally agreed to express some disapprobation of the scheme in the message; and the passage relating to this subject, and also another relating to the claim of Russia to part of the northern Pacific coast, was much debated, and also submitted as finally adopted by the cabinet to Mr. Jefferson and Mr. Madison. The annual message of 1823 contained the following sentences in regard to the first point: "We owe it to candor and to the amicable relations existing between the United States and the allied powers to declare, that we should consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety. *With the existing colonies or dependencies of any European power we have not interfered, and shall not interfere; but with the governments which have declared their independence and maintained it, and whose independence we have, on great consideration and just principles, acknowledged, we could not view an interposition for oppressing them, or controlling in any other manner their destiny by any European power, in any other light than as a manifestation of an unfriendly disposition toward the United States.*" In another part, with reference to the Russian claim of occupation, and also, perhaps, as Mr. Adams suggests, with reference to a supposed cession by Spain of part of its colonies, in case of success, to other European powers, which might colonize some of the sparsely settled Spanish possessions, the following expression occurs: "The American continents should no longer be subjects for any new European colonial settlement." In these passages is found what has since been called the "Monroe doctrine." The Russian claim was soon amicably settled, as was also a similar controversy with Great Britain on the same Pacific coast by the treaty of Washington in 1846. It was afterward contended that the allied powers never had any such intention as Mr. Canning supposed, and France publicly disavowed any such purpose. Mr. Adams also disbelieved it. There can be no doubt, however, that something like an interference was suggested by the new ministry of the restored king of Spain. It appears from the "Memoirs of Prince Metternich," but recently published, that as lately even as in the summer of 1824, and several months after Mr. Monroe's message became known in Europe, a note was addressed to the allied powers, by the Spanish minister of foreign affairs, proposing a conference to be held at Paris, to take into consideration the regulation of Spanish American affairs, and to which England should be invited. France, Austria, Russia and Prussia adhered to the plan, but the invitation was met by Canning with an "almost brutal" refusal. (*Memoires de Metternich*, vol. iv., p. 97, and note, Paris, 1881.) Considering the great power then exercised over the whole of Europe by the allied powers, and the submission everywhere yielded to them, even in many instances by England herself, this declaration on the part of the United States, then comparatively a weak power physically, by Mr. Monroe, was a bold patriotic manifestation, and the spirit which dictated it will ever be highly appreciated, as it was at the time, even in Europe, by all the liberal classes. It strengthened England in her opposition to European intervention, and hastened her recognition of the independence of the Spanish American colonies.— The meaning of this declaration was very plain. Some of the colonies founded by Spain on this continent had declared themselves independent, and had thus far successfully sustained that independence. The United States having recognized their independence, there is reason to believe that the allied powers contemplated interference between those independent governments and Spain according to the system of intervention which they had proclaimed in Europe, and just carried out with so much success. Against this intervention the government of the United States might feel bound also to intervene. Nothing was said about the United States abandoning the neutrality which it had hitherto observed between Spain and her rebellious colonies. If Spain would reconquer them she might try, but the United States would not permit that to be done with the assistance of the allied powers, who were bent not only on sustaining and propagating absolute monarchical government in Europe, but also on introducing that form of government into the new world by their system of intervention. — This was the view Mr. Jefferson took in his reply to Mr. Monroe, when the message had been submitted to him. He expressed himself as follows: "I could honestly, therefore, join in the declaration proposed that we aim not at the acquisition of any of those Spanish American possessions; that we will not stand in the way of any amicable arrangement between them and the mother country; that we will oppose with all our means the forcible interposition of any other power, as auxiliary, stipendiary, or under any other form or pretext, and most especially their transfer to any power by conquest, cession or acquisition in any other way."— To leave no doubt upon the

true construction of the Monroe declaration, and to do away with false impressions, which had even then begun to prevail with some, the house of representatives in 1825 passed the following resolution: "That the United States ought not to become a party with the Spanish American republics, or either of them, to any joint declaration for the purpose of preventing interference by any of the European powers with their independence or form of government, or to any compact for the purpose of preventing colonization upon the continents of America; but that the people of the United States should be left free to act in any crisis in such a manner as their feelings of friendship toward those republics, and as their own honor and policy may, at the time, dictate." In other words, the United States should not be fettered by any doctrine or programme, but left free to act as occasion might require. Mr. Calhoun, one of the advisers of Mr. Monroe, and who took most interest in the declaration, (see Adams' "Memoirs and Diary" of September–December, 1823, *passim*), speaking of the Monroe doctrine, in the debate in the senate on the question of the acquisition of Yucatan, asserted most emphatically that "the United States was under no pledge to intervene against intervention, but was to act in each case as policy and justice required." (See note 36 to p. 97, Wheaton's "International Law," by Dana.) A resolution introduced by Mr. Clay, January, 1824, in the house of representatives, "deprecating European combinations to resubjugate the independent American states of Spanish origin," and thus giving support and emphasis to the declaration in the message of December, 1823, seems never to have been acted upon, and was not referred to any committee. — Mr. Benton, in his "Abridgment of the Debates of Congress, 1789–1856," vol. vii., p. 470, accompanies the paragraph of Mr. Monroe's message given above, with an extensive note in which he says: "This paragraph contains the doctrine so much quoted then and since as the 'Monroe doctrine'; and the extent and nature of which have been so greatly misunderstood. It has been generally regarded as promising a sort of political protection or guardianship of the two Americas—the United States to stand guard over the new world and repulse all intrusive colonists from its shores. Nothing could be more erroneous or more at war with our established principles of non-interference with other nations. The declaration itself did not import any such high mission and responsible attitude for the United States; it went no further than to declare that any European interference to control the destinies of the new American states would be construed as the manifestation of an unfriendly spirit toward the United States. This was very far from being a pledge to take up arms in the defense of the invaded American states; and the person of all others, after Mr. Monroe himself, and hardly less authoritative on this point—Mr. Adams, his successor in the presidency—has given the exact and whole extent of what was intended by the declaration." Mr. Benton concludes this note as follows: "The occasion for the Monroe declaration was this: Four of the powers which overthrew the great emperor, Napoleon I. —Russia, Austria, Prussia and France—having constituted themselves a 'holy alliance' for the maintenance of the order of things which they had established in Europe, took it under advisement to extend their care to the young American republics of Spanish origin, and to convert them into monarchies, to be governed by sovereigns of European stock, such as the holy alliance should put upon them. It was against the extension of this European system to the two Americas that Mr. Monroe protested, and being joined in that protest by England, the project of the allies was given up."—Since that time there never was any real occasion to press the Monroe doctrine into service. It went into the domain of past history. The only time, perhaps, when apparently there was a similar concatenation of circumstances to those of 1823, was when an auxiliary army of French and Belgians invaded Mexico, to assist Maximilian, of Austria, in securing to himself the imperial throne offered to him by a powerful faction of the Mexican people. But even then, Mr. Seward repudiated the "Monroe doctrine" as not applicable to the circumstances. —In a dispatch to Mr. Motley, the American minister at Vienna (Oct. 9, 1863), who had expressed great alarm at the expedition of Maximilian, and sought instructions as to asking the emperor of Austria for explanations, and had also referred Mr. Seward to the Monroe doctrine, Mr. Seward instructed the minister not to interfere, using these remarkable words: "France has invaded Mexico, and war exists between the two countries. The United States hold in regard to those two states and their conflict the same principles that they hold in relation to all other nations and their mutual wars. *They have neither a right nor any disposition to intervene by force in the internal affairs of Mexico, whether to establish or maintain a republican or even a domestic government there, or to overthrow an imperial or foreign one, if Mexico shall choose to establish or accept it.*" —In a popular and much wider but indefinable sense, the Monroe doctrine means what Mr. Benton said was a misconstruction of it, that is, a sort of political protection or guardianship of the two Americas, to be exercised by the United States.

G. KOERNER.

MONTANA, a territory of the United States, formed of part of the Louisiana cession. (See ANNEXATIONS, I.) It consists of 143,776 square miles, bounded north by British Columbia, east by Dakota, south by Wyoming and Idaho, and west by Idaho. It was organized by act of May 26, 1864, its territory being taken from Idaho. Its population in 1880 was 39,159. Its capital is Helena, and its governor in 1882 is Benj. F. Potts. — The act of May 26, 1864, is in 13 *Stat. at Large*, 85.

ALEXANDER JOHNSTON.

MONTENEGRO, a principality formed of a group of mountains on the west of Turkey, between Herzegovina on the north, Albania on the east and south, and Dalmatia on the west; on the latter side it is only separated from the basin of Cattaro and from the Adriatic by a strip of Austrian territory one league wide. Its area is 3,550 English square miles. The country is composed of Tsernagora, old Montenegro, and the Berdas, mountainous districts annexed at different times, and the annexations effected in 1878, including Dulcigno. The land bristles with pointed cliffs, and is intersected by walls of rocks; there is no easy communication with the world outside, except by the way of Lake Scutari. The capital is Cettigne, situated in Tsernagora. The population, which was estimated at 25,000 in the seventeenth century, and at 100,000 in 1835, in 1879 had increased to 250,000. — The principality of Montenegro dates from 1485, when the Turks succeeded in destroying the kingdom of Serbia. The last of the Serb princes of Zeta, Ivan Tchernojevitch, being unable to hold the country, went to Tsernagora with his most faithful companions, added intrenchments to the natural defenses, and established his residence at Cettigne together with the episcopal liege. Thirty years later, power fell to the bishop; a third prince, George, married a Venetian, who, soon becoming disgusted with the rude and austere life of Montenegro, persuaded her husband to forsake the principality for a life in Venice. — The history of this country is simply a succession of stubborn conflicts between an indomitable little people and the neighboring pashas. The Montenegrins were always glad to serve the Venetians and Austrians as auxiliaries against the Turks, and when, abandoned in the treaties, they were left to their own resources, they continued nevertheless in a state of persistent hostility. Completely defeated in 1623, they were obliged to pay the haratch; but at the commencement of the eighteenth century when Russia began her policy of aggrandizement, she found in these eternal enemies of Turkey natural allies by the community of origin and religion During the campaign of the Pruth the Montenegrins massacred 30,000 Turks. Vengeance did not delay its appearance; sword and flame spread desolation through Montenegro, and of the population there remained but the remnant which had escaped to the highest summits of the mountains and toward Cattaro. On the withdrawal of the Turks, however, the desert which they had made was repeopled; the principality was reconstituted under the protection of Russia. At the congress of Paris, Prince Daniel demanded absolute independence, hereditary power, and an outlet for the country by the cession of a port on the Adriatic. England had these demands set aside. Turkey, emboldened by this act, launched an army on Montenegro, and sustained a sanguinary defeat at Grahova. An international commission was intrusted with the tracing of new boundaries; but Prince Daniel was assassinated in 1860; fortune changed; and the victorious porte had a military road constructed across the country, with blockhouses occupied by Turkish troops. On the representations, however, of various powers, the blockhouses were demolished, and the porte, while preserving its sovereignty, consented to the maintenance of the territorial and administrative *statu quo* of Montenegro. This country, therefore, is semi-sovereign. Its constitution underwent considerable changes in the middle of the present century. The bishops (*vladikas*) being vowed to celibacy, had to designate their successors by will; then every new prince, monk or layman, was obliged to go abroad to be consecrated by a Greek metropolitan. At the death of Peter II., in 1851, his successor, Daniel, declared that to remove these difficulties he resigned the spiritual power, and his resolution, submitted to the assembled people, was sanctioned almost unanimously. Peter II. undertook to give more power to the government by beginning a centralization which his successor completed. Families descended from a common ancestor continued to form a tribe, *plemya*, but instead of being submitted to the patriarchal government of an hereditary chief, each plemya received as chief a captain appointed by the prince, paid by the state and liable to be deposed at any time. In each village of a plemya was established, in like manner, a lieutenant, dependent on the captain. The plemyas were distributed into eleven districts, called *nahias*, four of which formed old Tsernagora, and seven the Berdas. At the head of each nahia was placed a senator, intrusted with its administration, and with dispensing justice, and subject to the prince in the same way as the captains and lieutenants. — In 1855 Prince Daniel promulgated a code, in which he succeeded very skillfully in reconciling the ancient customs of the country with the new duties which were imposed on it. This code, which forms a political constitution in ninety-three articles, as well as a collection of civil and criminal law, has effected immense progress. Besides the prince, there is a senate, composed of sixteen members, intrusted with deliberating on public affairs on which the prince asks its advice; passing judgment on offenses involving more than 100 francs fine, and deciding on appeals from judgments rendered by the captains of the plemyas. The president, vice president and members are appointed by the prince; they receive a salary and are lodged at the expense of the state. The assemblies are held at Cettigne, in a long, thatched building, divided into two parts, one of which serves as a stable for the asses and mules which bring the senators from the villages, and the other as the hall for deliberation. — Every inhabitant from seventeen to fifty years of age is obliged to render military service at the first call of the prince. It is calculated that in this way 25,000 men are in a condition to bear arms; but as only three-fourths of them can be put into the field, the prince designates the nahias which are to furnish their contingents, or fixes the number

of men to be taken in each nahia. Each individual furnishes his own arms, and, taking as many cartridges as he finds, and as much provision as he can carry, sets out for the place of muster. There are no quartermasters' departments or camps; the men sleep without tents where they can; they eat if the women bring them provisions, or if they make raids. The senator of the nahia is the commander of its contingent; he has lieutenants under his orders who are chiefs of the villages, and each commands 100 men; under these are corporals who command ten men. There is a permanent and paid military body for the purpose of maintaining order, the *perianiks*. These soldiers are distributed in the nahias, under control of the senators and lieutenants. They are also connected with the guard of the house and person of the prince; for this purpose fifteen of them are always at Cettigne, and are changed every month. — The industrial productions consist only in a powder mill established by Peter II., in woolen stuffs, and in cloth of gold or silver, which the women spin and weave. The rearing of cattle is the chief occupation of the inhabitants. There are few cows, but many sheep and goats which form an article of exportation, together with honey, sumac wood, trout and other fish, smoked or salted. Daniel had a great number of mulberry trees planted, and silkworm cocoons figure among the exported products. In the nahias, sheltered from the north winds on the side of Lake Scutari, fruits and vegetables are produced in abundance; also wine and tobacco Arable lands, however, are rare; every space with productive earth is surrounded with a wall of dry stones and planted carefully with Indian corn, rye, barley, oats and vegetables. Potatoes, introduced in 1780, are produced abundantly, and sold in the market of Cattaro. In exchange for their products, the Montenegrins obtain from the neighboring countries necessary manufactured articles, which, owing to the simplicity of their manners, are few; they are chiefly tools, coffee, salt, lead and arms. — Wars, and the new organization of the country, have increased the public expenses and necessitated additional taxation. The receipts are made up of the personal tax, customs duties, the products of the farming of spirituous liquors and sumac wood; the total amounts to about 120,000 francs, which does not entirely cover the expenditure. The prince has his civil list, obtained in part from the fisheries and the product of several farms. To these receipts, which amount to about 70,000 francs, is added an annual subvention of 8,000 ducats, which he receives of Russia, and which makes a total of about 166,000 francs. But custom imposes on him heavy expenditure; he has presents to make, assistance to give; he aids in filling the deficit in public receipts, and in case of famine he imports grain from abroad. The finances still retain the character of the ancient régime of the vladikas. — BIBLIOGRAPHY. Andric, *Geschichte des Fürstenthums Montenegro*, Vienna, 1853; Delarue, *Le Monténégro*, Paris, 1862; Denton, *Montenegro: its People and their History*, London, 1877; Dutschitch, *Zena Gora*, Belgrade, 1874; Gopcevic, *Monténégro et les Monténégrins*, Paris, 1877; Kohl, *Reise nach Montenegro*, 2 vols, Dresden, 1851; Kovalevsky, *Montenegro and the Slavonic Countries*, London, 1872; Krasinski, *Montenegro and the Slavonians of Turkey*, London, 1853; Sestak and Scherbs, *Militärische Beschreibung des Paschaliks Herzegowina und des Fürstenthums Cernagora*, Vienna, 1862; Viscountess Strangford, *The Eastern Shores of the Adriatic in 1863, with a Visit to Montenegro*, London, 1864.* SMITH.

MORAL AND POLITICAL SCIENCE. J. B. Say, in the passages which we quote below, has defined the nature, object and utility of moral and political science in such a manner that there can be no need of our adding anything upon the subject. — "The general laws which constitute political and moral science exist in spite of disputes on the subject. This is so much the better for those who would discover these laws by means of judicious and continued observation, demonstrate their connection, and deduce the consequences which result from them. They flow from the very nature of things, just as certainly as the laws of the physical world; we do not imagine them, but find them; they govern the men who govern others, and can not be violated with impunity. The general laws which regulate the march of things are called *principles*, as soon as it is a question of applying them; that is to say, as soon as they are made use of to judge of circumstances, and serve as a rule of action. The knowledge of these principles alone insures the success of this march, which is constantly and successfully directed toward a good end." — After defining the experimental method, the same writer adds: "The natural, physical and mathematical sciences must be the first to share the progress which method renders possible: the facts upon which they are based affect the senses more directly; it is more difficult to deny them; their investigation does not wound any interest; a man may study physics in the Austrian states without exciting the alarm either of the prince, the nobles, or the clergy. The same can not be said of moral and political science. Its study is proscribed in all countries that are governed in the interest of a few, and Napoleon prohibited it in all the institutions of France, as soon as he became all powerful. Vain effort! If moral and political science is, like other sciences, based upon

* The constitution of Montenegro was somewhat changed in 1879. The executive power rests with the reigning prince, while the legislative power is vested in a state council of eight members, one-half nominated by the prince and the other half elected by the male inhabitants, who are bearing or have borne arms. By the "administrative statute" of 1879, the country was divided into eighty districts and four military commands. — There are no official returns of the expenditure and revenue of Montenegro. The former is estimated, however, at 180,000 Austrian florins and the latter at 300,000 florins per annum. There is no public debt.

realities, it shares in the progress which the human mind owes to experimental methods; but is it based upon realities? If we consult experience and repeated observations, many moral facts may acquire a certitude equal to that of many physical facts. We see them, and see them repeated a thousand times; by means of analysis we know their nature, their formation and their results; we can not doubt their reality. After weighing gold and iron several times, we are convinced that gold is comparatively heavier than iron; this is an indubitable fact; but it is no less real a fact that iron is less valuable than gold. However, value is a purely moral quality, and one which seems to depend upon the fleeting and changeable will of men. Nor is this all. The spectacle of the physical world presents to us a series of phenomena, linked one to another; there is no fact which has not one or several causes. All other things being equal, the same cause can not produce two different effects: the grain of corn which I plant does not produce at one time an ear of corn, at another a thistle; it always produces corn. When the land is mellowed by cultivation and fertilized by manure, the same field will, with an equally favorable season, produce more than if the land had not been treated in this way. Thus it is that like causes always produce like effects. Now, it may be readily perceived that the same is true in political economy A fact is always the result of one or several facts which have gone before it, and are the causes of it. The events of to-day have been brought about by those of yesterday, and will exert an influence over those of to-morrow; all have been effects and will become causes, just as the grain of corn, which, being a product of last year, will produce the ear of corn of this year. To pretend that any effect whatever in either the moral or the physical world happens without a cause, is to pretend that a plant may grow without the seed having been sown; it is to suppose a miracle. Hence has originated the expression *the chain of events*, which proves that we regard events as links which are connected one with another. — But what certainty have we that a fact which goes before is the cause of one which follows, and that a series of links connect these two with one another? We attribute an event which we witness to a certain circumstance that went before it; but may we not be mistaken? The circumstance that preceded the event was perhaps not the cause of it. It is because it does not know the true causes of events that the human mind seeks for supernatural causes, and has recourse to superstitious practices and charms, the use of which was so common in times of ignorance; useless and sometimes injurious practices, which always have the deplorable effect of turning men away from the only means whereby they can attain the end desired. — A science is complete in its relations to a certain order of facts, in proportion as it is possible for us to point out the bond which unites these facts to one another, and to connect effects with their real causes. This is achieved by scrupulously studying the nature of each thing that plays any part whatever in the phenomenon which we desire to explain; the nature of things discloses to us the manner in which things act and the manner in which they support the actions of which they are the object; it shows us the relations and connections of facts one with another. Now the best way to ascertain the nature of a thing is to analyze it, to see in it everything that it contains, and nothing but what it contains. — To produce values, we do not act upon insensible beings only, nor do we employ only material properties. We have more to do with men who have wants, desires and passions, and who are subject to the laws which are imposed upon them, some of them by their nature as men, others by society, of which they are members. To guide us in our labors all these laws must be known, and to be known they must be studied. This is the object proposed by moral and political science, whose end is to study moral and social man. These laws are very numerous in the social state, because in this state our relations with men and things are extremely numerous. This study embraces not only the laws which flow from our moral nature or our physical wants or from our means of satisfying them, but also the laws of the body politic, civil and criminal legislation. — In speaking of the laws to which men and things are subject, note that I do not examine in virtue of what right such or such a law is imposed upon them, nor in virtue of what duty they submit to them. The *fact* and not the *right* is what we are considering here. I call *law*, whether in physics or in morality, every rule from whose influence we can not withdraw ourselves, without concerning myself with the question whether that rule be equitable or not, or whether it is baneful or beneficial, questions which are the object of a different study from that which we are now considering (political economy). — The knowledge of the nature of things, moral and physical, and of the laws which flow therefrom, can be acquired only by numerous observations, repeated experiments, comparisons and combinations beyond number. All this requires profound meditation and assiduous study. The more science is extended and perfected, the longer and more difficult this study becomes; for a science extends because it comes to consist of a greater number of observed relations and of a greater number of laws discovered or recalled to memory. When the branches of human knowledge are very numerous, the life of man is not long enough to learn even one single order of facts and laws, that is, one single science. A savant, therefore, is thought to have used his time and faculties well, and to have rendered sufficient service to his fellow-men, if he has thoroughly mastered a single branch of a single science. Pythagoras and Thales knew all that could be known in their time. Aristotle wrote the best books of his age on politics, morality,

belles-lettres, and natural history; but if he lived in our day, not only would he have to renounce *belles-lettres* to study all there is to be learned of natural history, but, supposing that he wished to make himself a master of one single branch of natural history, such as botany or mineralogy, he would be obliged to limit himself to a superficial acquaintance with the other branches. To become famous in mineralogy, he would have to leave to other savants the study of animals and plants. Thus only could he hope to extend the sphere of that branch of knowledge which he had cultivated." J. B. SAY.

MORALITY, Agreement of, with Political Economy. Something more than a century ago, some men of genius, in searching for the causes of the wealth of nations and giving a systematic exposition of the phenomena observed, laid the foundations of a new science under the name of political economy. Since that time, and under the influence of studies of this nature, incontestable improvements have been accomplished in every civilized country; and if we were to enumerate all the reforms brought about and the abuses abolished by political economy, and all the fruitful applications of the principles newly brought to light under this name, we should proclaim that the science of Smith and of J. B. Say, of Droz and Bastiat, of Malthus and Ricardo, deserves one of the highest places in public esteem. Inoffensive in its nature, intended to render prosperity as general as possible, reaching, so to speak, a material demonstration of the precepts of justice taught by religion and philosophy, political economy should be above all attack: it has, however, met with numerous and violent adversaries. They not only contest its efficacy; they often question even the morality of its tendencies. This reproach, however unjust it may be, is too grave to be despised. We shall therefore inquire here as to the cause of these accusations, and what foundation they have. — The attacks directed against political economy come from three entirely different sources. First, there is in the religious world a certain number of persons who, having heard it spoken of as a science whose end is the *creation of wealth*, imagine that it must be contrary to the self-denial taught by the Gospels. More zealous than enlightened, these persons overlook the fact that it is a question not of the selfish enrichment of certain individuals, but of the production of goods indispensable to the human species, in order that it may perpetuate itself according to the direction of Providence, and develop according to the laws of eternal justice. A second group of adversaries is made up of utopists. These latter, never having taken the pains to study the theories which they assail, are convinced that political economy reigns and rules in our contemporary society. Hence, they hold it responsible for the grievances, more or less manifest, of which they complain. They execrate the principle of *laissez faire*, as if the operations of industry met with no obstacles; they blame the principle of *laissez passer*, as if there were no barriers between nations. The adversaries of the third class are the most formidable to the science, because, from a narrow and restricted point of view, their complaints have some appearance of reason, and they have the faculty of identifying their private affairs with the most respectable interests; they are those who profit by monopolies and privileges condemned by political economy. They seldom take the trouble to ascertain whether a reform will not be as advantageous for themselves as for those who demand it. In their eyes a fact sanctioned by time is equivalent to a right. They intrench themselves in abuse, as in property that belongs to them; to attack them in this position is to assail great principles; it is aiding anarchists to disturb social order. Thus we find, among the enemies of political economy, men who declare themselves exclusively religious, and men who are innovators in religion; men who would render society stationary under pretext of preserving it, and others who would not fear to overturn it under pretext of improving it. Doctrinal extremes, instinctively irreconcilable, they agree marvelously in declaring deceitful, dangerous and immoral, a science which none of them has ever studied. — With an inconsistency which it is well to point out, those who, starting from opposite standpoints, agree in accusing political economy do not perceive that they arrive at conclusions utterly contradictory to the sentiments which they profess We see pretended apostles of progress sacrificing economic liberty, which is the pledge of individual liberty, and the instrument of social amelioration. As to those who present themselves as the exclusive guardians of old laws and old beliefs, they distinctly declare that the means best calculated to enrich society are irreconcilable with the precepts of rigorous morality. Political economists entertain a nobler and more cheering conviction. They are convinced that the science with which they are occupied is the surest auxiliary of morality. To prove the affinity of the two sciences, it is sufficient to point out the economic principles engendered, so to speak, by the moral duties which form the basis of human society. — Man has duties to fulfill toward himself, toward his neighbor, and toward God. The spark of life which he received from his parents, and which he is to transmit to his descendants, is a deposit which he can not dispose of as he pleases. But it is not enough for man to preserve his life. It is the will of Providence, which has placed infinite resources within his reach, that he shall perfect his organism, by procuring for himself the well-being compatible with the laws of his country and the sentiment of his own dignity. In proportion as he increases his physical power, he ought to enrich his mind and soul, and develop in particular his special gifts, in order to render himself more useful to the community in which he lives. Man's duty to himself is in a certain sense but the means of

accomplishing his duties toward his neighbor. Being evidently created for society, he owes himself unreservedly to his family, because the family is the constitutive element of all society. He should study, when at home, to make it easy to command there when it is his duty to obey, and to facilitate obedience there when his turn has come to command. Just as the individual is the atom in the family, so the family is in turn the unit in that vast family which is called a nation. Filial devotion to paternal authority is the most elevated conception of country. This ideal implies two duties of the citizen. to respect the law, and cause it to be respected, without which there is no country; and to contribute by every means in his power to render the law like the guardianship of the head of a family, that is, just but mild, and generous without ceasing to be provident. The instinct of family and the love of country, while deeply rooted in our nature, and usually strengthened by personal interest, may, however, degenerate into a stern and selfish passion. The corrective of this kind of egotism is to be found in man's duties toward all his fellow-men, whether superiors or inferiors, compatriots or foreigners, friends or enemies. If every man owes it to himself to improve and ennoble his own life in proportion to his faculties, it follows that he should not offer any obstacle to the fulfillment of this same obligation on the part of his neighbor. The right of the individual results from the duty of each toward all. Every offense against this natural law, every encroachment upon this legitimate share of liberty to which all have an equal right, is a crime against morality. Not to do unto others what we would not wish done to us, was the negative virtue of antiquity. Christianity goes farther, and prescribes devotion to others' well-being, that is to say, an active and disinterested virtue. The measure of duty, which varies for each one, is proportioned to his faculties. When a swarm of children enter the house, the eldest who has given his hand to his little brothers and watched over them by the way, has no greater merit in the eyes of the father of the family: this is a picture of Christian fraternity. Responsibility increases with strength and intelligence; each one owes his like all that he has received from the common Father. — Finally come the duties of man toward God, which are the basis and the crowning of his other duties. In order to strengthen his empire over himself, and to acquire greater influence over others, man must elevate his soul to the idea of a power infinite in its wisdom and in its goodness; he must frequently encourage himself with the thought, that in accomplishing what little good he may be able to do, he is conforming himself to the views of Providence. — Man's entire code of duties may, therefore, be summed up in a few words. To preserve his life and develop his faculties; to devote himself to his family, and to recognize a second family in his country; to respect in others the rights which he claims for himself; to elevate himself to God, as the source of all good thoughts. such are the moral laws dictated by religion or recommended by philosophy. It still remains for us to examine what mysterious links unite these precepts with the axioms of political economy. — Man's destiny on earth is to purchase each day of his existence by labor. Without the aid of human hands, the fruits would rot upon the branches, and the trunk upon its roots; vegetable parasites, stagnant water and the slow decomposition of refuse matter would dispute air and space with animate beings; mankind would soon disappear. Man is then, so to speak, the responsible guardian of the works of the Creator. It is in accordance with this title that his first duty is to preserve himself by employing the resources which nature has placed at his disposal. Thus it is that morality and political economy start from the same point. The former ordains that man should insure his life to himself by productive labor; the latter inquires which are the laws of *production* best fitted to the preservation of the human species. — Created physically and morally perfectible, man still owes it to himself to increase his own prosperity within the limits of decency and justice, because it is to be desired in the universal order that the individual perfect himself physically, and develop the useful faculties, the germs of which are implanted in him. But how shall we increase each one's contingent, unless by favoring the *exchange* of products and services in society? How shall we develop individual talents but by the *division of labor?* — Science has proved that useful labor would soon be suspended, if we did not reserve from the fruits of each enterprise the elements of a subsequent enterprise. The more men save in a country, says political economy, the easier and more fruitful industrial activity becomes. But if a man were to think only of himself, would he look beyond the necessities of his old age? Would he take any interest in the works which are to come after him? He would not. If he curtails his consumptions, and restrains his fancies, it is because he belongs to his wife, his children, and to descendants whom he may not see but about whom nevertheless he thinks. Here the economic law of saving corroborates the instinctive sentiment of family. — Pursuing their analysis still further, economists show that these amounts saved by each man from his products are not ordinarily preserved in kind; but are changed into goods that will keep, and are invested in something that is productive of revenue, as land, houses, materials of industry, rents or money. Sometimes also men give what they have saved to acquire a trade or an art, which constitutes a sort of life annuity. All these accumulated values, whether material or personal, constitute, as the indispensable instruments of public prosperity, what science calls national capital. The idea of country is closely allied with this notion of *capital;* for country does not mean the soil we tread upon nor the air we

breathe; it is a moral sympathy based upon a certain solidarity of interests; it is a mutual guarantee under the protection of a common law. Now, when science demonstrates the necessity of capitalization, when it introduces the varying principle of emulation in *individual property*, it strengthens the legal measures taken instinctively in every country to secure to every man the fruit of his labor. It encourages that love of country which moralists prescribe, by promising it, as a recompense, the collective enrichment of society. — Nevertheless, powerful men, by whom the laws are nearly always made, naturally endeavor to secure exceptional advantages for themselves. To this tendency, which is the source of revolutions, morality opposes the duty of respecting in others the rights which we claim for ourselves. Political economy reaches the same conclusion, when, studying the phenomena of the *circulation and the distribution of wealth*, it shows the public misery caused by the unproductive consumption of governments, by the injustice of monopolies established for the benefit of certain privileged individuals, and by the obstacles arbitrarily opposed to the exercise of individual faculties. These demonstrations of science tend to introduce into governmental practice this great precept of ancient wisdom: "Do not unto others what you would not that they should do unto you"; a precept which Christianity has exalted by rendering it: "Do unto others as you would they should do unto you." — In the last analysis, all the investigations of political economy lead to this maxim: *Freedom of labor* at home, and *freedom of exchange* with foreign nations. What is the moral significance of this axiom? That God has varied the gifts of individuals and the products of countries in order that men and nations may be necessary one to another. He has established a wonderful equilibrium between their wants and their faculties, so that their wants are better and better satisfied in proportion as their faculties obtain freer scope. He wished that the incessant exchange of products and services should become the pledge of fraternity between citizens and of peace among nations. Once convinced that misery is not the inevitable portion of the greater part of mankind, but that prosperity might, on the contrary, become general, if providential harmony were not incessantly broken in upon by ignorance or merciless cupidity, it is impossible not to have within one's self a feeling of gratitude which purifies the heart and elevates the mind; there is no consideration better calculated to recall man to his duties toward God. — The parallel which we have just drawn will probably be received in some places with a smile of incredulity. We shall be told that "from what has been said of political economy and morality, it does not follow that the two sciences tend to the same end. This may be all the more doubtful since there are divergent tendencies among those who call themselves economists." The objection is sufficiently specious to make an impression upon the ignorant; it is, however, easily refuted. Men ordinarily form a wrong idea of political economy. The vulgar opinion is, that it is an arbitrary indication of the measures which are judged capable of contributing to the material prosperity of nations, and that consequently its teachings must vary according to the standpoint which one takes. If this were true, it would be prostituting the name of science to apply it to political economy. The physician does not invent the laws of nature; he observes, analyzes, and makes known the results of his discoveries, from which may result in practice either good or ill results. In like manner the political economist confines himself to analyzing, in an abstract and disinterested manner, a series of special phenomena which, in the order of productive labor, result from the instincts, wants and aptitudes of mankind. In this difficult labor each one can proceed well or ill, draw legitimate or doubtful conclusions. There is, in reality, but one political economy, despite its different applications, just as there is only one law of physics or chemistry, despite the eccentricities of certain savants. How then can we distinguish the true from the false? Morality itself will become for the man, acting in good faith, the criterion of truth. — We repeat, economic philosophy has not created the essential laws of production: they have been dictated by eternal wisdom. The thinker's task is merely to show that human labor becomes more effective, and that this labor renders prosperity more general in society in proportion as men approach in it to the divine law. It is evident that the surest means of increasing social prosperity must be at the same time the most conformable to absolute justice. The progressive amelioration of the condition of mankind can be only the result of increasing morality. To suppose that it could be otherwise would be to wound conscience still more than reason: it would be offering an insult to Providence The conformity of the doctrines of economy with moral law is the best criterion of their truth. It is interesting to apply this test to the arbitrary systems which are opposed to rational political economy. — To revert, for example, to the two systems mentioned in the beginning of this article, that of utopian innovators and that upheld by the partisans of despotic immobility, we see the leaders forcibly enrolling individuals in a fictitious organization, in which, under promise of rendering them prosperous in spite of themselves, they begin by despoiling them of their freedom of action. Now these systems which reduce man to the condition of a machine are subversive of all morality, since morality is based upon the proposition that man, created free and responsible for his acts, deserves merit or blame within the limit of the duty which has been taught him, or which his mind has conceived. In a communistic utopia with equality of wages, no matter what the exertion and service of the workman, as men would no longer incur the responsibility of their idleness,

there would be so flagrant a violation of moral law, that the falseness of the economic principle of this utopia might be asserted *a priori*. — Let us now interrogate those pretended conservatives who in reality do not dream of preserving anything but their autocracy. What conceptions do they oppose to the teachings of the economic school? What are their ideas upon the development of society? Giving an exaggerated extension to this simple word of the Gospel, "There will always be poor among you," they make a theory of the inequality of social advantages, and this inequality, as they conceive it, is not that natural inequality which is to a certain extent necessary as a means of exciting emulation. They desire to establish an hierarchical classification, in which the mission of one class would be to consume a great deal in order to afford the other the opportunity to pass their lives in laboring for the powerful ones of the earth. Ignoring, and that designedly, the distinction made by economists between productive and unproductive consumption, they assert that all expenditures, of whatever nature, enrich a country. The ideal of political institutions therefore consists, according to them, in creating a class so opulent that the crumbs which fall from their banqueting table shall suffice to satisfy the multitude. Nor can we be accused of exaggerating the opinion which is opposed to us in order to ridicule it. We find the following in a work entitled *Traité d' Economie Politique*, by Saint-Chamans, an interpreter of the schools which style themselves exclusively conservative and religious. "We fear that men may be scandalized to see us boast of luxury, incite all classes to expense, and blame thrift and the wise economy of the father of a family: but it must be borne in mind that we are in this work considering a special object considered apart, the wealth of nations. * * Let religion command simplicity and modesty in our manner of life, let the wise moralist condemn the superfluities of luxury, let the prudent man impose economy upon himself for the sake of his children and of his own future, and there can be nothing better than to follow these counsels. * * We merely say that this virtuous and wise conduct is not the way to reach progress in general wealth, nor the well-being of the suffering classes." What then are the means of relieving those who are suffering? J. B. Say, in exposing the injury caused by unproductive consumption, has shown that the treasure wasted in ruinous fancies might be much better utilized as reproductive capital, and that we should not see nearly so many men without shirts and shoes regarding with envious eyes persons dressed in velvet and jewels, if a larger proportion of the sums devoted to superfluities were invested in useful enterprises. Saint-Chamans replies to this illustrious economist: "The poor man has shoes because the rich man has gold buckles, and the poor man wears a shirt because the rich man is clad in velvet." Do not luxury and prodigality in the upper classes, and passive submission and fatalism under the name of resignation in the needy multitude, afford a double chance of securing corruption of morals? Thus does the author whom we have just quoted declare ingeniously enough that his theory upon the enrichment of nations has nothing in common with morality. Nations are thus left to choose between poverty and immorality. An admirable conclusion, truly! — We have then the touchstone by the aid of which we may discover the purity of economic doctrines. The false doctrines are those which, when pushed to their extreme consequences, will lead to immorality. The true doctrines are those which we find always absolutely conformable to the laws of morality. Let this test be applied to history, and we shall find that nations come nearer to economic truths whenever they introduce moral principles into their organization, and increase in material prosperity in proportion as they approach political economy. Considered from this height, the study of this science becomes one of the most honorable as well as one of the most useful employments of the human mind, and to describe it by a definition worthy of its noble tendencies, it might perhaps be called "morality in its application to labor."

ANDRÉ COCHUT.

MORALITY, Political. There is but one morality, as there is but one geometry. Moral rules, logically expressed, are self-evident propositions, which, like all necessary truths, compel conviction, and they have never been disputed except with a wrong intent. — Hence the words political morality do not designate a particular morality, but universal morality applied to politics. Interest and passion have never deformed truth more than in this matter. But in attacking the distinction between good and evil, interest and passion attack their enemy. Doubtless there may be sincerity with error, even in morals. Duty in itself has not been disputed, but men have not always been agreed either as to its principle or its applications. The first point belongs especially to philosophic discussion, the second depends more upon the general state of enlightenment and manners. It is for these two reasons that notwithstanding the immutability of moral distinctions, a certain diversity, and consequently a certain progress, is possible in estimating the use which must be made of them. In this, as in everything else, prejudices may exist, and one of the most widespread, as well as most stubborn and persistent, is that which withdraws politics from morality, or subjects it to a morality different from that which is universal. — This is not what we have learned from the political writers of antiquity. As Montesquieu remarks, they were greatly superior to moderns by the moral character which they gave to social science. The leaders of the great schools are of one mind. Plato thinks that the good is the object of the state. He founds his republic on a system of education conformable to true philosophy; he considers

law as worthy of the name only in so far as it is reason itself. According to him, power exists only to lend physical force to reason. According to Aristotle, virtue did not found the state, but it is its final cause, being the object of society as well as of the individual; what is required of the laws, is to establish the reign of reason. They are the expression of the general will only because it is supposed that the latter is wiser and juster than the will of a single man or a small number of men. We know what importance Aristotle attaches to sociability. Therefore he goes so far as to regard morality as only a part of politics. Society is founded on justice, said Zeno; right reason, which commands and which forbids, is the law which rests on the nature of things, and which consequently extends from God to man. — If the ancient republics were not always constituted nor especially governed in conformity with these principles, it was, first of all, because no ideal can be fully realized upon earth; secondly, because customs and prejudices upheld many grave errors in morality; and, finally, because in free states popular passions sometimes mislead the public conscience. But political morality in the Greek and Latin world always remained superior to what it was everywhere else. Even at Rome it often struggled successfully against the violence of a harsh and ambitious people. Later, when all was enfeebled and corrupted, philosophy continued to protest against the examples and the principles of the government of the Cæsars. Unfortunately, wearied with its own powerlessness, it soon took refuge in private life to save the dignity of the man in the absence of that of the citizen, and Christianity, which for various reasons gave the same example, by abstaining from interference in the affairs of the state, by preaching contempt for human affairs, contributed to the decline of public morality. Both permitted the establishment of the odious doctrines brought forward by the jurisconsults of the empire in aid of despotism. Their science, under the last form which it received at Byzantium, became, and long remained, the corrupter of political society. Morality was proscribed by it the day when the maxim of Ulpian was proclaimed: *Quidquid principi placuit legis habet vigorem.* This doctrine, the scourge of modern monarchies, has not ceased to produce evil in Europe, and its tradition is not yet obliterated. — Nevertheless the philosophy of the middle ages, drawing inspiration from that of antiquity, honorably but vainly opposed this maxim. We know what was said by St. Thomas Aquinas and Ægidius of Rome. The church, either to defend the honor of Christian morality, or to vindicate its own authority, often opposed praiseworthy censures to the abuses of power and legislation; and it was a pope, Pius V., who, on the eve of St. Bartholomew, first defined "reasons of state" to be *a fiction of wicked men.* At the same time, the renaissance, by restoring to the human mind the liberty which it had long lost, caused to prevail independent philosophy, which dared to consider matters of state and questions of government as within the province of the human mind. Machiaveli, in approaching them with great critical profundity, it is true, was far from having immediately re-established truth in all its rights; he went too far in the way of taking prudence for wisdom, and success for arbiter between powers and parties; he gave his name to politics separated from morality. At least he admitted that morality was an art which had its rules, which governments were obliged to observe; that the object of their existence was not the satisfaction of the governing power; and that, finally, the governed had duties toward the state. Better inspired, or less carried away by false models, other publicists appeared, who, far from sacrificing everything to adroitness, have made these very simple truths more and more popular, that governments are created for society and not society for governments; that justice is the law of laws, and consequently the rule of society as well as of individuals, and of governments as well as of society. In this manner the grand thought of the sages of antiquity re-entered the political world: that justice is the mistress of all things, both mortal and immortal. — From these truths may be deduced all the rules for the application of morality to politics. They may all be reduced to the principle of justice. Even the duties which moralists connect more willingly with the principle of love, assume another character when they are fulfilled by government. It is not a question of sentiment, but a strict obligation for powers, instituted by the consent of society, to aid in contributing, so far as their authority permits, to its happiness; and citizens may demand public well-being of the state as a debt. For a much greater reason have they a right to everything which assures these rights themselves: their liberty, their dignity. Those who believe that public utility is the only rule of the laws and of power, neglect to remark that there can not be for the legislator and for the government any necessity but a moral one of providing for the public utility. Duty, therefore, bears on politics as upon everything else, and respect for legitimate interests is itself not an interest, but an obligation. — It is no longer disputed in principle that legislation should be in accordance with morality. The civil laws of all civilized peoples have been, for about a century past, purified from almost everything which they might have contained contrary to equity, honesty and humanity. What still remains to be removed is of small import in comparison with what has disappeared. — It is a little more difficult to establish the reign of morality in politics, properly speaking: let us denote by this term everything which concerns the constitution of the state, or the conduct of the government. It can not be said that the question of the constitution to be given to a country is purely a question of morality. We should consider what the situation of the country is, its beliefs, its manners, its

opinions, its wants. What duty prescribes is to give it the best institutions possible, considering all these circumstances. Morality does not command the choice by way of preference of a monarchy, or a republic, but of that one of the two which appears most suited to gain the national consent, to attain the good of the state, of the public and of the citizens. Every impossible government is, by this fact alone, a bad government. But it does not follow that a government is good, provided it is possible. Thus, power absolute in itself is bad, and no circumstance can correct its essential viciousness. It is beyond the rights of human nature to exercise it. It is contrary to the rights of human nature to accept it. He who accepts it is a usurper; he who bestows it degrades himself. The institutions which limit it are guarantees of public honesty. We might show, if space permitted, that constitutional principles are all connected with some principle of morality under the form of simple utility. It is a recognized principle, for example, that all powers should not be united in the same hand, and especially that judicial should be separated from executive power. It is not so evident at first what relation such a rule can have to morals; an ancient prejudice, and long popular, upheld a system altogether opposed to this. For a long time the right of dispensing justice was considered as an attribute of royalty, and St. Louis is still spoken of as dispensing justice in the woods of Vincennes. But if experience proves that every man intrusted with governmental action, daily struggling with the difficulties and necessities of politics, is destined to attach himself exclusively to the interests of his power, and to consider as mad or guilty the man who opposes it, and to become devoted to the success of his ideas and his measures, it is evident that he can not be a disinterested, impartial and just judge, in all cases in which he thinks his authority concerned; and consequently it is just, that is to say, obligatory, to give to others the right of judging.—This brings us to the question of the rights of morality in the conduct of government—a more difficult question, and one which has divided sincere minds. It seems to be solved, however, by the principles which have just been established. Governments, after all, are not really things, but men, and how can we raise the question whether men should act honestly on all occasions? That they should so act will not be disputed in the great majority of cases. Cruelty, spoliation, iniquity, treason, corruption, even colored by the pretext of political utility, will not find apologists; but if we leave generalities, differences of opinion commence, and it is certain that history, in all its pages, even in those which can be read without shame and indignation, shows us governments prompt to attribute to themselves rights which neither private morality nor ordinary justice would avow. Hence the idea that there are two kinds of morality, one of which, political morality, has no resemblance to the other. The almost always improper use which has been made of the phrase "reasons of state," could not have been introduced and tolerated for so long a time, unless through a specious application of the suspicious adage, "The end justifies the means"; so suspicious, in fact, that no one would dare to use it publicly in order to defend an action of doubtful character. But under forms less evident and more dignified, it is the essence of the thought which authorizes all the questionable measures of government. Public utility, the interest of the state, the dignity of the crown, the safety of the republic, the maintenance of order or tranquillity, are the reasons which are given by men, both to others and to themselves, to obtain absolution for acts which, stripped of this pretext, would be acknowledged as reprehensible. It can not be denied that in many cases the gravity of the motive is so much superior to the gravity of the fault, that the indulgence of nations and historians who judge them is conceivable. In the most virtuous private life, two duties of unequal importance may be found in opposition, and one must prevail over the other, which would be to do a wrong for the sake of a greater good. But it is necessary that the choice should be between two duties, and not between an interest and a duty. Now in politics, interest, being or appearing public, easily acquires, even in the eyes of honest men, the importance of a duty, and lulls the scruples of the statesman to such a degree that he makes it a matter of conscience to sacrifice his conscience. To one placed on this incline, the danger of slipping is so great, the bad examples are so numerous, the sophisms so easy, that we do not hesitate to think that, in the ordinary practice of government, the dictates of morality remain absolute, and that no public interest authorizes an action which can not, at any given moment, be publicly avowed. — A distinction should be made. Of course society is not an individual; the state is not a private person Public powers are, therefore, within the circle of their attributes, clothed with prerogatives denied to citizens. They are force at the service of reason and justice. They are authorized therefore to employ force, almost as private persons themselves are, when the right of natural defense leaves them no other means of saving justice, violated in their persons. For a greater reason, the state, representing the right of all, is authorized to employ force, when necessary, and force itself is organized and regulated for this purpose in advance. Although the prerogatives, which the law grants it, exceed the rights which it recognizes as belonging to individuals, they are just and legitimate, and morality recognizes them in every well-constituted state. — The execution of laws is not open to condemnation unless the laws themselves are. It is, therefore, only in cases unforeseen by the laws, or rather in the cases in which a certain conduct is legally optional or even legally prohibited, that the question just indicated can arise.

In the first case it is impossible to lay down a rule. The law is supposed to be disinterested; it permits action or abstention; a choice must be made. Here are the living problems of practical politics. In order to solve them in one sense or another, we can only consult experience, reason, conscience; we must have serious motives and pure intentions; we must be attentive in our examination and sure in our convictions. With these conditions we can dare to act, come what may. If we are wrong, the wrong is excusable. The best means of convincing ourselves whether the conditions are fulfilled, appears to be to ask ourselves what we should say if summoned to explain our conduct before an independent public. This rule shows well enough what the responsibility of depositories of authority is in governments in which free discussion obtains. — Finally, there are cases in which, the laws being silent or opposed, we should have to examine whether certain circumstances would authorize action outside the laws. Acts of this kind are called, when they are accomplished by governments, *coups d'état;* when by peoples or parties, revolutions. (See these words.) Here it is the law which is in question, not morality. It is self-evident that if it can ever be permitted for people or prince to rise above the law, a just cause is needed, and the law of duty should assume more power in proportion as the written law has lost its power. Neither words nor celebrated examples are wanted to authorize successful iniquities or even useful crimes. "If right is to be violated," said Julius Cæsar, "it should be in order to reign." This hypothesis must be rejected, and the answer given that right is inviolable. "Little morality kills big morality," said Mirabeau. And it may well have been that he was lacking in big morality because he was lacking in little morality. "This is worse than a crime," said an expert, "it is a blunder." Now crimes are the only irreparable blunders. Finally comes the formidable maxim before which Montesquieu himself bowed down: "The safety of the people is the supreme law." The safety of the people is not above justice.

CHARLES DE RÉMUSAT.

MORMONS (IN U. S. HISTORY), a sect mainly located in Utah territory and the territories in its immediate neighborhood, to the number of about 150,000, but having also about 60,000 converts in other parts of the United States and in foreign countries. — I. ORIGIN. Joseph Smith was born in Sharon, Vt., Dec. 23, 1805, and in 1816 removed to Palmyra, N. Y., with his parents. As a boy he bore no good reputation for industry, thrift or honesty, but about 1820 he professed to have become converted. He claims to have had a revelation, Sept. 21, 1823, of God's will that he should revive the covenant of Israel. He was told that the lost tribes of Israel had wandered to America and had there grown numerous, powerful and wealthy; that they had degenerated and fallen before their enemies; that, before their final extinction, one of their prophets, Mormon, had written on gold plates an account of their history, prophecy and doctrine; and that his son, Moroni, the last of the race, had buried the plates in the "hill of Cumora," about four miles from Palmyra. On the following day he was allowed to see the plates, under angelic guidance; and Sept. 22, 1827, he was allowed to take them from their 1,400 years' burial. They were written in the "reformed Egyptian character," which could only be deciphered by Smith through the aid of the Urim and Thummim, an enormous pair of spectacles. The plates disappeared after Smith had translated them, but eleven witnesses averred that they had seen them. — It is asserted that one Solomon Spaulding, living in 1812 in Conneaut, Ashtabula county, Ohio, wrote the book of Mormon as an historical romance, under the title of "The Manuscript Found," its Jewish-Indian machinery being suggested by the prehistoric mounds in the neighborhood; that at his death in 1816 it was in possession of one Patterson, a Pittsburg editor, who intended to publish it, and with whom Sidney Rigdon, one of Smith's first disciples, was a compositor; and that at Patterson's death in 1826 it disappeared, to reappear in 1828–30 as the bible of a new sect. When Smith's book was published in 1830 its identity with Spaulding's was at once declared by the widow and neighbors of Spaulding, who had repeatedly heard it read. — II. DOCTRINE. The sect is a secret society with an hierarchical organization. At its head is the president, with two subordinates; then the twelve apostles, the seventy disciples, high priests, bishops, elders, priests, deacons, and teachers. The whole forms a despotism of the president, tempered by the continual necessity of yielding to the other officers in order to avoid revolt. The distinguishing features of the sect are polygamy; materialism; baptism for the remission of sins and for the dead; a belief in the inspiration of the head of the sect; and a liberal dedication of themselves, their property and their services to the advancement of the sect at home and abroad. They hold that those who define God as a spirit, "that is, as *nothing*," and worship him as such, are as much atheists as those who deny that there is a God; and they maintain that God is a material being, "having body, parts and passions," but of infinite power. These doctrines they derive from the following sources: 1. In addition to the Bible they accept the book of Mormon as authority in matters of faith. This book is written in imitation of biblical language, but is marred by numerous inaccuracies, violations of common grammatical rules, and anachronisms. All these the Mormons acknowledge, but hold that the defects of Smith's early education do not at all detract from the truth of the message which he was only the instrument in delivering. 2. Furthermore the sect accept the "revelations" given by God to their spiritual head. These pertain to every point of polity and social economy, but the un-

failing promptitude with which they appear when needed seems as yet to have awakened no general suspicion of their genuineness among the Mormons. The most tremendous of these "revelations" was that which, in 1843, sanctified polygamy, in direct contradiction to the book of Mormon itself. Up to that time, in theory at least, monogamy had been the Mormon law for both leaders and people; but the sudden elevation of the leaders to uncontrolled power, and their inability to control their passions, changed the whole basis of the sect's existence. The revelation was first proclaimed by Young, Aug. 29, 1852, and was at once denounced as a forgery by the widow and sons of Joseph Smith, who joined in the anti-polygamous schism known from its leader, Gladden Bishop, as the "Gladdenites." 3. The sect has also its canon of inspired books and epistles, which expands with the growth of the church. The authority of these, however, rests rather on agreement than on any internal claim of inspiration. — III. HISTORY. Smith's first converts were of his own family and neighbors, and from the beginning he gave these as a name, "The Church of Jesus Christ of Latter Day Saints." Their first organized conference was held at Fayette, N. Y., June 1, 1830, the church then numbering some thirty members. Their early leaders were Joseph Smith, his brother Hyrum Smith, Oliver Cowdery, Sidney Rigdon, and William W. Phelps. In 1831 the whole church removed to Kirtland, Ohio, as a halting place on their road to Independence, Mo., which Smith intended to make their final headquarters. Arrangements were at once made to build up the Missouri refuge, and the sect then soon numbered nearly 2,000. Their assumptions of superiority, their intolerance of "gentiles," and probably also their anti-slavery opinions, made them obnoxious to the people of Jackson county, Mo., who mobbed and outraged their leaders, and in 1838 violently expelled the whole colony. Early in 1839, now numbering about 15,000, they settled in Illinois, just above the Des Moines rapids on the Mississippi, and founded a city called Nauvoo. Among their new accessions were Brigham Young, Orson Hyde, Heber C. Kimball, and Parley P. Pratt. — Nauvoo at once became an *imperium in imperio*, having its own government, revenue and army, of which "Lieutenant General Smith" was absolute head. As in Missouri, they became unpopular. Stories of their refusal to allow the execution of state writs, and of their gross immoralities, explained and confirmed by the "revelation" of 1843 as to polygamy, fired the surrounding country against them, so that in June, 1844, Governor Ford, of Illinois, took the field in person, with a militia force, to keep the peace. Upon his pledge of the honor of the state for their safe-keeping and fair trial, the two Smiths and two other leaders surrendered and were lodged in jail at Carthage. During the evening of June 27 a mob of 200 disguised men overpowered the guard and shot and killed both the Smiths. — Brigham Young became president in Smith's place by the unanimous vote of the twelve apostles and the acquiescence of the sect, and hurried forward the building of the great temple in which the sect took an especial pride. But Nauvoo was now fairly besieged, and open war was varied by arson and secret murder on both sides Jan. 20, 1846, the "high council" announced that a final home was to be sought beyond the Rocky mountains. The migration began in the following month, but in September the impatient people of the neighborhood poured in and drove out the little remnant with fire and sword. In May the temple had been solemnly consecrated, and the next day dismantled to the walls. — It was not until 1848 that this extraordinary migration was ended, and the Mormons were fully settled at Salt Lake, in Utah. It had been managed with consummate skill. The younger men had been steadily pushed ahead to plant crops which were to be gathered by, and to support, the main body. In this manner, in spite of individual suffering, the main body successfully endured two winters on the plains, and in 1848 organized that government of their own, far from the "gentiles" of Missouri and Illinois, to which they were to give the still illegal title of "the state of Deseret." — In 1850, after the organization of the territory (see UTAH; COMPROMISES, V.), Young was appointed governor by President Fillmore, but he was soon found to be infinitely more a Mormon than a federal officer. The federal laws for the government of the territories were contemptuously disregarded whenever they clashed with the Mormon peculiar institutions. Shocking stories were told of the cruelties perpetrated by the "Danites," or Mormon "destroying angels," upon intruding gentiles. One of these, the massacre of about 100 emigrants at Mountain Meadows in 1857, was peculiarly atrocious in its details, but was not punished until 1877, when John D. Lee was condemned to death by shooting for his share in it. The impossibility of obtaining a successor to Gov. Young without efficient federal support led the president, in 1857, to order Col. A. S. Johnston, with a force of federal troops, to enter Salt Lake City. Sept. 15, by proclamation, Young forbade the entrance of the soldiers, and ordered out his own troops for resistance. Johnston wintered among the mountains, and finally entered the city. June 10, 1858, President Buchanan informed congress that the Mormon difficulties were over. They really, however, were not. The enormous power of the hierarchy was constantly exerted to "freeze out" gentile traders, control federal grand juries, and neutralize federal laws. — The connection of Salt Lake City with the Union Pacific railroad, in May, 1869, at last brought the Mormons again face to face with the enemies from whom they had so often escaped. A new corps of federal judges, determined to suppress polygamy, entered the territory; the grand juries passed out of Mormon control; and indictments for polygamous practices became common. Convictions, however, were

practically impossible, owing to the secrecy of the sect's workings, and the difficulty of obtaining evidence to convict. This difficulty has not yet been surmounted. The Edmunds bill, which was passed March 14, 1882, practically disfranchises every one guilty of polygamy in the territories, and makes the practice a misdemeanor, but its result remains to be seen. April 26, 1882, George Q. Cannon, a Mormon, who had for many years represented his sect and territory in congress, was unseated by the house. Aug. 29, 1877, Brigham Young died, and was succeeded in the presidency by John Taylor. — The essential difficulty in the Mormon question is not so much present as prospective. By the constitution of the United States, the subjects of marriage and divorce in the states are exclusively under the control of the states themselves. If, then, Utah ever becomes a state, its legislature becomes omnipotent over these subjects. In the hope of this consummation, it seems probable that the Mormon leaders will submit with patience to any present disfranchisement, since the political control of a territorial government, subject to a federal governor's veto and to the control of the federal congress, is comparatively an unimportant matter. The true solution of the question seems to lie in the adoption of an amendment giving congress the exclusive power, by general laws, to legislate on marriage and divorce. With such an absolute bar to hope for the future, the Mormon leaders would probably be compelled to a monogamous revelation. — The name Deseret is understood by Mormons to mean "the land of the honey-bee." The name Nauvoo signifies "beautiful." The following extraordinary derivation for the name Mormon was seriously given by Joseph Smith himself: the Egyptian *mon*, good, and the English *more;* hence Mormon, "more good." — (See *The Book of Mormon* (4th edition, 1854); *Millenial Star; Times and Seasons; The Gospel Reflector; New York Prophet; Doctrines and Covenants* (1854); *Voice of Warning* (1854); Jacques' *Latter-Day Saints' Catechism* (1870); Hyde's *Mormonism* (1857); Mrs. Ferris' *Mormons at Home* (1852), Ferris' *Utah and the Mormons* (1856); 3 *Atlantic Monthly* (campaign of 1857); Ludlow's *Heart of the Continent* (1870); Stenhouse's *Rocky Mountain Saints* (1873); *United States Revised Statutes*, § 5352; Tucker's *Origin and Progress of Mormonism* (1867); Gunnison's *History and Doctrines of the Mormons;* Smucker's *History of the Mormons; Harper's Magazine* and *Century Magazine* for January, 1882. ALEXANDER JOHNSTON.

MOROCCO, Empire of, a Mohammedan state, which occupies the northwestern corner of the African continent, from which it received its Arabic name of *Maghrib* (West), which it still bears in the Mohammedan world, and which was extended in the middle ages to all Mohammedan Africa of the west. The area of Morocco is about 219,000 English square miles. The estimates of its population vary from 2,500,000 to 8,000,000; 5,000,000 is probably about correct. Its political organization is the simplest in existence. The sultan is the whole government. There is neither above nor beside him a written law (except the Koran and its commentaries), nor council of the empire, nor ministry. No discussion, no publicity, no control, no report or returns, still less a press to annoy him in his autocracy It is the most perfect example of personified power. Some servitors, secretaries after a fashion, are the instruments of his will; one of these, whom we may honor with the title of minister of foreign affairs, and who resides at Tangier, where all the European consuls live, is intrusted with the management of the relations with foreign powers. The sultan places commanders at the head of his troops, and governors over the cities, both of whom receive their orders directly from him and report to him. The administration is reduced to almost as great simplicity as the government. A chief issuing what orders he pleases, and a herd which obeys, in trembling, on pain of death, or at least confiscation and imprisonment, is the whole administrative system of Morocco. This state, which borders on civilization through Algeria, Spain, and its commerce with Europe, has not been penetrated so far by any of those flashes of civilization which begin to illuminate, more or less clearly, all the other regions of Islamism: Tunis, Egypt, Turkey, Persia; a contrast which is both a singular spectacle and a scandal. — Supreme power has for three centuries remained in the hands of a single family, entitled *Sharifs* because they claim to be descended from Mohammed, a genealogy which no one thinks of discussing, and which redoubles the respect which the people yield the sultan. The latter takes advantage of this to make himself a caliph of Islam in the west, on an equality with the sultan of Constantinople in the east; thus uniting in himself a double power, spiritual and temporal. On the death of one of these princes, his heir, on assuming power, finds himself in conflict with his brothers, and frequently with rebellious tribes. The rivalry of brothers and relatives is a more prominent trait among Mussulman dynasties than among Christians, because the rules for the transmission of power are not derived from the Koran. Mohammed neither designated his successor, nor indicated any rule of succession; this was the cause of intestine wars which divided his disciples and his posterity. The omission was remedied by choosing the eldest surviving descendant, but this rule, whose authority is sanctioned neither by law nor custom, is not respected by the excluded descendants, whenever ambition possesses them. In Morocco the risk of civil war is increased by the custom prevailing among its sovereigns, of marrying a large number of the daughters of great families, in order to create a support among the wealthy and powerful. On this account nearly all the new reigns begin by the armed protest of some relative. — Tribal rebellion is another permanent character of the situation, connected with

the one just mentioned, because claimants do not fail to excite that traditional spirit of independence which is favored by the physical features of the country. Morocco is divided into two almost equal parts, communication between which is difficult, on account of the long and lofty chain of the Atlas mountains which run from northeast to southwest; on the west the Tell, on the east the Sahara: these are two countries, and, as it were, two different peoples. Besides, a branch of the Atlas range turns to Rabat, and cuts the Tell in two parts, which communicate only by a narrow passage in which Rabat is built, between the mountain and the sea. Hence, a new division singularly favorable to revolts, and which explains why the kingdom of Fez or of Mequinez at the north, and that of Morocco at the south, constituted, for long periods, independent and almost always hostile states.—The history of the empire turns in great part on the struggles in these three great territorial regions between the sultans, wishing to establish unity, and their undisciplined vassals: they recall by many traits the feudal period of European monarchies, in which civilization finished by giving to unity such instruments as roads, the printing press, posts and a regular system of administration, the use of which is feared by the Mohammedan mind. Struggles with Spain began toward 1859. Commencing in the neighborhood of Ceuta by misunderstandings which might have been amicably removed, the war was ended by the capture of Tetouan and a treaty of peace, or rather by a capitulation which was signed April 26, 1860, and which secured numerous advantages to the victorious army, among others, a tribute of 100,000,000 francs, and the cession of the port of Santa Cruz de Mar-Pequeña, opposite the Canary islands. The pecuniary obligations of Morocco not having been fulfilled, a new treaty became necessary in 1861, and finally a loan was raised, which England negotiated with Morocco to release her from Spain, England taking Spain's place in collecting the customs duties given as guarantee. These more or less bloody incidents are merely episodes of that implacable hostility which, sometimes smouldering and sometimes active, always exists between the people of Morocco and that of Spain, scarcely separated by the straits of Gibraltar, but profoundly opposed to each other in memory of the Moorish dominion in Spain followed by the expulsion of the Moors by the Spaniards. This irritation is maintained by the sight of the Spanish flag floating over the four presidios (Ceuta, Peñon de Velez, Peñon de Alhucemas and Melilla) and the Zafarine islands. Morocco is now at peace with the other nations of Europe, rather through the absence of all immediate contact than in virtue of the numerous treaties concluded to regulate peace and commerce. Among the latter it is proper to mention that of Tangier, concluded with France Sept. 10, 1844, which is most favorable to France. England obtained, Nov. 9, 1856, two treaties, one political, the other commercial, which secured important advantages. But, up to 1872, no influence was able to obtain the establishment at Fez, the capital of the empire, and near the emperor, of diplomatic representatives of Europe. France, first of the European nations, obtained from the emperor the right of accrediting near him a minister plenipotentiary (M. Tissot), whose reception was attended with a certain *eclat*.—The ports which serve as commercial communications with Europe are eight in number: in the Mediterranean, Tetouan; in the straits, Tangier, on the ocean, in going from north to south, Larache, Rabat, Casablanca (Darbeida), Mazagan, Safi, Mogador (Soueyra), Santa Cruz of Barbary or Agadir (not the Santa Cruz ceded to Spain), the best anchorage on the coast, is unfortunately closed to commerce. On the side of Algeria which joins Morocco on the east, commerce with Tlemcen, Lalla-Maghrnia and Nemours is established through Tafilet, Figuig, Teza and Oudjda. In the middle ages this route had acquired such an importance that Tlemcen became a city of 100,000 inhabitants, and the capital of the kingdom; but wars between the two states, and, in our day, the Algerian duties, have thrown the commercial current northward toward the Mediterranean and the straits, in spite of the almost impassable barrier of Rif, and on the west toward the ports of the ocean, to the great loss of France and the gain of England. These two nations have most of the trade with Morocco, but especially England, which possesses in Gibraltar a very convenient station for contraband as well as legitimate trade. Next in order follow Spain, Belgium and the Netherlands. Commerce has in Morocco a field of operation whose area is estimated at from fifty-three to seventy-five millions of hectares, peopled with from five to six millions of inhabitants, Moors, Berbers, Arabs and Jews. Commercial operations amount to a sum of from forty to fifty millions of francs, which gives only seven or eight francs per head, and indicates extreme barbarism. The returns of 1871 place the imports at 22,830,000 francs, and the exports at 19,530,000 francs. England represents the greater part of these figures: thirteen millions of imports, and fifteen millions of exports. These low figures are the consequence of a brutalizing government, hostile to all agricultural, industrial and social progress, obtaining its revenues from monopolies, exactions, prohibitions and confiscations; turning one of the most beautiful, well-watered and fertile countries in the world into the home of the poorest and most unfortunate of people. For want of security for life and property, and a regular freedom of exchange, traffic is reduced to almost nothing. Its elements, however, are very numerous. Morocco abounds in cereals (wheat and barley) of as good quality as in Algerian Tell; almonds, olive oil, fruits, vegetables, wax, bark, animals, leeches, etc. Numerous flocks furnish wool, skins and other valuable articles; the wool finds its princi-

pal sale in the French market for common cloth. By way of the Sahara caravans arrive, some of which come from Soudan, bringing gold dust, ostrich feathers, gum, ivory, blue stuffs and citrons. In return, the ports of Morocco receive from Europe, cotton stuffs, sugar, tea, spices and drugs, raw and woven silk, cloth, arms and ammunition, hardware, iron, and especially money from France, whose merchants do not, like those of England, endeavor to pay in merchandise rather than money. From this unequal competition it results that English commerce has acquired a preponderance in Morocco which France and Spain, owing to their position, might compete for with advantage. The abolition of custom houses on the Morocco frontier of Algeria might be an efficacious means of establishing this equilibrium. The movement in the ports during 1870 was 1,307 ships arrived, with a tonnage of 201,127, and 1,306 ships cleared, with a tonnage of 200,336. The flags which hold the first rank are those of England (617), Spain (363), and France (172). — All efforts to obtain precise information about the budget are vain. *L'Annuaire de l'économie politique* (year 1863) gives a first résumé, which places the receipts at 2,600,000 piastres (of 5 francs 25 centimes) or 16,000,000 francs, and the expenditures at 990,000 piastres, or a little more than 5,000,000 francs. If we notice that this valuation puts the tax paid the sultan at merely two francs a head, we shall accept it only with reserve. The fiscal income, if not the expenditures, must be much greater in a country of arbitrary government like Morocco. It appears clearly enough, however, from the harsh conditions which the emperor signed in his last treaty with Spain, that there was little reality in the mysterious mountains of treasure which were said to be accumulated at Mequinez. Two-thirds of the expenditures are devoted to maintaining the negro guard, made up of slaves brought from Soudan, and to the payment of certain troops more or less regularly equipped and disciplined. There is no navy, notwithstanding the extent of the coast; the inhabitants of Sale never devote themselves to the sea except in view of piracy, which the mountaineers of Rif practice from time to time. — Such, in its prominent traits, is Morocco, the last remnant of the powerful empires founded by the successors of Mohammed in the west of Europe and Africa. After having reigned, under the Almoravide and Almohade princes, from Timbuctoo to the heart of Spain, Islamism, driven back step by step, has concentrated in this remote corner of Barbary its prejudices, its fanaticism, its hatreds, and also whatever virtues of hospitality and bravery it retains. The conquest of Algiers by the French separated this branch from its trunk and roots, and we may foresee a near future when, in Morocco also, the political power of the Koran will yield in an unequal struggle against civilization, unless it consents to receive its light and join in its progress. — BIBLIOGRAPHY. Calderon, *Cuadro geografico, estadistico, historico, politico del imperio de Marruecos*, Madrid, 1844; Renou, *Description géographique de l'empire de Maroc*, Paris, 1846; Rohlfs, *Reise durch Marokko*, 2d ed., Bremen, 1869; Maltzan, *Drei Jahre im Nordwesten von Afrika*, 2d ed., 4 vols., Leipzig, 1868; Amicis, *Marocco*, Milan, 1876; Pietsch, *Marokko*, Leipzig, 1878; Hooker, *Journal of a Tour in Morocco*, London, 1878; Leared, *Morocco and the Moors*, London, 1876; Rohlfs, *Land und Volk in Afrika*, Bremen, 1870, and *Mein erster Aufenthalt in Marokko*, Bremen, 1873; Augustin, *Marokko in seinen geographischer, historischen, religiösen, politischen, militärischen und gesellschaftlichen Zuständen*, Pesth, 1845. JULES DUVAL.

MORTON, Oliver Perry, was born in Wayne county, Ind., Aug. 4, 1823, and died at Indianapolis, Nov. 1, 1877. He was graduated at Miami university in 1843, was admitted to the bar in 1847, and was elected circuit judge in 1852. In 1856 he was defeated as the republican candidate for governor; in 1860 he was elected lieutenant governor, but by a previous understanding the governor, Lane, was elected United States senator by the legislature, and Morton became the war governor of Indiana. In this position he displayed great energy and fertility of resource, and was re-elected in 1864. From 1867 until his death he was United States senator from Indiana, and one of the leaders of the national republican party. — See Walker's *Life of O. P. Morton*.

A. J.

MOSAISM. This name is much more applicable than that of Judaism to the dogmas and institutions of the Pentateuch, which, after having formed the national and religious existence of the Hebrew people, still regulate to-day the beliefs and the morals of that people, scattered, to the number of at least five or six millions, over the whole surface of the earth. Judaism designates only a particular state of that ancient religion from which Christianity and the Mussulman belief sprang: it is the spirit which animated it and the forms which it adopted after the return from the Babylonian captivity, when it was no longer acknowledged except by the inhabitants of the ancient kingdom of Judah or the Judæans (*Ἰουδαῖοι*, Judæi), which our language, disfiguring the name, calls the Jews. Mosaism, on the contrary, so called from Moses, its principal founder (*Moseh* or *Mosheh* in Hebrew), embraces all the elements of which the faith and legislation of the Israelites have been composed from their origin up to the present time. — Thus understood, Mosaism, while recognizing in Moses the author or promulgator of its general constitution, commenced its existence long before that great man, and has continued it, modifying or completing it, long after him, for, at this present time, after nearly four thousand years, it can not withdraw itself from the influence of modern ideas. People often speak of the immobility of Judaism, with

the evident intention of extending this accusation of immobility to all Mosaism. This is a grave error. No religion, especially when complicated with a civil legislation and a political constitution, has remained long free from changes and transformations. The contrary could take place only among a petrified people, in a race of men who had absolutely forgotten the use of will or of intellect. Now, the Israelites have never been in such a position, even in the midst of the harshest servitude, and Mosaism has never checked the internal workings of its institutions, while ever guarding, for its basis, this precept of the prophet: "Ye shall add nothing to it nor take anything away from it." — The immense career which it embraces may be divided into four principal periods. The first begins with Abraham and extends to the departure from Egypt; this is the epoch of the patriarchs. The second is filled by the promulgation of the laws, ordinances and prescriptions, which the last four books of the Pentateuch contain, and which in the eyes of faith are considered as having been drawn up by Moses under the inspiration of God; this is the epoch of the law, properly so called, of the written law or of the *Torah*. The third belongs to the prophets, who succeeded Moses, and who form an uninterrupted chain, up to the end of prophecy. Finally, in the fourth, we find the doctors, who, under pretext of interpreting the law and protecting it against transgressions, overloaded it with a multitude of disciplinary regulations and accessory doctrines; this is the epoch of the *oral law* or of tradition, which begins about the third century before Christ, and ends with the Talmud, about the fifth or sixth century of our era. — The particular characteristic of the patriarchal epoch, is to show us monotheism as a patrimony, as a spiritual heritage, destined to pass from father to son in the same family until a time foreseen by divine wisdom. It was to Abraham that the only God, the living God, first revealed himself, and Abraham made him known to Isaac, and Isaac to Jacob. The head of the family was invested with sacerdotal dignity; he was priest, as he was king, because there was no other authority than his, and his worship, freed from all rules, consisted of prayers and of sacrifices. Morality itself held but a small place in this primitive religion; it was natural morality, reduced to the practice of justice and to gravity of manners, preserved in spite of polygamy. — After the departure from Egypt, when the Hebrew family had become a people, the obscure tradition, which it had kept up to that time and by the force of which it had remained united, was soon changed into a religion all at once national and universal: universal by a fund of imperishable truths; national by the particular forms under which it had to be preserved among a race solely devoted to that pious ministry, *a nation of priests*, as they called themselves. It was given to Moses, one of the greatest legislators who has ever appeared on earth, to accomplish this wonder. It was through him that the God of Abraham, Isaac and Jacob became veritably the eternal God, the God of the universe, Jehovah, the God of gods and the King of kings. It was he also, who, conceiving the human race as a single family, of which the house of Israel was only a feeble branch, drew from this idea a code of morals for the use of all ages and of all races. But in order that the people to whom he confided this deposit should not let it escape from their hands, it was necessary, in some way, to isolate it from the rest of the world and to insure its duration by the vigor of its legislation. This thought was evidently the source from whence flowed most of the prescriptions of the Pentateuch. — To separate the spirit from the letter, the invariable substance from its transitory form, the universal dogma and morality from the national worship, was, sometimes unwittingly, the aim of the prophets who succeeded Moses. All the efforts of their eloquence tended to this end, to place justice, rectitude, charity, purity of soul, circumcision of the heart, above exterior practices; to show as an abominable work before God the prayers, the fasts and the sacrifices which were not accompanied or preceded by good actions; and to let their people see a time, more or less near, when all the nations of the earth, adoring the Eternal, would form only one family. There were some even who hastened the accomplishment of this prediction by carrying the word of Jehovah to the foreign races who were ignorant of or despised it. — The doctors (*nomodidascaloï*) or rabbis, as they were commonly called (from *rabbi*, my master), the authors and the interpreters of the oral law, who, under different names, so much the more venerated as they live nearer our own age, form an uninterrupted chain for more than eight centuries: they were the theologians and the jurisconsults of Mosaism. They tried to fix the dogmas, to regulate the thousand details which belong to the external practice of religion, to determine in advance in the name of a tradition which they made reach back to Moses, all possible applications of the law. Hence, that voluminous collection, which is called the Talmud (that is to say, the study, or rather the science, the science *par excellence*) and which is composed of two parts: the Mishna or the second law, and the Gemara or the comments. Hence, also, three classes of doctors, who are distinguished only by the time in which they lived or the work in which they took part: the Thannaïm or authors of the Mishna, the Amoraïm or their immediate disciples, and the Sabouraïm or those who, having lived last, were obliged to summon reason (*sabara*) to the aid of tradition. It is to these latter that the drawing up of the Gemara is principally due. — We may reproach all these teachers of God's people with having stifled, in some sort, the text of the law under the enormous mass of their commentaries, and with having too often degraded the spirit of it by a multitude of minute regulations. But the honor must be left them of having prevented their

beliefs and their morals from sharing the ruin of their nationality; of having preserved their religious unity from the destruction which overtook their political unity; of having created in advance, with a power of duration unparalleled in history, the only authority which was able to bind together the scattered remnants of their race: we refer to the tradition accepted as a second law descended from Sinaï, and which regulates even the smallest details of the life of an Israelite. This authority, after all, is not so immutable as it is supposed to be; for it is a purely lay authority, exercised by the learned, by doctors, and it is a principle of the Talmud, that every provision adopted by one synod can be repealed by another. Without any doubt the traditions, which have been added to the Holy Scriptures, the Mishna and the Gemara, bear the traces of their origin; they are the work of the sect of the Pharisees. But the Pharisees, from the time that they appeared on the scene, carried all the nation with them and might be taken for the nation itself. The Essenes formed only a feeble minority, whom a contemplative and monastic life maintained in isolation until the day when they were confounded with nascent Christianity. The Sadducees, who were not more numerous, even less so perhaps, were the Epicureans of Mosaism, since they denied the resurrection and the future life. They were the rich and the great of the earth, who, satisfied with their lot in this world, did not care much about the other. Now, the men of this description count for nothing in any belief; all beliefs reject and deny them, as they deny all beliefs. As for the Samaritans, who rejected not only the Talmud, but the canonical books, with the exception of the Pantateuch and the book of Joshua, they are reduced to-day to a score of families, who vegetate at Sichem in misery and ignorance, and must soon disappear. Although they pretend to be the descendants of the ten tribes, which formerly formed the kingdom of Israel, they belong to Mosaism neither by their origin nor their faith. Sprung from one of those foreign races which established themselves upon the territory of the ten tribes dispersed by conquest, they were always the enemies of the Jews, their neighbors, and their worship, whose seat was Mt. Gerizim, was only a rival worship of that of Zion.— The most essential dogma of Mosaism, that from which it has never varied, is the belief in one only God, in a living God, Creator and Preserver of all beings, whose power is subject to no rules and no limits, except his own wisdom; it is a spiritual monotheism, which no religion of antiquity approaches, neither the pantheism of India, nor the dualism of Egypt and Persia, nor the polytheism of the Romans and the Greeks. We often hear it maintained that the God of Moses and of the Old Testament is only a national God, who, like the kings of the earth, exercises his authority over one people alone, and who chose a capital, by designating Jerusalem as the only place worthy of possessing his sanctuary. Nothing is more contrary to the letter and the spirit of the Holy Scriptures; for when they first mention the name of God, it is to tell us that he created heaven and earth, light and darkness, the stars of the firmament, vegetables, animals and man. He is, according to the words of the Pentateuch, the God of minds, who animates all flesh, that is to say, the principle of intellect and of life, who is upon the earth and in the heavens, and before whom there is no other god. When Moses asked God by what name he should be called, that he might inform his brothers who were plunged in ignorance and servitude, he received for answer these sublime words: "I am who am," that is to say, the only Being to whom existence really belongs, the eternal Being who has always been and who always will be, as his name Jehovah or Yaveh indicates. He is the eternal Being, immaterial, infinite; this is why he has forbidden his being represented to the eyes, and why all images are prohibited in his temple. He is the Judge as well as the Master of the earth. "I, even I, am he," he says by the mouth of his prophet, "and there is no god with me: I kill and I make alive: I wound and I heal: neither is there any that can deliver out of my hand." (Deut., xxxii., 39.)— There is no inference to be drawn from the anthropomorphical figures under which he often appears in the history of the Hebrew people and in the visions of the prophets. To uncultured men it was necessary to speak a language that they might understand, that of the imagination and of the senses. There is, besides, such majesty and such eloquence in these figures, that it is difficult to conceive a more sublime and more complete manner of making the multitude comprehend the existence of a Creator. The detractors of the Bible often cite the words of Jephthah, when he sought to repulse the attacks of the king of Moab: "Wilt not thou possess that which Chemosh thy god giveth thee to possess? So, whomsoever the Lord our God shall drive out from before us, them will we possess." (Judges, xi., 24.) But Jephthah was far from being a prophet. He was an ignorant adventurer, who spoke to an idolatrous king the only language which was common to both.— The temple of Jerusalem was, for the tribes recently become masters of the holy land, a pledge of political and religious unity. For it must not be forgotten that the nationality of the Hebrew people was confounded with their religion, and that many altars, many temples independent of each other, must necessarily have divided it, as the schism of Samaria abundantly proves. But the prophets did not cease to announce that the house of Jehovah would be a house of prayer for all nations: that a time would come when his name would be invoked over all the earth: that his word would break through the walls of Jerusalem to enlighten the world. From the time of the patriarchs, when he appeared for the first time to Abraham, he predicted to him that all the families of the earth would be blessed in him. (Genesis, xii., 3.) The God of the Bible, the God

of Mosaism, is therefore at once the all-powerful Master of the universe, since he created it, and the Father of the human race; a free God, personal and spiritual. — Man, according to the Holy Scriptures and according to teachings and tradition, bears in himself the same marks. He was created, says Genesis, in the image of God; and since in the words of the Decalogue, it is forbidden to represent the divinity under any visible form, this resemblance must be understood in a spiritual sense. It is thus, in fact, that it is understood in the Pentateuch. All the moral qualities which Moses wished to develop in the souls of his people, he represents as divine perfections which man should seek to imitate "Ye shall be holy: for I the Lord your God am holy." (Leviticus, xix., 2) "The Lord God, merciful and gracious, longsuffering, and abundant in goodness and truth." (Exodus, xxxiv., 6) "Circumcise, therefore, the foreskin of your heart and be no more stiffnecked, for the Lord your God is God of gods and Lord of lords, a great God, a mighty and a terrible, which regardeth not persons, nor taketh reward: He doth execute the judgment of the fatherless and widow," etc. (Deuteronomy, x., 16–18.) The serpent himself, when he promises to Adam and Eve that their disobedience will render them like their Creator, speaks only of a spiritual resemblance, which consists in the knowledge of good and evil. (Genesis, iii., 5) But all these qualities suppose liberty. Hence, liberty is formally recognized in the Old Testament, commencing with the books of Moses. We see there that God speaks to man as to a creature entirely master of his own actions; he shows him in the future the rewards and punishments which will follow his conduct, according as it shall have been good or bad. — From the idea which Mosaism has formed of the divine nature and of human nature flows all its morality. Christ summed it up with admirable precision when he said: "Thou shalt love the Lord thy God with all thy heart and with all thy soul and with all thy mind. This is the first and great commandment. And the second is like unto it: Thou shalt love thy neighbor as thyself. On these two commandments hang all the law and the prophets." How, indeed, is it possible not to love God, if God is for us not that abstract and intangible being that pantheism adores, or the blind force of nature which under a thousand different forms pagan mythology invokes, but the living model of all beauty and of all moral perfection, the personal principle of life, of thought and of liberty? How is it possible not to love man if he be the reflection of that eternal ideal, and if it be true, as the Scriptures affirm, that he is the image of the Creator? Therefore, neither Moses, nor the prophets, nor the doctors, ever tired of insisting upon these two precepts. "And thou shalt love the Lord thy God with all thine heart, and with all thy soul, and with all thy might." (Deuteronomy, vi., 5.) It is the author of the Decalogue who thus expresses himself, and these sublime words have become the *credo* of the synagogue. Every Israelite repeats them morning and evening, adding to them these words: "Hear, O Israel: the Lord our God is one Lord." (Deuteronomy, vi., 4.) These words were in the mouth of the celebrated Akiba, when he died by the most horrible tortures in the reign and by the orders of Hadrian. Says the Psalmist: "As the hart panteth after the water brooks, so panteth my soul after thee, O God. My soul thirsteth for God, for the living God." (Psalms, xlii., 1, 2.)— The love of man for his kind and for human nature in general, is prescribed with no less force in the books of the Old Testament. Moses was the first to say, "Love thy neighbor as thyself", and this maxim may be considered as the most complete expression of devotion and of right, of charity and of justice, of what one owes to others and to himself. Far from absolutely excluding love of self, it lays down the love of self as the rule and the type of the love which should be borne for others. Far from prescribing, like Indian morality, the annihilation of the individual, the sacrifice of the human person, it is precisely the human person which it defends and protects under the imperative form of a general law emanating from God. It exacts that the human person shall be dear to us for the dignity which is in it, without distinction or exception, without difference between ourselves and our fellow-men.— The universal application of this precept has been contested in vain by those who maintain that it is applicable to the Israelites alone. Did not Moses teach, in Genesis, that all men descend from the same primitive pair, and consequently that they all form one family, that they are all brothers? Moses also said: "Love ye, therefore, the stranger: for ye were strangers in the land of Egypt." (Deuteronomy, x., 19.) "But the stranger that dwelleth with you shall be unto you as one born among you, and thou shalt love him as thyself; for ye were strangers in the land of Egypt." (Leviticus, xix., 34) He does not stop there; he wishes men to love even their enemies, and what is more still, to fly to their aid when they are in trouble, and to work with them for their deliverance. We read in Exodus (xxiii., 4, 5,) these beautiful words: "If thou meet thine enemy's ox or his ass going astray, thou shalt surely bring it back to him again. If thou see the ass of him that hateth thee lying under his burden, and wouldst forbear to help him, thou shalt surely help with him." We search in vain all the holy books of the Hebrew people, and we do not find this maxim which the *Sermon on the Mount*, in the Gospel (Matthew, v., 43,) attributes *to the ancients:* "Thou shalt love thy neighbor and hate thine enemy" The authors of tradition have shown themselves on this point the worthy successors of Moses and the prophets. Hillel the Elder, who died about half a century before Christ, summed up in these words the obligations of the law, of which he was one of the most illustrious interpreters: "What you do not wish one to do to

you, do not do to others; this is all the law, all else is but the commentary on the law." — The articles of the Decalogue, which forbid theft, murder, adultery, false testimony, envy, are only the rigorous consequences of this principle; for we are commanded to love our fellows as ourselves, and for a much stronger reason should we abstain from doing them any evil. But the actions proscribed by the Decalogue are not the only ones which incur the reprobation of the Hebrew legislator. The Pentateuch formally condemns all acts of violence, all injury by action or by word, and even all grudge in the heart. (Leviticus, xix., 17, 18.) It condemns not only adultery, but debauchery and prostitution. It pushes severity so far as to exact the burning by fire of the daughter of a priest whose manners shall have become a public scandal. (Leviticus, xxi., 9.) It condemns not only theft, but the abuse of property, such as the action of receiving as a pledge from a poor borrower the instrument of his labor or the garment which covers him. It condemns not only false testimony but calumny, backbiting and lying. — We experience some difficulty when we pass from these admirable precepts to the civil laws of Moses. But it must be remarked that there is an immense gap between the civil laws of a country, however advanced it may be in civilization, and the universal rules of morality. Civil laws, to be practicable, are obliged to accept at least a part of the prejudices, of the passions and of the habits of the nation, for which they are intended. Civil laws, among all peoples and in all times, are nothing more than a compromise between the fact and the right, between the state of culture, of morality, of external security, which a nation has reached, and the absolute exigencies of conscience or the ideal proposed by religion. How, for example, can we reconcile with the mildness of the Gospel the punishments pronounced against criminals by all Christian nations? How can we reconcile with evangelical purity that sort of guarantee offered by the police to the profligacy of morals? It is still worse when we pass from the civil order to international relations, where force is the sole guarantee, we may even say the sole measure, of right. It is not astonishing, therefore, that Moses, at once moral legislator, civil legislator and political chief of his nation, offers us a similar contradiction, and one even more obvious, because of the difference in times, manners and customs. — *The faithful of Mosaism in the midst of other Religions; their Emancipation.* It is impossible, with the best will in the world, to see in the dispersion of the Israelites among other nations, a supernatural effect of the death of Christ; for this dispersion commenced and was almost accomplished many years before our era. From this epoch, the greatest part of the nation lived outside of Palestine, scattered through the three divisions of the ancient world. Without speaking of the ten tribes led away by Salmanazar and which were confounded with the other peoples of his empire, the *Jews* themselves, that is to say, the ancient inhabitants of the kingdom of Judah, did not consent to return with Zorobabel and Esdras. When Alexander the Great destroyed the Persian monarchy, he found a great number of them in Babylonia. It was in Babylonia itself, at Sora, at Pombeditha, at Nehardea, that they founded their most celebrated academies. There was a large number of them in the Greek colonies. They formed a considerable part of the population of Alexandria, whither Alexander the Great attracted them, by according to them the same privileges as to his Macedonian subjects. Ptolemy Soter almost depopulated Judæa in the interest of his own states; and if it is true that a hundred and twenty thousand of these exiles returned to their own country, there still remained enough of them to enable Osias to conceive the idea of building at Leontopolis a rival temple to that of Jerusalem. It was during their sojourn in Egypt, under the government of the Lagides, that the Jews became familiar with the language, the manners, the civilization and the philosophy of the Greeks. It was from this intercourse that the version called the Septuagint, many apocryphal books of the Bible, and the writings of Philo, sprang. The policy of the Seleucides in Syria was the same in regard to the Jews as that of the Ptolemies in Egypt. They attracted crowds of them to Seleucia, to Antioch, to Ctesiphon, to Phrygia and Lydia. Thence they spread into Ionia and most of the islands of the Archipelago. At Rome also, after the taking of Jerusalem by Pompey, there was a Jewish colony, which numbered, in the time of Augustus, more than eight thousand persons. The dispersal of the Jews before the Christian era, is attested by the Acts of the Apostles. We read there (ii., 5, 9,) that on feast days there came together at Jerusalem, Jews of all languages and of all nations, Parthians, Medes, Elamites, the inhabitants of Mesopotamia, of Cappadocia, of Pontus, of Phrygia, of Pamphilia, of Egypt, of Libya, of Arabia, of Cilicia, of Crete and of Rome. But we know that the destruction of the Hebrew nationality was not complete till after the destruction of Jerusalem by Titus, and above all after the emperor, Hadrian, just after the insurrection of Barchochebas, had built upon the ruins of the holy city a new city, entry into which was interdicted to the descendants of Israel, under pain of death. — Palestine remained no less, even after this event, the religious mother country of the Jews. The cities of Tiberia, of Sephoris, and Diospolis, were the seats of so many theological academies, in which the Talmud of Jerusalem was being elaborated, while in the academies of Persia that of Babylon was being prepared. But the mass of Israelites scattered throughout all the extent of the empire, passed through alternate periods of repose and suffering, according to the humor of the masters of the world, or of the subordinate tyrants who occupied their place in the provinces. Confounded with the first Christians,

they had the honor, for a long time, of suffering with them for a cause which was common to them, that of the one God, proclaimed both by the Old Testament and the New. — The hardships endured by the Israelites under Greek or Roman rule had a purely political character. The laws of the empire gave the right of believing what one wished or what one could; but religion being a national institution, they would not allow one to neglect to honor it publicly, or, still less, to affect to despise it. Such were not the persecutions which awaited the followers of the old law under the reign of the Christian princes, above all during the Catholic fervor of the middle ages. These latter were inspired by religious hatred. Hence they were much more terrible; for they added to the barbarity of the times what there is most implacable in fanaticism. Moreover, men are less worthy to be accused than the situation itself. The Christian nations, convinced that all was finished, that the word of the Scriptures was accomplished, that the liberator promised to the human race had come, were naturally irritated against that stubborn race who persisted in proclaiming the contrary. Manners were not mild enough, nor faith evangelical enough, to make men put in practice those beautiful words dropped from the cross: "Father, forgive them; for they know not what they do." On the other side, the Jews did not recognize in the dogmas of the Trinity and of the Incarnation the severe monotheism of their ancestors, neither did they admit that the rude age in which they lived, that that age of oppression, of violence, of servitude for some, of despotism for others, of war for all, was the age of peace and of universal liberty predicted by the prophets, the age when swords were to be changed into plowshares; and the Jews felt their attachment for their faith increase by reason of the sufferings which they endured for it. Excluded from all the professions, from all the recognized honorable conditions, excluded even from the ranks of servitude, as much despised by the slave bound to the soil as by the nobility and the middle class, having no other resource than to trade in money, a trade declared infamous in the name of Aristotle and the Holy Scriptures, they lived as enemies in the midst of that society, which, not content with loading them with outrages, periodically decimated them by frightful butcheries. — This state of things was prolonged until the sixteenth century. Then a policy, more intelligent than that of the middle ages, appreciating the services which the Jews were able to render to finance and to commerce, commenced to assure them a pleasanter condition of things. It was thus that, under Henri III., the Spanish Israelites, expelled by the edict of Ferdinand and Isabella, or flying from the stakes of the inquisition, obtained permission to establish themselves, with an entire liberty of conscience, in the cities of Bordeaux and Bayonne, where they gave a vigorous impulse to the commerce of France with Italy. Another portion of these exiles went to the Netherlands, recently freed from the yoke of Philip II., and they took an honorable part in the industrial activity of the cities of Amsterdam and Rotterdam. Others were received with the same consideration by Denmark, and brought the same advantages to it, to the free city of Hamburg, and to the European colonies recently founded in North and South America. The electors of Brandenburg, knowing how to profit from the faults of their neighbors, also attracted to their states the Jews persecuted in the rest of Germany. But the greatest part of this change was the work of the reformation. Christian unity being broken, and the new communions, brought forth by the preaching of Luther, Calvin and Zwingli, having forced the Catholic powers to treat with them on an equal footing or to suffer them in their midst, the principle of toleration entered little by little into the statutory provisions, into the manners and into the public law of Europe. The Jews were not slow to reap the fruits of this toleration. The Protestant countries—above all, Holland, England, from the time of the protectorate of Cromwell, and North America—treated them with a benevolence hitherto unknown, and little by little admitted them to the rank of citizens. — To the principle of toleration introduced by the reformation were joined the principles of liberty, of humanity, of universal right, so dear to the eighteenth century. It was under the influence of these ideas, which, although not new, received a new application, that the emperor of Austria, Joseph II., proclaimed his edict of toleration in 1782; that the constitution of the United States of America admitted, in the fullest measure, freedom of conscience; that the Grand Duke Léopold I. introduced the same reform into Tuscany; that King Louis XVI. issued his decree of 1784, and paved the way, with the aid of Malesherbes, for a more efficacious reparation. It was at this same epoch, and under the same inspiration, that Dohm in Germany and the Abbé Grégoric in France demanded the complete assimilation of the Israelites to their Christian fellow-citizens. This desire was only accomplished by the constituent assembly of 1789. Jan. 28, 1790, it passed a first decree which recognized the rights of active citizens to the Israelites of the south of France, known under the names of Portuguese, Spanish or Avignonese Israelites. A second decree of Sept. 27, 1791, proclaimed solemnly the emancipation of all the Israelites, inhabitants of France, without distinction of origin. — All the French constitutions, which followed that of 1791, sanctioned the same principle. The victorious eagles of the empire bore it successfully into all the countries of Europe, even into Spain and the states of the church. Naturally this triumph lasted no longer than the régime to which it was due. But the seed was sown in men's minds, and we see it today bearing fruit everywhere. The Israelites of Germany, of Austria, of Italy, of Belgium, of

Portugal, of Switzerland and Denmark, are now citizens like those of France, of England, of Holland and of the United States. It will be the same everywhere where civilization shall have attained the height it has in these countries. — Wherever it has been proclaimed, the emancipation of the Israelites has produced the same effects. It has changed pariahs into useful, laborious and intelligent citizens, who serve society and civilization in all the spheres of human activity; in the arts, in the sciences, in industry, in commerce, in politics and in war. There is not a free country which does not count Israelites among the notable men from whom it draws the most honor. AD. FRANCK.

MUNICIPAL BONDS, instruments issued for the payment of money by municipal corporations, such as counties, cities and towns, negotiable in form and clothed with the attributes of commercial paper. These bonds usually run from ten to thirty years, and ordinarily have interest coupons attached to them, which are separately negotiable, and may be enforced by the holder without producing or even proving an interest in the original bond. There is no country in the world where these securities have been issued in such quantities as in the United States, whose total municipal indebtedness was estimated, in 1876, to amount to over a thousand million of dollars. — The authority to issue such securities is not incidental to the ordinary powers of municipal corporations, but must be conferred by express legislative grant. Whether or not the state legislature has the power to confer authority, in the absence of express constitutional provision, to issue these bonds for purposes not strictly public, as, for example, in behalf of railroads, is a question which has long been combated in the highest courts of various states, as well as in the United States courts, and both sides of the question are supported by strong arguments of reason and common sense. As the question involves the power of taxation, and as the state constitutions invariably contain inhibitions upon taxation other than for public purposes, it is of vital importance, in considering the validity of such securities, first to determine whether the purpose for which they have been issued is a public purpose within the constitutional phrase. — The various questions relating to this peculiar class of commercial paper did not assume great importance before the civil war. Before then the issues of such bonds had been for purposes, for the most part, undoubtedly "public," such as the erection of town halls, the construction and maintenance under corporate supervision of water works, roadways, etc. But when, at the close of the war, a large non-producing population were scattered throughout the rich agricultural regions of the west and northwest, and became producers in their turn, there soon arose, in those fertile but sparsely settled districts, the urgent necessity of better means of communication with the great distributing points and centres of trade. Railroads were demanded by the farmers of the grain-bearing areas at the west and northwest, in order to put their products upon eastern markets. But the construction funds had to come, in the main, from eastern capitalists; and the farmers, in order to meet the then paramount want, were ready to pledge the corporate credit of their towns and counties to any extent. — It is a curious social fact that a body of men, acting as an aggregation, will often commit themselves to a line of conduct which as individuals they would strongly condemn. It is not, therefore, to be wondered at that the honest farmers of the great northwest, while despising the owner of a small holding who would mortgage his crop before sowing the seed, should have been so ready to plunge their communities into corporate debts of extraordinary amount, especially when the pay day was put at twenty or thirty years in the future. Judge Dillon, who formerly sat as United States circuit judge in the eighth circuit, where numerous cases involving the validity of such securities arose, declares "that he has known of a newly organized county government, whose population did not exceed 10,000, vote in behalf of a single railway company bonds to the amount of $300,000," bearing interest at the rate of 10 per cent.! "And," he adds, "instances are not infrequent where bonds have been issued to greater amounts than the assessed value of all the taxable property at the time within the municipal or territorial subdivision"! ("Dillon on Municipal Bonds," 5.) For a time this sort of financiering was an apparent success. The demand for railway facilities was undoubtedly based on an imperative want, and it did not take long for this demand to work its way into local politics, as soon as the popularity of schemes for "developing the resources" of this region or that began to be seen. Occasionally a conservative voice could be heard protesting against what has been described by the supreme court of the United States as "the epidemic insanity of the people," "the mania for running in debt for local improvements," (Mercer County *vs.* Hackett, Wallace, 96), but such opposition to the universal clamor was futile, and only exposed the objector to local and political unpopularity. Thus bonds to the amount of hundreds of thousands of dollars were issued by communities which had scarcely begun to assume municipal duties, and interest-bearing securities were negotiated, involving heavy taxation, by towns which existed little more than on paper. The interest in most cases was at first met with reasonable promptness. The bonds were generally disposed of to non-resident buyers, selling at absurdly low rates, in cases where no ordinance forbade their disposal at less than par—and few municipalities were wise enough to set a minimum selling price. Towns and counties were often so eager to lend the aid of their municipal credit to proposed railroad schemes, that, in many cases, an out-and-out donation of bonds was voted

in behalf of the railroad company, instead of the usual stock subscription payable in bonds. The railway officials would then sell the bonds, generally in large amounts to banks, brokers or "syndicates," and often at a great discount, to secure the necessary construction funds, and the long-needed railway would then be built. It is thus a matter of record that more than one railroad has been laid in sparsely settled districts only to be abandoned when the funds to support it had failed, and the expected traffic fell far below the hopes of the sanguine promoters. In the six states of Illinois, Wisconsin, Iowa, Minnesota, Nebraska and Kansas there was an increase in the mileage of railroads of from 6,992 miles in 1867 to 17,645 miles in 1873—an increment of no less than 254 per cent.! While in the western states and territories alone, during the five most active years of railway construction, not less than five hundred millions of dollars were expended in building railroads. (See article by Mr. Charles Francis Adams, Jr., in "North American Review," vol. 120.) — It was about 1870 that these prodigal communities began to feel the weight of their obligations. The proceeds of their indebtedness had been spent in "improving" their lands, but there lay a sting in the galling fact that the debts themselves were, for the most part, in the hands of foreign holders, who now began to press for their dues. Pay day was drawing near, when the principal would become due, and, in the meantime, the interest coupons had to be taken up with harassing regularity. Towns and counties, which had been only too ready to pledge their corporate faith for hundreds of thousands, began to cast about for ways of meeting the payment of the hundreds due as interest; and when this was found to involve a regularly laid "interest tax," which meant just so many dollars from every tax payer's pocket, the idea of a further demand by way of provision for a sinking fund, with which to meet the principal became unbearable, and, before a quarter of the coupons had been taken up, men who would have scorned to employ dishonest means to avoid their personal debts, were anxiously seeking to escape from debts, which, acting together in a corporate capacity, they had just as honestly incurred. — The word "repudiation," in its now common significance, is said to have been used for the first time by the governor of Mississippi, in a message to the legislature of that state, in January, 1841. He alluded to a plan which had been suggested, of *repudiating* certain bonds of the state issued in support of a banking institution, and which had been sold, contrary to the law regulating their issue, at less than their face value. The state legislature set a noteworthy example to succeeding generations of law-makers less sensitive for the honor of their commonwealth than they. They resolved as follows: "That the state of Mississippi will pay her bonds and preserve her faith inviolate. That the insinuation that the state of Mississippi would repudiate her bonds and violate her plighted faith, is a calumny upon the justice, honor and dignity of the state." — Unfortunately the worthy example set by the Mississippi legislators of 1841 has not been followed in their own and some other states. The political huckster was only too quick to learn that a policy of repudiation, so far from exciting the indignation of his constituents, if boldly supported by glib and specious argument, was one of the surest claims to local popularity. Indeed, these interest-burdened communities were so hot to rid themselves of the weight of debt which they had undertaken, that any scheme for resisting the non-resident, and therefore "grasping," "avaricious" and "bloated" bondholder, was certain of a strong popular indorsement, even though based upon palpable fraud. This state of public sentiment, and the action to which it led, were simply parts of a natural sequence. It may be safely laid down as a general proposition, which the student of municipal affairs can readily verify, that whenever a community assumes obligations of a public character which unexpectedly become so heavy as to oppress the private individual, repudiation follows as an inevitable consequence. It was thus with the communities above referred to. Public meetings were held and resolutions passed, urging town and county officers to refuse to take up the interest coupons as they came due, and plainly intimating that a compliance with the law and a non-compliance with the demands of the voters would involve a loss of place at the ensuing election. The effect of such proceedings may be readily guessed. Payments were not met, often through actual lack of funds, but often, too, in accordance with the orders of the voters in town hall assembled. The bond question became a political question, and, in certain districts of Iowa and Minnesota, resolutions were passed by nominating conventions which virtually pledged the nominees to the policy of repudiation. The bondholders were driven to their legal remedies, and various methods were tried to enforce their rights. Suits were brought against municipal officers to compel the payment of over-due interest, and when the treasury of the town or county showed a lack of the necessary funds, an application would be made for a mandamus compelling the assessment of a special interest tax. The defenses raised to such actions were founded upon all sorts of pretexts, but they may be generally resolved under two heads: 1, those which pleaded want of power on the part of the municipality to issue the bonds in question; 2, those which alleged various irregularities or defects in the exercise of the power. The decisions of the lower state courts were almost invariably in favor of invalidating such bonds, so strong was the feeling against them; and it is notorious that in certain districts, judges, on the one hand, lost their seats because their decisions maintaining the public credit were so obnoxious to the popular demand, and, on the other, owed their elevation to the bench, to the explicit understanding that they

were pledged to decide against the validity of these securities, in such cases as might come before them. — The "Grangers," or "Patrons of Husbandry," a secret order, modeled after the manner of the "Odd Fellows," directed their energies to the accomplishment of two great results: lowering the rates of railway transportation, and "wiping out" railroad or municipal bonds. One of their officers, who represented the Northwestern Farmers' convention, before the Windom committee on transportation rates (U. S. senate, 1873), when it was suggested to him that the United States supreme court might declare unconstitutional any act changing rates from five cents per mile to three cents per mile, where the charter allowed five cents per mile, was for "wiping out the supreme court, and getting one that would decide it." This is precisely what the people of the "granger" states did, *i. e.*, reversed the decision of their judges upon the question of the validity of town and county bonds, by electing others pledged to a construction of the law favoring their views. A striking instance of the way in which an elective judiciary may be influenced by an erroneous and mischievous popular sentiment, is to be found in such a decision, referred to by the United States supreme court, in the case of Gelpcke *vs.* Dubuque, 1 Wallace U. S. Rep., 206, as "standing out in unenviable solitude and notoriety." The opinion of the federal court concluded with these words: "We shall never immolate truth, justice and the law because a state tribunal has erected the altar and decreed the sacrifice." (See Mr. Adams' article, above referred to.) On another occasion, in 1875, the same court, referring to the great commonwealth of Minnesota, said: "The faith of the state, solemnly pledged, has not been kept; and were she amenable to the tribunals of the country as private individuals are, no court of justice would withhold its judgment against her."— Unfortunately, popular opposition to the payment of municipal debts has not been confined to the granger states. In the opinion of the federal bench, if not elsewhere, even the New York court of appeals has lent its sanction to schemes of repudiation, by declaring certain bonds void upon grounds which the United States supreme court has pronounced unsound, (see Starin *vs.* Bank of Genoa, and Gould *vs.* Sterling, 23 N. Y. Rep., 439, 456); while the most flagrant case of refusal to meet a municipal debt justly incurred is to be found in the recent (March, 1882) action of the people of Greenwood, Steuben county, New York, who by threats and force actually prevented the sheriff from collecting an interest tax in favor of bonds whose validity had been sustained by the highest court of the state. To enforce the tax the governor was compelled to issue a proclamation declaring the town to be in a state of insurrection! When cases involving the defenses mentioned above came to be submitted finally to the scrutiny of the federal judiciary, the rights of innocent holders of these bonds were firmly upheld. The sound and honest reasoning upon which the supreme court of the United States based its decisions in these cases may be summarized, briefly, as follows: 1. The power of municipal corporations to issue such securities is derived only from express legislative grant, and is not to be implied; and the legislature may grant this power if not prohibited, either expressly or by necessary implication, by the constitution of the state or by that of the United States. 2. Where authority to issue such bonds exists, no mere defect or irregularity in the exercise of that power will suffice to invalidate the security in the hands of an innocent purchaser. This second point is one upon which the supreme court and the highest appellate courts of several states, notably the New York court of appeals, are still at odds, the latter insisting, with strong show of reason, it must be admitted, that if the purchasers of such securities are not required to verify their bonds, except by the recitals upon their face, and the act authorizing their issue, the door is at once thrown open to the fraudulent schemes of official rascality. Judge Dillon himself, who, in his decisions, has invariably "set a face of flint against repudiation in all its forms," admits that "the frauds which unscrupulous officers will be enabled successfully to practice, if an implied and unguarded power to issue negotiable securities is recognized, and which the corporation or the city will be helpless to prevent, is a strong argument against the judicial establishment of any such power"; and he suggests this query, "Do not the decisions of the supreme court of the United States lead to this conclusion, 'that where the power to issue bonds is given upon the condition of a previous vote in favor of the proposition, the public or municipal officers can, *where no vote whatever has been taken or the proposition been voted down*, bind the county or municipality by the false recitals in such unauthorized bonds, provided they are issued by the officers entrusted by the statute with the power'?" A query which has been emphasized by the conduct of the mayor of Adrian, Mich., who sold to various New York bankers forged bonds, the *power* to issue which existed as recited on their face, although no authority had been given by popular vote. It is a serious question whether the bonds are not binding upon the town under the decisions of the United States supreme court, which has declared against the repudiation of such bonds even by municipalities which have been deceived and defrauded in their issue. (See New York papers, Feb. 13, 1882, *passim*) — There is no doubt, that, but for the position assumed by the highest tribunal in this country upon the question of municipal bonds, dealers in this class of commercial securities would be subject to far greater risks than they are at present. It is well for them, however, to bear this much in mind, that want of power to issue is a good defense even against a purchaser in good faith. In other words, such purchaser is bound to know whether or not the legislature has expressly authorized the par

ticular issue by the municipal officers executing the same; although he is under no obligation to examine the records of the town or county in whose securities he proposes to deal, in order to see whether or not the declarations upon the face of such bonds are true as to the performance of the details in the exercise of that power, when those declarations have been duly verified by the municipal officers named in the legislative act. — The lesson of 1868–73 has been a bitter one for the people of many promising towns and counties, and it will be years before some of the more prodigal communities recover from the load of taxation recklessly but voluntarily assumed. Grass grows upon the track, and ties rot along the line of more than one railroad in districts whose inhabitants will, for years to come, pay interest on money spent in its construction. GEORGE WALTON GREEN.

MUTSUHITO (meek or peaceful man), the reigning emperor of Japan, and the 123d ruler of the line of mikados, was born Nov. 3, 1850, in the palace of Kiōto. His father was the emperor Komei, and his mother Fujiwara Asako. At his father's death, Jan. 30, 1867, he was declared mikado, and on the re-establishment of the ancient government, Jan. 3, 1868, became sole ruler, without regent or shōgun ("tycoon"). He saw Europeans for the first time at his audience with the foreign envoys, March 23, 1868. On April 6, in the presence of the imperial court, and the leaders of the restoration, he took that oath which lies at the foundation of the government of Japan, and which has been made the basis of political progress since 1868. The text of the oath, which seems to be steadily transforming Japan from an absolute despotism to a constitutional monarchy, is as follows: "1. The practice of discussion and debate shall be universally adopted, and all measures shall be decided by public argument. 2. High and low shall be of one mind, and social order shall be thereby perfectly maintained. 3. It is necessary that the civil and military power be concentrated in a single whole, the rights of all classes be allowed, and the nation's mind be completely satisfied. 4. The uncivilized customs of former times shall be broken through, and the impartiality and justice displayed in the working of nature be adopted as a basis of action. 5. Intellect and learning shall be sought for throughout the world, to establish the foundations of the empire." On Feb. 7, 1869, the national capital was removed to Tōkiō, and the mikado was soon afterward married to Haruko, a lady of the noble house of Ichijō, born in 1850. No issue of this marriage has yet appeared. In case of death or failure of offspring from the imperial concubines, twelve in number, an heir is chosen from one of the four Shin-no, or families of imperial blood, Katsura, Arisugawa, Fushimi, and Kanin. In October, 1881, Mutsuhito issued a proclamation, in which, after reviewing the successive phases of government, occur these words: "It is my duty to develop the manner of administration as the times alter. I intend to establish a national assembly in 1890." [This article is inserted mainly as an addition to that on Japan.]

W. E. G.

N

NATION, Definition of. The words *nation* and *people* are frequently used as synonyms, but there is a great difference between them. A *nation* is an aggregation of men speaking the same language, having the same customs, and endowed with certain moral qualities which distinguish them from other groups of a like nature. It would follow from this definition that a *nation* is destined to form only one *state*, and that it constitutes one indivisible whole. Nevertheless, the history of every age presents us with nations divided into several *states*. Thus, Italy was for centuries divided among several different *governments*. The same was the case, and in a measure is still the case, with Germany. The *people* is the collection of all citizens without distinction of rank or order. All men living under the same *government* compose the *people* of the *state*. In relation to the *state*, the *citizens* constitute the *people;* in relation to the human race, they constitute the *nation*. A *free nation* is one not subject to a foreign *government*, whatever be the constitution of the *state;* a *people* is *free* when all the citizens can participate in a certain measure in the direction and in the examination of public affairs. Empires, such as the Roman empire was, such as the Russian empire and the Austrian empire of to day are, may, therefore, comprise a great number of different *nations*, but they are composed, in reality, of only one *people*. Notwithstanding the diversity of *nationalities* united under the government of the house of Hapsburg, there is one Austrian *people*, since the constitution of 1859 granted certain political rights to the population The *people* is the political body brought into existence by community of laws, and the *people* may perish with these laws. The *nation* is the moral body independent of political revolutions, because it is constituted by inborn qualities which render it indissoluble. The *state* is the *people* organized into a political body. (See NATIONALITIES, PRINCIPLE OF.) HÉLIE.

NATION, What is a?* The idea of a nation, though apparently clear, has been greatly misapprehended. Human society exists under forms

* This article may serve as a pertinent criticism on those on NATION, and NATIONALITIES, PRINCIPLE OF, (which see): at the same time it is, so to speak, their complement.—ED.

most various. There are great agglomerations of men, as in China, Egypt, and ancient Babylonia; tribes, as among the Hebrews and the Arabs; cities, like Athens and Sparta; unions of different countries, as in the Achæmenidian, the Roman and the Carlovingian empires; communities without a country, where the members are held together by a religious bond, like the Israelites and the Parsees; nations, like France, England, and most of the modern European autonomies; confederations, as in Switzerland and America; and relationships, such as race, or rather language, established among the ancient Germans and among the Slavonians; all of which are modes of grouping which exist, or have existed, and which can not be confounded with one another without most serious consequences. At the time of the French revolution it was supposed that the institutions of small, independent cities, like Sparta and Rome, could be made applicable to our great nations of thirty to forty millions of people. In our day a more grave error is committed. Race is confounded with nation, and a sovereignty is attributed to ethnographic, or rather linguistic, groups, analogous to that of the peoples actually existing. Let us try to attain some precision on these difficult questions, where the least confusion in regard to the sense of the words, at the beginning of the reasoning, may produce in the end the most fatal errors. — I. Since the termination of the Roman empire, or, better, since the breaking up of the empire of Charlemagne, western Europe has been divided into nations, some of which have, at certain periods, attempted to exercise a hegemony over others, without ever succeeding, however, in establishing a lasting supremacy. That which Charles V., Louis XIV. and Napoleon I. were not able to do, no one in the future will probably succeed in accomplishing. The establishment of a new Roman empire, or a new empire like that of Charlemagne, has become an impossibility. Europe is too large for any attempt at universal domination to be made without speedily provoking a coalition which would compel the ambitious nation to retire within her natural boundaries. A sort of balance is established for a long time. France, England, Germany and Russia will still be, for some hundreds of years, notwithstanding the changes of fortune they may experience, historic individuals, essential pieces on the chess-board of the world, whose positions constantly vary, but which are never wholly lost. — Nations, thus understood, are something quite new in history. Antiquity was not acquainted with them. Egypt, China and ancient Chaldea were in no degree nations. They were herds led by a son of heaven or of the sun. There were no Egyptian citizens, any more than there are Chinese citizens. Classic antiquity had municipal republics and kingdoms, confederations of local republics and empires: it hardly had a nation as we understand the word. Athens, Sparta, Tyre and Sidon were little centres of an admirable patriotism; but they were cities with a relatively small territory. Gaul, Spain and Italy, before they were absorbed by the Roman empire, were collections of tribal groups which were often leagued together, but without central institutions and without dynasties. Nor were the Assyrian and the Persian empires, or the empire of Alexander, fatherlands. There were never Assyrian patriots; the Persian empire was a vast feudalism. Not one nation can trace its origin to the colossal fortune of Alexander, which was nevertheless so rich in consequences to the general history of civilization — The Roman empire was much nearer being a fatherland. In return for the great benefit of a cessation of wars, Roman domination, at first so hard, was very soon liked. Here was a great association the synonym of order, peace and civilization. In the latter days of the empire there was, among lofty souls, among enlightened bishops, and among the lettered, a true sentiment of "Roman peace," as opposed to the menacing chaos of barbarism. But an empire, twice as large as France is to-day, could not form a state in the modern acceptation of that word. The separation of the east from the west was inevitable. The attempts at a Gallic empire, in the third century, did not succeed. It was the Germanic invasion which introduced into the world the principle which, later, served as a basis for the existence of nationalities. — What did the Germanic peoples in fact do, from their great invasions of the fifth century to the last Norman conquests in the tenth? They made little fundamental change in the races; but they imposed dynasties and a military aristocracy on more or less considerable parts of the former western empire, which parts took the names of their invaders. Hence a France, a Burgundy, a Lombardy, and later, a Normandy. The ascendency which the Frankish empire rapidly gained, reproduced for a brief period the unity of the west; but this sway was irremediably broken toward the middle of the ninth century. The treaty of Verdun marked out divisions immutable in principle, and from that time France, Germany, Italy and Spain have traveled by ways, often circuitous and venturesome, to their full national existence, such as we behold it to-day. — What is it that in fact characterizes these different states? It is the fusion of the peoples which compose them. In the countries we have just enumerated there is nothing analogous to what will be found in Turkey, where Turk, Slave, Greek, Armenian, Arab, Syrian and Koord are as distinct to-day as on the day of the conquest. Two important circumstances contributed to this result. The first was, that the Germanic peoples adopted Christianity when they came into near contact with the Greek and Latin peoples. When the conqueror and the conquered are of the same religion, or rather, when the conqueror adopts the religion of the conquered, the Turkish system, of distinguishing men solely by their religion, can no longer exist. The second circumstance was, that the conquerors forgot their own language. The

grandsons of Clovis, Alaric, Gondebald, Alboin and Rollo already spoke Romanic. This fact was itself the consequence of another important fact, viz., that the Franks, Burgundians, Goths, Lombards and Normans had with them very few women of their race. For several generations the chief men married only German women; but their concubines were Latin, the nurses of their children were Latin; all the tribe married Latin women; consequently the *lingua francica* and the *lingua gothica* had but a short existence after the establishment of the Franks and Goths on Roman lands. It was not so in England; for the Anglo-Saxon invaders had, without doubt, women with them; the British population fled, and besides, the Latin was no longer, or indeed never was, dominant in Britain. If the Gallic had been generally spoken in Gaul, in the fifth century, Clovis and his followers would not have had to abandon Germanic for Gallic. — Hence this capital fact, that, notwithstanding the extreme violence of the manners of the German invaders, the mould which they imposed became, in the course of centuries, the mould of the nation itself. France became quite legitimately the name of a country into which only an imperceptible minority of Franks had entered. In the tenth century, in the first *chansons de geste*, which are so perfect a mirror of the spirit of the times, all the inhabitants of France are French. The idea of a difference of races in the population of France, so manifest in Gregory of Tours, does not appear at all in French writers and poets subsequent to Hugues Capet. The distinction between noble and serf is as marked as possible; but the difference is not at all a difference of race; it is a difference of courage, of habit, and of education, transmitted by heredity: the idea that it all originated in conquest occurs to no one. The false system according to which the nobility had its origin in a privilege conferred by the king for great services rendered the nation, so that every noble was one upon whom the title had been conferred, was established as a dogma in the thirteenth century. — The same thing occurred after nearly all the Norman conquests. After one or two generations the Norman invaders were no longer distinguishable from the rest of the population. Their influence had, however, been profound. They had given the conquered country a nobility, military habits, and a patriotism which it did not previously possess. — Forgetfulness, and historic error even, are essential in the formation of a nation: hence progress in historic studies is frequently attended with danger to nationality. Historic investigation brings to light the deeds of violence which occurred at the beginning of all political organizations, even those whose results have been most beneficent. Unity is always produced brutally: the union of northern and southern France was the result of terror and extermination continued for nearly a century. The king of France, the ideal type, so to say, of a secular crystallizer, who has made the most perfect national unity that exists; the king of France, seen too near, lost his prestige: the nation he had formed, cursed him; and to-day, none but cultured minds know what he was worth and what he did. — It is by contrast that these great laws of the history of western Europe become sensible. In the enterprise which the king of France, partly by his tyranny and partly by his justice, brought to so admirable a termination, many countries were stranded. Under the crown of St. Stephen the Magyars and the Slaves have remained as distinct as they were 800 years ago. Far from fusing the various elements of its domains, the house of Hapsburg has kept them distinct and often opposed to one another. In Bohemia the Czech element and the German element are superposed like oil and water in a glass. The Turkish policy, of separating nationalities according to their religion, has had results far more serious: it has caused the breaking up of the Oriental empire. In a city like Salonica or Smyrna there will be found five or six communities, each of which has its own memories, and between which there is scarcely anything in common. Now the essence of a nation is, that all the individuals must have many things in common, and also that all must have forgotten many things. No French citizen knows whether he is Burgundian, Alain, Taïfale, or Visigoth: every French citizen must have forgotten St. Bartholomew's night and the massacres in the southern provinces in the thirteenth century. There are not ten families in France which can furnish proof of Frankish origin, and besides, such proof would be essentially defective, because of the thousand unknown crossings which may derange all the systems of the genealogists. — The modern nation is then a historic result of a series of facts all tending to the same end. Sometimes unity has been realized by a dynasty, as was the case in France; again, it has been by the direct will of the people, as in Holland, Switzerland and Belgium; at another time, by a general spirit slowly vanquishing the caprices of feudalism, as in the case of Italy and Germany. A profound reason for their existence has always led to these formations. Principles, in such cases, make their way by the most unexpected surprises. We have, in our day, seen Italy unified by its defeats, and Turkey broken up by its victories. Every defeat advanced the cause of Italy; every victory was a loss to Turkey, for Italy is a nation, and Turkey, outside of Asia Minor, is not one. It is the glory of France to have proclaimed, by the French revolution, that a nation exists by its own act. But what, pray, is a nation? Why is Holland a nation, while Hanover or the grand duchy of Parma is not? How is it that France continues to be a nation, when the principle which created her has disappeared? How is Switzerland, which has three languages, two religions, and three or four races, a nation, when Tuscany, for example, which is so homogeneous, is not a nation? Why is Austria a state and not a nation? In what

does the principle of nationalities differ from the principle of races? These are points upon which a reflecting mind likes to come to a definite conclusion. The affairs of the world are hardly ever regulated by reasoning on this sort of questions; but the men who study them like to bring reason to bear on these matters and to clear away the confusion of superficial minds in their regard. — II. According to certain political theorists a nation is above all a dynasty, representing a former conquest, which was at first accepted and then forgotten by the mass of the people. According to these theorists the grouping of provinces effected by a dynasty through its wars, its marriages and its treaties, ends with the dynasty which brought it about. It is quite true that most modern nations have been made by a family of feudal origin, which has married on the soil and has been in some sort a nucleus of centralization. The limits of France in 1789 were neither natural nor necessary. The large belt which the house of Capet had added to the narrow strip of the treaty of Verdun, was properly the personal acquisition of that house. At the time when the annexations were made, people had no idea of natural limits, or of the rights of nations, or of the consent of the provinces. The union of England, Ireland and Scotland was likewise a dynastic fact. Italy was so long in becoming a nation only because, among its numerous reigning houses, none, before our century, made itself a centre of union. Strange to say, it took its royal title* from the obscure island of Sardinia—a land scarcely Italian. Holland, which created itself by an act of heroic resolve, nevertheless contracted a close marriage with the house of Orange, and would incur actual peril if at any time that union should be endangered. Is such a law, however, absolute? Doubtless not. Switzerland and the United States, which have been formed as if from conglomerates of successive additions, have no dynastic base. To discuss the question concerning France, it would be necessary to have the secret of the future. Let us simply say that that great French royalty had been so decidedly national, that the very day after its fall the nation was able to hold together without it. And then the eighteenth century had changed everything. Man had returned, after centuries of abasement, to his former spirit of respect for himself, to an idea of his rights. The words fatherland and citizen had recovered their meaning. Thus was accomplished the boldest deed which has been done in history, a deed which may be compared with what it would be in physiology, to attempt to make a body, from which brain and heart had been removed, live with its previous identity. — We must then admit that a nation can exist without the dynastic principle, and even that nations which have been formed by dynasties, may be separated from that dynasty without ceasing in consequence to exist. The old principle, which only took account of the right of princes, can no longer be maintained; besides the dynastic right, there is the national right. On what shall this national right be based? by what sign shall it be recognized? from what tangible fact shall it be derived? — 1. From race, say many confidently. Artificial divisions, resulting from feudalism, princely marriages, and diplomatic congresses, are of short duration; but race is permanent. It is this that constitutes a right, a legitimacy. The Germanic family, for example, according to this theory, has the right to take back the scattered members of Germanism, even though its members do not ask to be again united. The right of Germanism over a certain province is stronger than the right of the inhabitants of that province over themselves. Thus a sort of primordial right is created, analogous to that of kings by right divine; for the principle of nations, is substituted that of ethnography. This is a very great error, which, if it should prevail, would prove a loss to European civilization. The principle of the primordial right of races is as narrow and full of danger to true progress, as the principle of nationality is just and legitimate. — In the ancient tribe and city the fact of race had, we acknowledge, a primary importance. The ancient tribe and city were only an extension of the family. At Sparta and at Athens all the citizens were more or less connected by blood. It was the same with the Israelites, and it is still so in Arab tribes. In the Roman empire we find the situation wholly different. Formed at first by violence, then maintained by interest, this great agglomeration of towns and provinces absolutely unlike, gives a most serious blow to the idea of race. Christianity, with its universal and absolute character, works still more efficaciously to the same end. It becomes intimately allied with the Roman empire; and, by the effect of these two incomparable agents of unification, the ethnographic reason is left out of the government of human things for centuries. The invasion of the barbarians was, notwithstanding appearances, one step more in this direction. The division of the barbarian kingdoms had no ethnographic significance; they were governed by the power or the caprice of the invaders. The race of the population they subjected to them, was to them wholly a matter of indifference. Charlemagne did again in his way what Rome had already done: he made a single empire composed of races most diverse. The authors of the treaty of Verdun, while coolly tracing their two great lines from the north to the south, had not the slightest concern about the races of the people on the right and the left. The changes of frontier effected after the middle ages were also independent of any ethnographic tendency. If the policy followed by the Capetian house succeeded in grouping, under the name of France, nearly all the territory of ancient Gaul, this was not the effect of any tendency these countries might have to re-

* The house of Savoy owes its royal title to the possession of Sardinia (1720).

unite with those of the same race. Dauphiny, Bresse, Provence and Franche-Comté had no longer any remembrance of a common origin. All Gallic consciousness had ended in the second century of our era, and it is only through the views of the learned that people have, in our day, found again retrospectively the individuality of the Gallic character. — The ethnographic consideration has then counted for nothing in the constitution of modern nations. France is Celtic, Iberian, Germanic. Germany is Germanic, Celtic and Slave. Italy is the country where the ethnography is the most perplexing. Gauls, Etruscans, Pelasgians, Greeks, not to mention other elements, are there crossed and intermingled in an inexplicable manner. The British isles, taken as a whole, present a commingling of Celtic and German blood, the proportions of which are extremely difficult to determine. The truth is, that there is no pure race, and that to make politics depend on ethnographic analysis, is to base it on a chimera. The most noble countries, England, France and Italy, are those whose blood is the most mixed. Is Germany an exception in this respect? Is it a purely Germanic country? It is an illusion to suppose so. All the south was Gallic. All the east, from the Elbe, is Slavic. And are the parts that it is claimed are really pure, so in fact? Here we touch upon one of the problems upon which it is most important to have clear ideas and to prevent misapprehension. — Discussions upon races are interminable, because the word race is taken by philological historians and by physiological anthropologists in two senses altogether different. To anthropologists, race has the same meaning as in zoölogy; it indicates an actual descent, a blood relationship. Now the study of languages and history does not lead to the same divisions as physiology. The words brachycephalous and dolichocephalous have no place in history or in philology. In the human group which created the Aryan languages and discipline, there were already brachycephalous and dolichocephalous individuals. The same may be said of the primitive group which created the languages and institutions called Semitic. In other terms, the zoölogic beginnings of humanity were vastly anterior to the beginnings of culture, of civilization, and of language. The primitive Aryan, primitive Semitic and primitive Turanian groups had no physiological unity. These groupings were historic facts which took place at some epoch, say some fifteen or twenty thousand years ago, while the zoölogic origin of mankind is lost in impenetrable darkness. What is philologically and historically called the Germanic race, is certainly a very distinct family in the human race. But is it a family in an anthropological sense? Assuredly not. Germanic individuality appeared in history only a few centuries before Christ. Evidently the Germans did not spring from out of the earth at that time. Before that, fused with the Slaves in the great undistinguished mass of Scythians, they had not a separate individuality. An Englishman is indeed one type of mankind. Now the type that is very improperly called the Anglo-Saxon* race is not the Briton of the time of Cæsar, nor the Anglo Saxon of Hengist, nor the Dane of Canute, nor the Norman of William the Conqueror; he is the resultant of them all. The Frenchman is not a Gaul, a Frank, nor a Burgundian. He is what has come out of the great caldron, where, under the direction of the king of France, the most diverse elements have worked together. An inhabitant of the isle of Jersey or of Guernsey does not differ at all in origin from the Norman population of the neighboring coast. In the eleventh century the most penetrating eye could not have perceived the slightest difference on the two sides of the channel. Insignificant circumstances prevented Philippe-Auguste from taking these islands with the rest of Normandy. Separated from each other for nearly 700 years, the two peoples have become not only strangers to each other, but wholly unlike. Race, then, as we historians understand it, is made and unmade. The study of race is of capital importance to the savant who devotes himself to the history of mankind. It has no application in politics. The instinctive consciousness which has guided the making of the map of Europe, has taken no account of race, and the first nations of Europe are nations of essentially mixed blood — The fact of race, important as it is at the origin, continually loses its importance. Human history differs essentially from zoölogy. Race is not everything in it, as with rodents and the feline tribe, and we have no right to go through the world feeling the crania of people, and then taking them by the throat and crying out: "You are of our blood; you belong to us!" Besides the anthropological characteristics, there are reason, justice, truth and beauty, which are the same for all. The ethnographic policy is not safe. You employ it to day against others; then you see it turned against yourself. Is it certain that the Germans, who have raised so high the standard of ethnography, will not see the Slaves come and analyze, in their turn, the names of the villages of Saxony and Lusatia, to find traces of the Wiltzes and Obotrites, and to demand an account of the wholesale massacres and public sales of their ancestors caused by the Othos? For all, it is well to forget. — Ethnography is a science of rare interest; but, to be free, it should be without political application. In ethnography, as in all studies, systems change: that is the condition of progress. Should nations, then, change with the systems? The limits of states would then follow the fluctuations of science. Patriotism might depend on a more or less paradoxical dissertation.

* The Germanic elements are not much more considerable in the United Kingdom than they were in France at the time when it possessed Alsace and Metz. The Germanic language has predominated in the British isles only because the Latin had not entirely supplanted the Celtic idioms there, as it had in Gaul.

One might say to a patriot: "You are mistaken; you are shedding your blood for a certain cause. You think you are a Celt: you are not, you are German." Then, ten years later, he might be told he was a Slave. In order not to pervert science, let us exempt it from giving advice on these problems, where so many interests are at stake. We may be sure that if we charge it with furnishing elements for diplomacy, we shall many times detect it in the crime of compliance with the demands of diplomacy. It has something better to do: let us ask of it simply truth.— 2. What has just been said of race applies also to language. Language invites to union: it does not compel it. The United States and England speak the same tongue, but do not form one nation. So with Spanish America and Spain. Switzerland, on the contrary, so well constituted, since it was made by the consent of its different parts, contains three or four languages. There is in man something superior to language: it is *will*. The will of Switzerland to be united, notwithstanding the variety of her idioms, is a fact much more important than a similarity of language, often obtained by vexatious interference.— A fact honorable to France is, that she has never sought to secure unity of language by coercive measures. People may have the same feelings, the same thoughts and the same affections, without speaking the same tongue. We just spoke of the disadvantage of making international policy depend on ethnography. There would not be less in making it depend on comparative philology. Let these interesting studies be given entire liberty of discussion; let us not mix them up with anything that would disturb their serenity. The political importance attached to languages comes from the fact that they are regarded as signs of race. Nothing could be more erroneous. Prussia, where German alone is now spoken, spoke Slave a few centuries ago; the country of Wales speaks English; Gaul and Spain speak the primitive idiom of Alba Longa; Egypt speaks Arabic; examples are innumerable. Even in their beginnings, similitude of language did not involve similitude of race. Let us take the proto-Aryan or proto Semitic tribe. In it were slaves who spoke the same language as their masters. Now the slave was then very often of a different race from that of his master. We repeat: these divisions of Indo-European, Semitic and other languages, created with such admirable sagacity by comparative philology, do not coincide with the divisions of anthropology. Languages are historic formations, which give little indication of the blood of those who speak them, and which, in any case, can not bind human freedom when there is question of determining the family with which one will form a life and death alliance. — This exclusive consideration of language has, like the too great attention given to race, its disadvantages. One who exaggerates it, shuts himself up in one determinate culture, called national; he limits himself, he becomes immured. He leaves the open air one breathes in the vast field of humanity, to shut himself in conventicles of compatriots. Nothing is worse for the mind; nothing more hurtful to civilization. Let us not abandon this fundamental principle, that man is a reasonable and moral being, before being separated by any language, before being a member of any particular race, an adherent of any special culture. Before French, German or Italian culture, is human culture. See the great men of the renaissance: they were neither French, nor Italian, nor German. They had found, by their study of antiquity, the secret of the true education of the human mind, and they devoted themselves to it body and soul. How well they did! 3. Now can religion present a sufficient basis for the establishment of a modern nationality. At the beginning, religion pertained to the very existence of the social group. The social group was an extension of the family. The religion, the rites, were family rites The religion of Athens was the worship of Athens itself, of its mythical founders, its laws and its customs. It implied no dogmatic theology. This religion was, in all the force of the term, a state religion. One was not an Athenian if he refused to practice it. It was, at bottom, the worship of the Acropolis personified. To swear on the altar of Aglauros,* was to take an oath to die for one's country. This religion was equivalent to what the act of drawing lots, or of swearing by the flag, is among us. To refuse to participate in such a worship was what it would be in modern society to refuse military service. It was to declare that one was not Athenian. On the other hand, it is clear that such a worship had no meaning for one who was not of Athens; so no proselytism was used to compel strangers to accept it. The slaves of Athens did not practice it. It was the same in some of the small republics of the middle ages. One was not a good Venetian if he did not swear by St. Mark; one was not a good Amalfitan if he did not hold St. Andrew above all the other saints of paradise. In these small communities, that which later became persecution and tyranny was legitimate, and of no more consequence than is among us the fact of wishing the head of a family joy on his birth-day, or of greeting him with "happy new year!" on the first day of the year.— What was true in Sparta and Athens, was already so no longer in the kingdoms which had originated in the conquest of Alexander, and especially was no longer so in the Roman empire. The persecutions of Antiochus Epiphanes to bring the east to the worship of Jupiter Olympus, and those of the Roman empire to maintain a pretended state religion, were a fault, a crime, a veritable absurdity. In our day the situation is perfectly clear. There are no longer masses believing just alike. Every one believes and practices in his way, what he can, as he wishes. There is no longer a state religion; one may be French

* Aglauros was the Acropolis itself, which was devoted to saving the country.

English or German, while being Catholic, Protestant or Israelite, or while practicing no religion. Religion has become an individual matter; it concerns the conscience of each person. The division of nations into Catholic and Protestant no longer exists. Religion, which, fifty or more years ago, was so considerable an element in the formation of Belgium, keeps all its importance in the internal tribunal of every person; but it is almost entirely outside of the reasons which mark the limits of peoples. — 4. Community of interests is assuredly a powerful bond among men. But are interests sufficient to make a nation? I think not. Community of interests makes commercial treaties. There is a sentimental side in nationality; it is body and soul at the same time: a zollverein is not a fatherland. — 5. Geography, or what is called natural boundaries, certainly plays a considerable part in the division of nations. Geography is one of the essential factors of history. Rivers have led the races; mountains have arrested them. The former have favored, the latter have limited, historic movements. Can one say, however, as certain parties believe, that the limits of a nation are written down on the map, and that the nation has a right to adjudge itself what is necessary to round out certain contours, to reach a certain mountain or river, to which one attributes, *a priori*, a sort of limiting faculty? I know of no doctrine more arbitrary or more fatal. By it all violence is justified. And in the first place, is it mountains and rivers which form these pretended natural boundaries? It is incontestable that mountains separate; but rivers unite rather. And then all mountains could not carve out states. Which are those that separate and those which do not separate? From Biarritz to Tornea there is not a mouth of a river which has, more than another, the characteristics of a boundary. If history had so determined, the Loire, the Seine, the Meuse, the Elbe and the Oder would have, as much as the Rhine, that character of a natural boundary, which has caused so many infractions of the fundamental right, which is the will of men. People talk of strategic reasons. Nothing is absolute; it is clear that many concessions must be made to necessity. But it is not necessary that these concessions go too far. Otherwise, every party will lay claim to his military exigencies, and there will be endless war. No, it is not land any more than race that makes a nation. The land furnishes the *substratum*, the field for the struggle and the labor; man furnishes the soul. Man is everything in the formation of the sacred thing called a people. Nothing material is sufficient for it. A nation is a spiritual principle, resulting from the profound complications of history; a spiritual family, not a group determined by the configuration of the soil. We have just seen what will not suffice to create such a spiritual principle: race, language, interests, religious affinity, geography, military necessities. What more then is wanted? — III. A nation is a soul, a spiritual principle. Two things which, in truth, make only one, constitute that soul, that spiritual principle One is in the past, the other in the present. One is the possession in common of a rich legacy of memories; the other is the actual consent, the desire of living together, the disposition to continue to give value to the undivided inheritance they have received. Man is not improvised. The nation, like the individual, is the outcome of a long past of efforts, sacrifices and devotion. The worship of ancestors is the most legitimate of all; our ancestors have made us what we are. An heroic past, great men and true glory are the social capital on which the idea of a nation is based. To have a common glory in the past, a common will in the present; to have done great things together, to desire to do still more; these are essential conditions for being a people. One loves in proportion to the sacrifices to which he has consented, the evils he has suffered. One loves the house he has built and which he transmits. The Spartan song: "We are what you were; we shall be what you are," is, in its simplicity, the abridged hymn of every fatherland. In the past, a heritage of glory and of regrets to share together; in the future, the same programme to be realized: to have suffered, enjoyed and hoped together; these are worth more than common custom houses and frontiers in conformity with strategic ideas; these can be understood, despite diversities of race and of language I said just now, "to have suffered together." Yes, suffering in common unites more than joy. In the matter of national memories the griefs are worth more than the triumphs; for they impose duties, they command effort in common. — A nation is then a great solidarity, constituted by the sentiment of the sacrifices that have been made, and by those which the people are still disposed to make. It supposes a past; it is, however, summed up in the present by a tangible fact: the consent, the clearly expressed desire of continuing the common life The existence of a nation is (if the metaphor be permissible) a continued plebiscitum, as the existence of the individual is a perpetual affirmation of life. This is, to be sure, less metaphysical than divine right, less brutal than the claimed historic right. In accordance with the ideas here submitted, a nation has, no more than a king, the right to say to a province: "You belong to me, I take you." To us, a province is its inhabitants. If any one has a right to be consulted in that matter, it is the inhabitant. It is never for the real interest of a nation to annex or to retain a country against the will of that country The wishes of nations are, in fact, the only legitimate criterion, that to which it must always return. — We have driven out of politics metaphysical and theological abstractions. What remains, after that? Man remains, with his desires and needs. One may say that secession, and, in the end, the crumbling away of nations, are the consequence of a system which puts these old organizations at the mercy of wills often

little enlightened. It is clear that in such a matter no principle should be pushed to excess. Truths of this kind are applicable only in a very general manner. Humanity desires change; but what does not change? Nations are not eternal. They had a beginning, they will have an end. A European confederation will probably supply their place on that continent. But such is not the law of the age in which we live. At the present time the existence of nations is well, and even necessary. Their existence is the guarantee of liberty, which would be lost if the world had only one law and only one master. By their diverse faculties, which are often in opposition, nations serve in the common work of civilization. Isolated, they have their weaknesses. An individual who should have the faults held as desirable qualities in nations; who should cherish vainglory, and be in this regard jealous, egoistic and quarrelsome; who would bear nothing without drawing his sword, would be the most insupportable of men. But all these particular discords disappear when the whole is considered. — To recapitulate. Man is not the slave of his race, his tongue, his religion, or of the courses of rivers or the direction of mountain chains. A great aggregation of men, of sound mind and warm heart, creates a moral conscience which is called a nation. While this moral conscience proves its power by the sacrifices which the abdication of the individual requires for the benefit of a community, it is legitimate, and has the right to exist. If doubts arise with regard to boundaries, consult the people on the disputed territory. They have a right to have their opinion considered in the matter. This will bring a smile to the great politicians, those infallibles who pass their lives in deceiving themselves, and who, from the height of their superior principles, take pity on our low views. "Consult the people—pshaw! what innocence! Those are only worthless ideas which aim to substitute for diplomacy and war means of infantine simplicity." We can wait until the reign of politicians has passed: we can suffer the disdain of the powerful. Perhaps, after much ineffectual groping, people will turn back to our modest empiric solutions. The way to be right in the future, is to know at certain times how to be resigned to being out of fashion.

ERNEST RENAN.

E. J. LEONARD, *Tr.*

NATION, The (IN U. S. HISTORY). I. 1732–89. It has been suggested elsewhere (see DECLARATION OF INDEPENDENCE), that the American Union of states, so far as human agency is concerned, is not so much the creature of design as the result of necessity. Every influence conspired to produce it, though the concurrence of settlement by Englishmen within just the zone, from Florida to the great lakes, whose climate was most kindred to that which they had left, was undoubtedly the great fact which colored all that came after it. Had it been otherwise—had a strong colony of alien blood, French, for example, instead of a weak colony of kindred blood, been interposed between New England and Pennsylvania—who can tell how long it would have taken to combine the whole mass into one nation? Perhaps—indeed, almost certainly—the several elements would have gone on forever on their separate way, out of harmony with that law of nature which seems to have marked out the central zone of the continent as the habitat of a single nation, and so failing to reach the high possibilities of their existence. Whatever evidence of design this concurrence may show, of human design there is no trace. Anxiety to keep the golden treasure land which Columbus had opened; the temporary heat of a Canadian summer; the treachery of a pilot; anxiety to avoid the neighborhood of the Spaniard on the south and of the Frenchman on the north: these, and an infinite variety of other influences, took each people to its appointed place, or kept it there. — The last of the distinct English colonies was founded in 1732. (See GEORGIA.) Beginning with this date it is necessary, first, to lay special stress on the fact of the general homogeneity of the invading army of whites which is now firmly fixed upon the Atlantic coast, with a westward stretch of 3,000 miles of wilderness before it. From Florida to the bay of Fundy, everything is English. Almost in the centre there is a break, the former Dutch colonies, New York and New Jersey, but the break is more apparent than real. Even before their conquest by the English, seventy years before, they had been almost overcome by a steady influx of English colonization and influence, and a half century of possession has made this influx completely overmastering. If we look to language, which is the surest test, we find English everywhere predominant in New York and New Jersey, and very commonly to the exclusion of the Dutch. The Dutch pastors have already been forced to preach alternately in English and in their own language. Whitefield, in 1739, finds no break in his work by reason of alienage of people or language in New York or New Jersey, nor can we. There had been a break, indeed, but the union had taken place so naturally and so thoroughly that the line of fracture was already almost undistinguishable. Within its foreordained limits, the whole population is practically of one blood and language. — In civil government there is the same homogeneity. All acknowledge the same king and the same common law; all have kept up their own parliaments and parliamentary government, no matter whether it be by their king's free grace or by stress of circumstances; all are free from any trace of nobility or privileged classes. — In social economy the conditions are the same. In spite of the inevitable variations in non-essentials, the fundamental facts of family life are the same everywhere, and persons or families, who remove from one colony to another, fit into their new places as naturally as into the old. Instances, such as that of Franklin, are too numerous to require special reference.

No one feels himself to be less "an Englishman" because of his removal from Massachusetts to Pennsylvania or from South Carolina to New York. — In religion the conditions are the same: all the colonies are Protestant. Maryland alone is nominally Catholic; but the absolute toleration of its proprietors has from the beginning opened the doors so widely to Protestant immigration that the Puritan settlers in 1655–6, and a "Protestant defense association" in 1689, were able to seize the government and disfranchise the original Catholic settlers until the revolution. — A population so prepared by juxtaposition, by continuity, by natural boundaries, and by homogeneity of blood, language, civil government, social economy, and religion, may be divided by the king's decrees into separate "colonies," but the decrees of a higher power than the king have already made them one nation. So long as their attention is exclusively taken up by the busy activities of immigration and settlement, they will ignore their fundamental union; but the very first necessity that impels them to national action will result, not so much in the formation of a single nation, as in a demonstration of the fact that that nation is already in existence. So early as 1643 a partial union had been begun (see NEW ENGLAND UNION), but the Indian dangers which impelled it were not sufficiently formidable to perpetuate its existence, and the people gradually subsided again into political quiescence. The first real pressure toward national action, and that only exerted upon the northern portion of the people, came from the inevitable conflict with the French in Canada. — The English settlements have been already compared to an invading army, moving toward the west. On the north another people, the French, had already begun a similar invasion, but with far inferior prospects of success. Its primary base, the valley of the St. Lawrence, was comparatively narrow, and in winter almost inaccessible; its line of march was contracted, and by natural limitations was bent toward the southwest at Niagara; and from that point it lay directly across the path of advancing English migration, which, in full column, was to strike the French line in flank and at its weakest point. The result of a conflict under such conditions might have been easily foreseen; the French line was broken at the first shock, and the English swept on to the Mississippi. (See WARS, I.) But the conflict itself was an impelling force to another attempt at union (see ALBANY PLAN OF UNION), and it is noteworthy that a part of its design was "that the colonies would by this connection learn to consider themselves, not as so many independent states, but as members of the same body." The frame of government which was proposed gave the legislature distinctly national powers, but reserved to the crown the prerogatives which were then a part of the theory of the British constitution. Though the plan failed of adoption, the common efforts of the northern colonies throughout the war gave form to the national idea. Virginia, New York, New Jersey and New England troops, fighting side by side with British troops, learned to make the essential distinction between an Englishman and a provincial, or American; and, that lesson once learned, the rest was easy. The only necessity was that a new occasion should be found for national action. — The policy of the British ministry, at and immediately after the peace of 1763, was singularly unfortunate. By forcing France to surrender her Canadian provinces, it relieved the English colonies from the threatening danger which had long made British protection seem essential to their security. By initiating the attempt to transform a strictly British parliament into an imperial parliament, with absolute power of taxation over a British people not represented in it, it forced into existence the most pressing of all occasions for national action in America. (See REVOLUTION.) The two influences, acting together, finally precipitated the formation of a distinct national *government* in 1775. — In 1765 the first body which can be considered representative of the colonies in general held its meeting; but its proceedings were not legislative, and were confined to declarations and petitions. (See STAMP-ACT CONGRESS) On the revocation of the stamp act the dawning national spirit again subsided — The renewal of the scheme of parliamentary taxation, and, still more, the assertion of the right of parliament to abrogate civil government in America at its pleasure by the abolition or alteration of charters, roused the national spirit at last to something like a self-conscious existence. In 1774 the continental congress first met; in 1775 it became a real national assembly; in 1776 it took the unretraceable step of renouncing allegiance to the crown. (See CONGRESS, CONTINENTAL; DECLARATION OF INDEPENDENCE) — Franklin, in 1770, laid down as the ground of justification of the American resistance to parliamentary taxation, that "the several colonies have equal rights and liberties, and are only connected, as England and Scotland were before the union, by having one common sovereign, the king"; and this has been taken as a text for the modern doctrine of state sovereignty by those who forget that the king was an integral and essential part of the sovereignty of each colony, and that, through him, the "sovereignty" of the colonies was itself in common from the beginning. (See STATE SOVEREIGNTY.) The warfare of the revolution was not at first aimed against the king's share of the sovereignty at all, but against the usurped domination of parliament. Until July 4, 1776, then, the king remained sovereign of America *de jure*, but a *de facto* national assembly had united into one, by their own consent, the dominions which he had originally made separate. (See DECLARATION OF INDEPENDENCE, ALLEGIANCE.) The course of events may be summarized by saying that the transformation, by general popular will, of the continental congress into a revolutionary national assembly, after the first blood-

shed, April 19, 1775, made George III., though without his own consent, king of one American nation, instead of thirteen, as before; and by the declaration of independence, and its successful establishment by war, this last sovereignty was wrested from him and passed to a stronger than he, the people of the United States. There it must continue to be vested until some stronger power shall disturb or change its location. — According to this view of a much debated question, April 19, 1775, must be taken as the formal date of the birth of the new nation. All proceedings before that date are to be construed, so far as possible, by the municipal law of the thirteen commonwealths, as recognized parts of the British empire. All the great events after that date, the declaration of independence, and the ratification of the articles of confederation and of the constitution, must be considered mere municipal proceedings of a nation already in existence, which, however, still found it most natural and convenient to work through and by the state form of organization. But the intermediate event, the origin of the nation itself, is to be viewed under neither head, but in the light of admitted principles of international law. The above described merging of the separate sovereignty of the colonies, the crown being a part of each, into a common sovereignty of one nation and a king, did not take place by overmastering foreign force, as in the case of Poland; nor by the wholesale purchase of a venal national assembly, as in the case of Ireland; nor by the actual sale of the alienated sovereignty by its former sovereign, as in the case of Louisiana; nor by the conquered nation, as the price of a treaty of peace, as in the case of Alsace and Lorraine; but by the free and irrevocable consent of the whole people. When the merger had taken place, and when his share of the sovereignty of the whole mass had been wrested from the king by the whole people, the title of the new sovereign was as valid as that of the old. Argument, at any rate, can hardly prevail against it. Such a power as that of a nation, when once set free, is not to be conjured back into a bottle again by the words of any master of dialectics. — In its original form, that of the so-called "continental congress," the new national government was at first revolutionary and not limited by any organic law. (See CONGRESS, CONTINENTAL.) The first attempt to frame an organic law for it was defective by reason of the survival of very much of the state sovereignty of the British colonial constitution, the evils of the survival being even aggravated by the elimination of the crown's share of the sovereignty, which had formerly been the common bond of union. (See CONFEDERATION, ARTICLES OF; STATE SOVEREIGNTY.) The situation was tersely and exactly described in Hamilton's striking sentence: "A nation without a national government is an awful spectacle." It was not until 1789 that a true national government, automatic, complete in all its parts and functions, having jurisdiction over individuals, and fitted to claim and enforce its rightful place as a member of the family of nations, was at last organized by the adoption of the constitution. (See CONSTITUTION, II.; JAY'S TREATY.) From that time began the seventy-six years' struggle between the national idea and the particularist state feeling, which ended in 1865 with the final establishment of the former as an integral principle of American politics. — II. 1789–1801. The word "nation" and its derivatives were by no means favorites in our early political history. Instead of them, use was almost invariably made of vaguer phrases, such as "the people," "the public," "the public welfare," "the established government," "the union," "the confederacy," "our common country," "the community." Even when the invidious word occasionally crept into use, its sense was almost invariably geographical rather than political. The underlying feeling in regard to it may be gathered from an extract from the debate in the house of representatives, Aug. 15, 1789, on the proposed amendment prohibiting an establishment of religion. "Mr. Madison thought, if the word 'national' was inserted before 'religion,' it would satisfy the minds of honorable gentlemen. Mr. Gerry did not like the word 'national,' and he hoped it would not be adopted by the house. It brought to his mind some observations that had taken place in the conventions at the time they were considering the present constitution. Those who were called anti-federalists at that time complained that they had injustice done them by the title, because they were in favor of a federal government, and the others were in favor of a national one. Mr. Madison withdrew his motion, but observed that the words 'no national religion shall be established by law' did not imply that the government was a national one." This negation of nationality as a permanent political fact, was not confined to one party, but was a common feeling, expressed in plain words by some, and in significant silence by others; and debates can only be understood as the deliberations of voluntary partners, who were joint in action, but several in interest, and each of whom had in view a possible withdrawal from the firm if his interests were unpleasantly violated. — But, however common this feeling, it was not quite universal. The nation had not only been born, but had forced its way into its own place, and though the great mass of the people were willfully or naturally blind to its existence, there were a few who saw the germ clearly, and foresaw its possible development. Chief among these was Washington: his habits of mind, early training, breadth of view, and utter lack of sympathy with the politicians of his own state, combined to make his politics entirely national; while the absolute confidence which the people at large reposed in him made him extremely effective. Second to him in effectiveness, though far beyond him in political ability, was Hamilton, to whose suggestion was due almost every nationalizing measure of the period 1789–95. All his great

measures—the incorporation of the national bank, the assumption of state debts, the creation of a national debt, the protection of domestic manufactures by a high tariff, and the enforcement of an excise law—were intended to develop the germ of nationality: the first four by the creation of interests, albeit selfish interests, which should not be bounded by state lines, but should run throughout the nation, form a bond of union, and struggle as if for their own life against any disintegration of the Union; and the last named by forcing a recognition of national power and laying a precedent for its future use, if it should prove necessary. The support which was given to all of these measures by the federalists tended strongly to the political education of that party, but the education was superficial, not radical. Vining, of Delaware, in the debate on the national bank, referring to "the act by which the United States became a free and independent nation, said that from that declaration they derive all the powers appertaining to a nation thus circumstanced"; and the federalist senate, in its answer to the president, Nov. 9, 1792, calls the excise law "a law repeatedly sanctioned by the authority of the nation." But these two strong expressions, both apparently derived from Hamilton, stand almost isolated among the federalist arguments, which regularly attempted to defend Hamilton's measures on economic, not on national, grounds. In fact, the federalist politicians were as blind as their opponents to the idea that "the nation" was now a political entity, distinct even from "all the states"; and when their economic support of Hamilton's measures proved to be a failure, they were as ready as their opponents would have been to suggest a "dissolution of the partnership." (See BANK CONTROVERSIES, II.; FEDERAL PARTY; SECESSION, I.) The supreme court from the beginning took the Hamiltonian view. In its first great case, Chisholm *vs.* Georgia, in February, 1793, Chief Justice Jay's opinion is a complete synopsis of nationalizing views; and Justice Wilson, after summing up the whole case as comprised in the question "Do the people of the United States form a nation?" answered that they *had* intended "to form themselves into a nation for national purposes." But the business and influence of the court were as yet comparatively small; and it was not until 1816–20 that it became a powerful factor in accomplishing the results which Jay and Wilson had indicated in 1793. (See JUDICIARY, II.)—In the meantime a party had been forming which more exactly represented the feelings of the people. (See DEMOCRATIC-REPUBLICAN PARTY.) Its formal ground of union was a desire for a strict construction of the constitution, but this was really only an answer to the theory of broad construction introduced by Hamilton (see CONSTRUCTION); a more fundamental bond of union was the belief that the states, while forming one nation in respect to foreign nations, were separate, distinct and sovereign as to one another, and, further, that this national relation was continuously voluntary on the part of each and all the states. The idea is thus summed up in Jefferson's letter to Johnson, June 12, 1823: "The capital and leading object of the constitution was to leave with the states all authorities which respected their own citizens only, and to transfer to the United States those which respected citizens of foreign or other states; to make us several as to ourselves, but one as to all others;" and still more fully in Jefferson's letter to Edward Livingston, April 4, 1824: "The radical idea of the constitution of our government is that the whole field of government is divided into two departments, domestic and foreign (the states in their mutual relations being of the latter); that the former department is reserved exclusively to the respective states within their own limits, and the latter assigned to a separate set of functionaries, constituting what may be called the foreign branch, which, instead of a federal basis, is established as a distinct government *quoad hoc*, acting as the domestic branch does on the citizens directly and coercively." From this theory the idea of the United States as a nation was carefully eliminated; it was only "a distinct government *quoad hoc*," dependent for its continued existence on the good will of the states which voluntarily formed it. To the objection that such a union would be worse than unstable, the letter last cited answers thus: "A government held together by the bands of reason only requires much compromise of opinion; that things even salutary should not be crammed down the throats of dissenting brethren; and that a great deal of indulgence is necessary to strengthen habits of harmony and fraternity."—In the beginning some of the leaders of the new party were disposed to treat tenderly, if not altogether favorably, the idea that the obedience of individual citizens to the federal government should also be voluntary; but before 1800 the programme of the republican, or democratic, party had settled down to that which is given above. In its fundamental idea the mass of the people, consciously or unconsciously, believed firmly; and the opposition of the federalists to it was angrier because it was half-hearted. Most of them were nationalist only for party reasons; their alien and sedition laws were distinctly party, not national, measures; and when they lost control of the federal government in 1801 they became a party of outs seeking to get in—a discredited, factious opposition, without a policy and without the desire for one. Hamilton's work was then to be done over again, and done better. The plant which he had tried to force into a premature fruitfulness was to grow into natural and hardy life as an indigenous product of the soil.—III. 1801–15. From the accession of the democratic party to federal power in 1801 its fundamental tenet was to be for the next sixty years the actual or nominal canon of American politics, the Procrustean bed to which all political faiths were to be fitted; and yet during all that

time it was undergoing in one section of the Union a progressive change, the depth and extent of which was first made manifest in the spring of 1861. The first period of this change relates to the department which Jefferson considered peculiarly that of the federal government, that of foreign affairs. — It was easier to announce than to enforce the doctrine that the states were foreign to one another and yet a nation to all other powers. Foreign nations naturally refused to accept the American national coin at any higher value than that for which it passed current in its own country. Democratic politicians during this period frequently used the words "nation" and "national," but not in a sense which was calculated to inspire any large amount of respect in the great European belligerents. Year after year the demands, the remonstrances, the entreaties, almost the prayers, of the "voluntary confederation" met with either denial or silent contempt, until the great democratic leader regretfully echoed Silas Deane's wish that an ocean of fire, instead of water, had been placed between the two hemispheres. Embargoes and non-intercourse laws only served to swell the chorus of denunciation from New England, and to convince the belligerents that the western republic was no more a nation in its foreign than in its domestic relations. (See EMBARGO.) — Eleven years of such experiences were never wholly lost. They roused at last a thoroughly national spirit, which burst the shackles of party, thrust many of the old democratic leaders out of power, converted the rest, and in 1812 declared war against Great Britain. (See WARS, III.; CONVENTION, HARTFORD.) Though the peace of Ghent did not secure a single object for which war was declared, it served a greater purpose: it made the United States a nation in every sense of the word so far as its foreign affairs were concerned. A people with whose frigates British war vessels had learned to refuse battle, except on rigidly equal terms, might claim a place in the family of nations, not by tolerance, but by right. — Even in domestic affairs a step nearly as long had been taken. It was "the nation," not a "voluntary confederation," that had declared war and had carried it to an end, despite all the dreadful possibilities of the great democratic dogma, if New England had ventured to enforce it in practice. The very locality of the last great battle, on the outskirts of the republic, near the distant and only vaguely known city of New Orleans, was a token of empire before which state lines faded away. The close of the year 1815 left the United States a nation, recognized as such by others and apparently on the high road to a similar recognition within its own borders. — IV. 1815–65. The tokens of the rising internal national spirit are abundant for a few years after the war. The experiment of a national bank was again tried. (See BANK CONTROVERSIES, III.) The question of internal improvements at national expense made its appearance. (See INTERNAL IMPROVEMENTS.) The supreme court began a line of decisions in which the national idea was to find its first authoritative enunciation. (See JUDICIARY, II.) Above all, one of the most powerful factors in nationalizing the United States, foreign immigration, had begun its flow. In the ten years ending in 1829, 150,000 had thus been added to the population; and though this was but a small part of the 5,000,000 who were to come before 1860, it was larger than the population of South Carolina, New Jersey, New Hampshire, Georgia, Rhode Island or Delaware had been at the adoption of the constitution. To the immigrant the United States was everything, the state little or nothing; and this stream of nationalism could not but exert in time an appreciable effect on the regions which it covered. But this immigration hardly touched the slave states; it seemed to avoid them as by intuition, and to confine itself to that section of the country in which labor had been freed from every badge of inferiority. — Had this influence of immigration been the only one which was at work to discriminate the two sections, it could hardly have failed finally, though slowly, to make the north completely national, while leaving the negation of nationality as general in the south as it had been throughout the whole country for twenty years after 1789. But a still stronger influence was at work in the south to convert its negation into an angry denial of nationality. Whitney's invention of the cotton gin in 1793 had made slave labor profitable in the extreme south, and slave raising equally profitable in the border states; the whole slave section had one controlling interest in common; state sovereignty had developed into the far more dangerous form of sectional sovereignty; and the south had already assumed the attitude of an *imperium in imperio*, a nation within, and directly opposed to, the nation. (See SLAVERY.) Before 1830 the northern divergence from the original basis of American politics was plainly perceptible to southern politicians, who saw it with an honest and unaffected horror and dismay, entirely unconscious that they themselves were at the same time steadily drifting in the opposite direction. In 1832–3 an attempt was made by South Carolina to arrest the evil by her own sovereign will. (See NULLIFICATION.) It failed, and its failure is a landmark in the progress of the national feeling. It was plain henceforward that no single state, nothing but a sectional collection of states, could ever hope to resist the growing power of the nation. — The current of events was checked for a little, about this time, by that which was in the end to hurry it onward with far greater rapidity, the sudden predominance of democracy in the north. (See DEMOCRATIC PARTY, IV.) At first it brought into power leaders whose only gauge of democracy was state rights; in the end, by increasing enormously the number of voters in each state, it made state lines dimmer, the interests of the state less a matter of personal pride to individual voters,

and thus tended more and more to make the nation more prominent. In the south the existence of a ruling class of slaveholders counteracted the nominal universality of suffrage, and kept the state idea in full vigor. Nevertheless the formal language of the leaders of both the great parties, whig and democratic, until about 1852, agreed very closely on the question of the essential nature of the government: all agreed generally that the Union was a compact, formed by states; all were proud of the "voluntary" character of the Union; all seemed to be equally unconscious that the nation was already fully prepared to vindicate its own existence, and to compel the permanence, voluntary or involuntary, of the Union. Northern politicians, at least, seem never to have suspected the radical change that had taken place in their own constituencies, in which the nationalizing stream of immigration had grown into a mighty river. In the six years ending with 1855, 2,500,000 had been added to the population of the United States from this source, more than in all the thirty years before, more, indeed, than the population of either the whole north or the whole south had been in 1789. — The essence of the long struggle as to the introduction or prohibition of slavery in the territories is simple: were the territories the property of "all the states," or were they the property of "the nation"? (See TERRITORIES.) In the former case, international comity certainly forbade the offensive exclusion of that which any state recognized as property; if the latter, the will of the nation, fairly expressed, was conclusive. The opposition of the free-soil party to the extension of slavery was sectional in its nature, and was intended to curb "the aggressions of the slave power." In the opposition of the republican party the idea that the nation, not "all the states," owned the territories, appeared for the first time. It is but faint in the platform of 1856, where it consists only in a reference to the abolition of slavery "in the national territory," while the democratic platform insists on "the equal rights of all the states" in the territories; but it took clearer form in every successive debate until in 1857 it was the fundamental tenet of the party. This introduction of "the nation" into the controversy was one great reason, wholly disconnected with slavery, for the intense hatred with which the south looked upon the republican party, a hatred which the free-soil party, though kindred in purpose and equally bitter in language, had never excited. And one great secret of the republican party's rapid growth was its success in combining the democratic and the national ideas: the latter gave it a purpose; the former gave it methods which the federal party would have despised, and the whig party had never learned to use, except in the inglorious success of 1840. — In 1861 a section of the Union at last combined to test the question whether their continuance as states in the Union was "voluntary." (See SECESSION, REBELLION, RECONSTRUCTION.) That the answer would be so emphatic, that the masses outside of the slave states had been so permeated by the national spirit, seems to have been totally unsuspected by the leaders of any party. The echoes of Horace Greeley's protest against "a Union pinned together by bayonets," and of his desire that the "wayward sisters" should "depart in peace," if a fair majority of their voters so wished it, had hardly died away when the nation spoke for the first time in our history. The startling contrast between the timidity of the debates in congress in the winter of 1860–61, and the "uprising of a great people" in the following April, only shows that the northern politicians had educated themselves into ignorance of their own supreme national feeling, as well as of that of their constituents. The first shot fired at the flag, the emblem of national unity, tore the bandage from the eyes of both politicians and people; and the war which followed was but the exposition of a fact which had hitherto been hidden under obsolete phrases. There was no basis for the southern reproaches of such democratic leaders as Dix, Douglas and Dickinson, who had been for years lauding the voluntary nature of the Union, and who now threw all their souls into "the suppression of the rebellion." The man had thrown off the shortened garments of the boy. — The life of Josiah Quincy, the most brilliant of the early federalist orators, was prolonged until his ninety-third year (1864). He had been a part of the unsubstantial national edifice which Hamilton's magic had evoked out of nothing; he had seen its fall and disappearance; he had declared in congress, in 1811, that the dissolution of the Union was already accomplished (see SECESSION, I.); he had introduced in the state senate of Massachusetts a resolution refusing to express any approbation of the naval victories of the United States in 1812–13; and he lived to see the great national uprising after the fall of Sumter. Nothing in his life is more suggestive in this connection, than the old man's rejoicing and wondering exclamation in April, 1861: "Now I *know* that we are going to be a great nation! I never felt sure of it before." From that hour the existence of the nation, as an integral element in American politics, is a fact of which every man is bound to take notice. It is no exotic, produced by the forcing of moneyed interests. It is no product of "blood and iron." It is the result of natural, slow, silent, continuous and certain growth. The very slowness of its growth presages the length of its future existence, for the life of nations, like that of animals, may be estimated from their period of childhood. The change from the colonial condition to the nation of the present day, diverse in blood, origin, interests, religion and culture, and yet thoroughly permeated by an intense spirit of nationality, is a fair illustration of the Spencerian formula of progress, "from an indefinite, incoherent homogeneity to a definite, coherent heterogeneity." — In this line of consideration lies also the histori-

cal excuse for the action of the south in 1860–61, and the consequent rebellion. If slavery had never existed in America, both sections would have gone on in a common line of development, admiring the "voluntary" principle of the Union, but never thinking seriously of attempting to enforce it, until some unexpected emergency would finally have awakened both to the fact that national union had taken the place of voluntary association. Slavery was the only element antagonistic to the development of the nation. It had curbed and cramped the progress of the south, and had reduced that section to even a lower plane of national life than that of 1789. The conflict was inevitable; and if the price which was paid was great, the result which was gained was inestimable. The shackles were struck from the limbs, not of the black alone, but of the superior race as well; the south had then no barrier to her indefinite progress in the future; and in 1865, for the first time, we may say that the United States *was*, as well as *were*, a nation. — V. SINCE 1865. The possible future of the nation must be largely a matter of speculation. There is one aspect of the question, however, in which a recurrence to earlier history may be useful. — The preservation of the boundary lines of the states, as they had been marked out in the various grants of the king, has always been made the strongest argument against the national character of the United States. If the continental congress, the articles of confederation and the constitution were the work of the nation, why were the states so carefully recognized as essential features in all of them? He who accepts the nebular hypothesis will not trouble himself with speculations as to the possible constitution of the universe if the original nebula had been governed by a law of square or triangular motion: he will take the law which accounts for all subsequent development. And he who studies the development of the national idea in the United States must be prepared to find it governed by law also, and must take the states as an essential part of the nation. In this way only could American individualism be reconciled to nationality. — It is, therefore, useless to speculate on a possible absorption of state functions by the federal government, the blotting out of state lines, and the formation of a single centralized nation in their place. It would hardly be a complete answer, for all future time, to cite the name of the nation, the United *States*, as a continuing pledge of state existence, or the express provision of the constitution that no state shall be deprived of an equal representation in the senate without its own consent; for in such matters, as Dr. Draper strongly expresses it, "there is a political force in ideas which silently renders protestations, promises and guarantees, no matter in what good faith they may have been given, of no avail, and which makes constitutions obsolete." Had the states no better guarantee for their existence, it might be worth while to consider the question suggested. But a perfect answer may be found in that law which has always governed, which still governs and which will always govern the political workings of the American mind, the law which makes the state formation an inseparable concomitant of national existence. The separate existence of the original thirteen states was undeniably due to the king's will; but, if they had not been in existence in 1775, the nation would have discovered a way to evoke them, as it has since evoked twenty-five others. It chose instinctively to work through the state formation in 1775 and 1787–8: even in the ferment of the rebellion and the reconstruction, its whole energy was bent to the preservation of "an indissoluble union of indestructible states"; and it is an impossibility to conceive a future *American* republic in which the state element shall be lacking. The nation would resist an attempt upon the life of the weakest and poorest state as instinctively and as desperately as it would resist an attempt upon its own. It is conscious in every fibre, that it is a being which, like Milton's angels, "vital in every part, can not but by annihilating die."— (See STATE SOVEREIGNTY, FLAG, UNITED STATES.) The authorities relied upon will usually be found under the articles referred to, but the following should be specially cited: (I.) Lodge's *History of the Colonies;* Frothingham's *Rise of the Republic;* (II) Benton's *Debates of Congress*, 138, 305, 383; 4 Jefferson's *Works* (edit. 1829), 373, 391; (IV.) Bromwell's *History of Immigration*, 174, 175; Quincy's *Life of Quincy*, 523.

ALEXANDER JOHNSTON.

NATIONAL BANKS. (See BANKING IN U. S. and BANK CONTROVERSIES.)

NATIONAL CAPITAL. (See CAPITAL, NATIONAL.)

NATIONAL CEMETERIES, for soldiers and sailors, may be said to have originated in 1850. The army appropriation bill of that year appropriated $10,000 "for purchasing, walling and ditching a piece of land near the city of Mexico, for a cemetery or burial-ground for such of the officers and soldiers of our army in the late war with Mexico as fell in battle or died in and around said city, and for the interment of American citizens who have died or may die in said city." The remains of federal soldiers and sailors who perished in the war for the Union, have been interred in seventy-eight inclosures owned by the United States, exclusive of those buried elsewhere—a far more numerous host. In some of these cemeteries, as at Gettysburg, Antietam, City Point, Winchester, Marietta, Woodlawn, Hampton and Beaufort, handsome monuments have been erected, and others are in contemplation. Following are the names and locations of all our national cemeteries, with the number of interments, known and unknown:

LIST OF NATIONAL CEMETERIES.

NAMES AND LOCATIONS.	Known.	Unknown.
Cypress Hills, N. Y.	3,675	76
Woodlawn, Elmira, N. Y.	3,096	----------
Beverly, N. J.	142	7
Finn's Point, N. J.	----------	2,644
Gettysburg, Penn.	1,967	1,608
Philadelphia, Penn.	1,880	28
Annapolis, Md.	2,289	197
Antietam, Md.	2 853	1,811
Loudon Park, Baltimore, Md.	1,627	166
Laurel, Baltimore, Md.	232	6
Soldiers' Home, Dist. of Col.	5,313	288
Battle, Dist. of Col.	43	----------
Grafton, W. Va.	684	620
Arlington, Va.	11,911	4,349
Alexandria, Va.	3,434	124
Ball's Bluff, Va.	1	24
Cold Harbor, Va.	672	1,281
City Point, Va.	3,779	1,374
Culpeper, Va.	454	910
Danville, Va.	1,171	155
Fredericksburg, Va.	2,487	12,770
Fort Harrison, Va.	239	575
Glendale, Va.	233	961
Hampton, Va.	4,868	494
Poplar Grove, Va.	2,197	3,993
Richmond, Va.	841	5,700
Seven Pines, Va.	150	1,208
Staunton, Va.	233	520
Winchester, Va.	2,094	2,361
Yorktown, Va.	748	1,434
Newberne, N. C.	2,174	1,077
Raleigh, N. C.	625	553
Salisbury, N. C.	94	12,032
Wilmington, N. C.	710	1 398
Beaufort, S. C.	4,748	4,493
Florence, S. C.	199	2,799
Andersonville, Ga.	12,878	959
Marietta, Ga.	7,182	2,963
Barrancas, Fla.	791	657
Mobile, Ala.	751	112
Corinth, Miss.	1,788	3,920
Natchez, Miss.	308	2,780
Vicksburg, Miss.	3,896	12,704
Alexandria, La.	534	772
Baton Rouge, La.	2,468	495
Chalmette, La.	6,833	5,675
Port Hudson, La.	596	3,218
Brownsville, Tex.	1,409	1,379
San Antonio, Tex.	807	167
Fayetteville, Ark.	431	781
Fort Smith, Ark.	706	1.152
Little Rock, Ark.	3,260	2,337
Chattanooga, Tenn.	7,993	4.963
Fort Donelson, Tenn.	158	511
Knoxville, Tenn.	2 089	1,046
Memphis, Tenn.	5,159	8,817
Nashville, Tenn.	11 824	4 692
Pittsburg Landing, Tenn.	1.229	2,361
Stone River, Tenn.	3,820	2,314
Camp Nelson, Ky.	2,477	1,165
Cave Hill, Louisville, Ky.	3,342	583
Danville, Ky.	846	12
Lebanon, Ky.	591	277
Lexington, Ky.	824	105
Logan's, Ky.	345	866
Crown Hill, Indianapolis, Ind.	686	36
New Albany, Ind.	2,138	676
Camp Butler, Ill.	1,007	355
Mound City, Ill.	2,505	2,721
Rock Island, Ill.	280	9
Jefferson Barracks, Mo.	8,569	2,906
Jefferson City, Mo.	348	412
Springfield, Mo.	845	713
Fort Leavenworth, Kan.	821	913
Fort Scott, Kan.	388	161
Keokuk, Iowa	610	21
Fort Gibson, Ind. Ter.	212	2,212
Fort McPherson, Neb.	149	291
City of Mexico, Mexico	254	750
Total	170,960	147,495

Excepting those in a few cemeteries in secluded situations, the graves are publicly decorated annually on "decoration days," on which occasions many memorable discourses have been spoken. At Arlington, James A. Garfield made, perhaps, the greatest effort of his life. At Gettysburg, Abraham Lincoln spoke that brief speech which has become immortal. C. C.

NATIONAL DEBT. (See DEBTS.)

NATIONAL PARTY. (See GREENBACK LABOR PARTY.)

NATIONAL REPUBLICAN PARTY. (See WHIG PARTY.)

NATIONALITIES, Principle of. The present generation has witnessed the birth of the *principle of nationalities*, and this new principle has rapidly exercised a great influence on the European situation. Henceforth nationalities will be political elements which must be taken into account, and whether we approve or reject this principle, we can no longer ignore it. — What is the *principle of nationalities?* It has been formulated thus: "The right of each nation to form itself into a people, into a separate state" From this proposition a two-fold consequence is drawn: 1, that the mass of a nation has the right to claim—by arms, if necessary—the detached portions, the groups of individuals belonging (or which are supposed to belong) to the same nationality; 2, that each group of individuals has the right to withdraw—even violently—from the state with which it has formed a more or less legal, political body, for a greater or less period, in order to unite itself to the nation (or the state) toward which (real or supposed) affinities of nationality attract it. — We shall examine further on the legitimateness of this principle. It is of importance, first of all, to inquire, what constitutes a nation, great or small? Is it a community of origin or of race? Men seem to think so sometimes, but we have only to remember the Russians and the Poles, both Slaves, or the Germans and the Scandinavians, who are both of Teutonic race, to reject this explanation. There are many races which are made up of a number of nationalities: the Slavic race, for instance, is made up of Russians, Poles, Czechs, Ruthenians, Wends, and others. The Teutons, the Celts, the Fins, and many other races, are also subdivided into several branches. Neither is it the state, or political community, which forms the nation. Austria includes many nationalities, and the German nationality is subdivided into several states. Is it language that constitutes the nation? A community of language is considered by many authors as the true bond of nationality, and surely arguments are not wanting in favor of this opinion. Community of language is the result, if not of a community of origin, at least of a prolonged union; it is also the cause of uniformity of manners, views and sentiments. The man whose language is not understood is instinctively considered as a foreigner, and for the uncultured man *foreigner* and *enemy* are synonymous. Yet, the

Swiss nationality on the one hand, and Belgium on the other, include populations speaking different languages. It might be also asked if geographical position, community of name, religion, interests or history, constitutes nationality; and we might find some fact to be used in support of, and some serious objection to, the hypothesis that either of these elements was the basis of nationality. Indeed, nationality is composed of all these put together. John Stuart Mill thinks that there is a nationality wherever men are united by common sympathies which do not exist between them and other men, sympathies which lead them to act in concert more readily than they would with others, to desire to live under the same government, and to desire that that same government should be exercised by them or by a portion of themselves. The sentiment of nationality may have been produced by various causes: it is sometimes the effect of the identity of race and stock; frequently a community of language and religion contributes to create it, as geographical limits also do. But the most powerful cause of all is the identity of political antecedents, the possession of a national history, and consequently the community of tradition, of pride and humiliation, collective pleasure and regret are attached to the same incidents of the past. Nevertheless none of these circumstances is indispensable, nor absolutely sufficient *in itself*. — We find that there is no certain sign by which to characterize a nation strictly. In one place the bond is made to consist in a common origin; in another, in the community of language (*wo die deutsche Zunge klingt*); in a third, geographical limits (Belgium, Switzerland); in the east, even in religion. The nation, therefore, is not a physical body or unity, but a moral body; it is not always determined by external facts nor by them alone, but by *sentiment*. — It is important to dwell on this point, because more than one consequence may be drawn from it. For example: the feeling of nationality may exist in the whole nation, or only in the upper or lower classes; it may be dormant or active; it may rest on interests, or be opposed to them; and in each one of these cases it becomes manifest under a different form and with a different energy. Now, the feeling of nationality is weak, strong or exalted, according to the composition of the state. Let us examine, therefore, the different relations and combinations which may be met here. The state may be formed of a single nationality and include the totality of the nation. We do not know whether this case has ever presented itself in history. It did not in Egypt nor Palestine, and we do not know precisely whether it does in Japan. A state may also be composed chiefly of a compact nationality, and have but a small fraction of inhabitants of foreign origin: such, for example, is France, which easily assimilates those elements which it has already filled with its own spirit. In the two preceding cases, the feeling of nationality will be calm and be almost identical with patriotism. This is especially the case when the state includes populations speaking different languages, but united by bonds of affection and sympathy, as the Swiss and the Belgians. The existence of these two nationalities of recent creation—at least in their actual form—is the more remarkable since each fraction of these states may consider itself as a disjointed member of a great nation (French, German and Italian). — The feeling of nationality is more or less exalted in states which contain the majority of a nation, one important part of which is detached from, but seeks to unite itself with, the mass of the nation. Such was recently the condition of Italy, such is still the condition of Greece. The same exaltation of the feeling of nationality may appear in states composed of different nationalities whose forces balance one another, as in Austria, or one of which exercises a greater or less supremacy over the others, as in Russia and Turkey. — Europe presents, in fact, nearly all the combinations which theory can imagine, and this situation could have been established only at a time when the feeling of nationality scarcely existed, and when its principle had not been formulated. What produced this feeling and especially the doctrine based upon it? Reaction against the spirit of conquest. — We do not think we go too far in maintaining that all political principles originate in some reaction. Anarchy engenders principles of order and authority, and renders even despotism tolerable. Absolute power, on the other hand, makes the want of liberty keenly felt, as well as all the guarantees required by it. It is only when deprived of a good, that we understand its value. — Conquests have taken place at all times, and in wars between nations difference of nationality envenomed the struggle; but then the feeling of nationality was only an instinct. In our day, nationality is a thought-out feeling, an idea resting on patriotism, the love of liberty and a whole series of moral wants. The development of the instinct of nationality in Europe into a natural and sometimes imperious feeling was delayed first by Christianity which made all christendom appear as a single nation. Christian feeling was, for a time, stronger than patriotism. In the time of the league, religious parties in France had no scruples in joining Spain against their own country. The German princes, on the other hand, did not hesitate to invite foreigners to aid them in their struggles against the emperor. Religious struggles were perhaps the originators of patriotism by causing a reaction. — The reformation, by breaking the unity of the church, was, in many respects, a great good, from the point of view of the progress of humanity.* A variety of worships is indispensable in order to give birth to the idea of liberty of conscience, which itself must

* A multiplicity of religions is necessary in order to distinguish *religion* from *dogma*, and to avoid confounding the denial of one or another detail of the official *creed* with atheism.

precede the liberty of philosophizing, and even to give birth to the liberty of making discoveries in astronomy, in physics, in chemistry, and, above all, in history. — The spirit of inquiry, it is plain, is essentially aggressive in its nature. When a man has mastered one question, or thinks he has, he passes over naturally to another. Hence religion, philosophy, natural and political sciences, had to be purified in the crucible of inquiry, and the intellectual labor which resulted hastened the reaction which in the eighteenth century rose up against the absolutism of princes, and which broke out in the French revolution of 1789. This revolution was completely foreign to the principle or feeling of nationality; it was even hostile to it. In France, it roused the masses in favor of the unity of the country (*République une et indivisible*); there arose a feeling of hostility even against provincial traditions, and, to put an end to these traditions, the French departments were created; the accusation of *federalism* was a death sentence. Now, French federalism and the spirit of nationality have more intimate relations than is supposed. Strange to say, side by side with or in opposition to a patriotism carried to the point of exaltation, cosmopolitan feelings appeared, and French nationality was solemnly granted to eminent foreigners whose reputation had reached France, but who did not think of leaving their native country. Naturalization was readily given, for "nations are brothers," the armies of the republic making war only on tyrants and oppressors. — And still, whatever may have been said of it, the awakening of the spirit of nationality is derived from the great French revolution in two very different ways. The direct way, natural and glorious, is that which was opened everywhere by the principles of '89. These principles were inscribed on the banner of the oppressed, and, while making them feel more vividly their deprivation of liberty, reminded them that a nation united in spirit almost always attains its ends. The other way may be considered as indirect, since the sentiment of nationality resulted from a reaction against the conquests of Napoleon I. Napoleon caused the birth of a new power by attacking nationality in Russia, by freeing it in Italy, by defying it in Germany and Spain. The sovereigns of these countries were deposed or lowered, and a system of administration was introduced which was French in origin and spirit. The people reacted against these changes. Resistance was popular and spontaneous, for the former governments were absent or powerless; and it was national, for it was directed against foreign institutions. — In a remarkable article by Reinhold Schmid, published in Germany, we find the following passage: "This unceremonious treatment had the precise effect of rousing the national sentiment of Germany, so long dormant, and after the shameful defeat experienced in 1806 by the established government, an endeavor was made to find in the national spirit new power for the war of deliverance. It was a characteristic sign of the times that when Fichte, who had just declared that nationality was an unimportant thing, a narrow idea which the human mind should reject in order to acquire the conception of cosmopolitan liberty, that Fichte, we say, delivered his celebrated 'Address to the German Nation,' in which he made an appeal to the sentiment of nationality by basing on it alone the hope of safety for the country. The possibility of delivering such a discourse, unpunished, at Berlin, under the eyes of French generals and agents, may serve to characterize the spirit of the Napoleonic government; which did not neglect to persecute without mercy, wherever its power extended, every movement against French domination. This fact proves that in France they did not foresee the dangers threatening their supremacy from this quarter. We know, moreover, that Napoleon considered such aspirations as idle fancies of which he needed to take no account." — Let us now quote an authority which may be considered as Italian, at least on account of the interests which he defended, J. de Maistre, (*Correspondance diplomatique*): "Nations are something in the world; it is not permissible to count them for nothing, to trouble them in their customs, their affections, in their dearest interests, * *." And, further on: "It is not hard to unite nations on a geographical chart; but in practice it is very different; there are nations which can not be blended. The Italian mind is in a ferment at this moment." — We know not whether an idea, once born, ever dies. Be this as it may, the idea of nationality did not have time to die out for want of food. After the reaction of Europe against France, came the reaction of Greece against Turkey, that of Poland against Russia, that of Italy against Austria, not to mention facts of minor import. We have just spoken of oppressed nationalities. If these nations had found in their conquerors a spirit of justice and a liberal government, they would perhaps have become accustomed to their new situation in time. Their grievances were numerous, though essentially of the moral order. But it is especially the enlightened classes of a nation which suffer from this kind of grievances, and these classes are too small in number to resist their oppressors successfully. They felt, therefore, the necessity of leaning on the masses, and to rouse their inertia. To overcome their indifference it was necessary to excite them by exalting the national feeling. A book printed in 1821 (*l'Italie au dix-neuvième siècle*, p. 148) says: "The sentiment of national independence is more general and more deeply engraved in the hearts of nations than the love of constitutional liberty. Nations most subject to despotism have this feeling as much as free nations; the most barbarous peoples have it still more vividly than enlightened nations." — Up to 1859 the principle of nationalities did not go beyond the domain of theory, or that of internal affairs; the Italian war introduced it into international law. It behooves us now to exam-

ine more closely a principle which has already caused terrible wars, and which threatens Europe with more than one shock. —"When the sentiment of nationality exists anywhere," says John Stuart Mill, "there is a *prima facie* reason to unite all the members of the nationality under the same government, and under a government of their own; this amounts to saying that the question of government should be decided by the governed. It is hard to imagine what a group of men should be free to do, if not to discover with which of the various collective bodies of human beings it may associate itself." If we consider the question under this abstract form, an answer will not be very easily found to it. Once national sovereignty is admitted, and as the nation is composed of individuals, it is evident (abstractly speaking) that each individual has his share of it and may choose his government. There is no contradiction in the words, and still each one feels that the realization of this theory is impossible. It will be thought, perhaps, that we carry the consequences of the principle too far in applying it to individuals. Mill himself applies it only to "groups of men." But what constitutes a group? Ten, a hundred, or a thousand individuals? No international legislator has the power to fix this number. Moreover if it were fixed, "in practice a number of considerations might be opposed to this general principle." This is what Mill says. He finds two such considerations: one geographical, when a small territory is separated from the common centre by other nationalities, or when, as in Hungary, various nationalities form such a mixture that they, of necessity, are obliged to have a common government. The other consideration is purely moral and social. "Experience proves," says Mill, "that it is possible for one nationality to be melted and absorbed into another; and when this nationality was originally an inferior or backward portion of the human race, the absorption is greatly to its advantage. No one could suppose that it is not more advantageous for a Breton or for a Basque of French Navarre to be drawn into the current of the ideas and feelings of a highly civilized and cultivated people, to be a member of the French nationality, possessing, on the basis of equality, all the privileges of a French citizen, sharing the advantages of French protection, and the dignity and prestige of French power, than to sit morosely on his native cliffs, a half-savage specimen of times gone by, moving unceasingly in a narrow intellectual orbit, without sharing or interesting himself in the general movement of the world. The same remark applies to the Welshman or to the Highland Scotch as a member of the English nationality."—We think the altogether gratuitous supposition of the original inferiority of the Bretons of France or the Britons of England superfluous. Mill might have dispensed with this argument. It is evident that a small group of men always gains from being absorbed by a great nation. This argument presents, besides, a very serious danger, for it might be advanced whenever the stronger wished to conquer the weaker —It is important to state here. the impossibility of deducing a strict right from the principle of nationalities. The most liberal author is obliged to admit limitations. This is not all. John Stuart Mill, and the majority of publicists favorable to nationalities, seem to have forgotten that a state is a sort of mutual association in which there is a solidarity among the citizens who compose it. One may admit this doctrine without being a partisan of the social contract. It is solely in virtue of these mutual obligations, of these reciprocal duties, of this solidarity, that military service may be required of citizens and some be called upon to allow themselves to be killed for all. Now, how can we permit a fraction of a nation to separate itself from the state, to the prejudice of all and without the consent of those who are thereby injured? We admit that there may be cases in which we should be able to dispense with this consent; however, in the public law of Europe the consent of those interested has almost always appeared necessary. Was it not necessary to ratify in the Italian parliament the vote of Savoy and Nice? All constitutions say: Cession of territory can only take place by a law. Cabinets are not deceived in this, but publicists seem sometimes to ignore it. In discussions on the principle of nationalities, men take sides so warmly with one of the parties that they are inclined to neglect to inform themselves what are the rights of the other, and become unjust through excess of justice. No provision of natural law, of that "law superior to all legislative enactment," prevents the union of several nationalities under the same government; once the pact concluded, it can not be dissolved without amply sufficient reason by only one of the parties. Another difficulty might be raised here, which results in a certain degree from the doctrine which we have just indicated. In international congresses it is claimed that decisions should be taken unanimously, and that the vote of one state can never bind the will of another. Might it not be maintained that to be sanctioned by several nations, such a decision needs not a majority to pronounce in a certain sense, but unanimity, as in the case of the verdict of an English jury? A vote which decides nationality is not to be compared to a purely internal decision. Might it not be maintained that, during the vote, there was a kind of suspension of the social bond? Moreover, the force of this consideration has been recognized implicitly for a long time; in cessions of territory it is left expressly to each inhabitant, *individually*, to declare to what country he wishes to belong, without being bound by the vote of his neighbor (if a vote has taken place). This is called option. —We thus see that the principle of nationalities carried too far, leads to absurdity. Nationality is an important political element, but it would be an error to let it dominate all others.

To begin with, its source is of doubtful purity; it does not flow generally from justice or the sentiment of personal dignity, but from hatred of the foreigner, and frequently from ignorance. In the opinion of ancient Greece, all foreigners were barbarians; and in that of Rome, enemies. Is it to be believed that there is reason to withdraw from a country where liberty rules, in order to join a nationality of the same race governed by a despot? A group of men who should act in this manner might be considered as "inferior and undeveloped." And justly. Do such men ask themselves what is the object of the state? The state should satisfy certain moral and material wants of men, and if men are connected with a country which gives them these advantages, they should not leave it to join a state which does not give them, whatever be the affinities of race and language. — The preservation of nationality is of secondary importance. History shows us how often nations have become mixed, changed or modified in character. It seems even that an infusion of fresh blood—even barbarian blood—is necessary to prevent old nations from falling into decay. If purity of race were of use to humanity, Providence or nature would have taken some measure to secure it; while it suffices to be born in a country to share the feelings of its people. We have never understood what interest a small group of individuals without history, embedded in a great and powerful state whose history is their own, could have in obstinately remaining in isolation. On the other hand, a nationality small in number performs an impolitic act in withdrawing from a large state to form an independent community. In the present condition of things it is unreasonable. From another point of view, small states are independent only by sufferance. If the six or seven great powers had a less lively sense of the requirements of justice, or if they could agree on the terms of division, the small states would soon be absorbed. It is not sure that humanity or the progress of civilization would suffer thereby; but it is certain that the creation of new small states would be a derangement of the balance established with such difficulty in Europe, for they would simply change masters. It is of small importance to a conquered city whether its garrison belongs to a neighbor of the east or the west. — From the point of view of the progress of humanity, the present condition being given, the small states are in a marked inferiority compared with the great. From the shock of ideas light comes. It results that the more members a nationality has—other things being equal—the more it will contribute to the advancement of science, and the more ideas it will create. Besides, the languages of great countries are studied, and their discoveries are not slow in entering the common domain of civilization. But who learns the languages spoken by one or two millions of persons? The inventions of these countries will be lost for humanity, if the enlightened members of these smaller nationalities do not take them to London, Paris, Berlin, Vienna or some other great centre. There are languages which seem sentenced to perish, as there are nationalities which must, it seems, be lost in others. And why should this process of fusion which was so useful, even so necessary, twenty, ten, or five centuries ago, be stopped to-day? — The union of several nationalities under the same government could not, moreover, be considered as an evil at a time when Switzerland or Belgium are cited as first among the most happy and prosperous countries. Can not each of the fractions of these peoples preserve its originality if it wishes? History shows us, besides, that composite nationalities are superior to nations free of all mixture. Thus, the Romanized Gaul was superior to the druidic Gaul, and the character of modern France dates from the infusion of Germanic blood. The same advantage appears in all states in which the fusion was complete. In countries where the nationalities brought in contact have remained or become hostile through the fault of the government, the mixture has not had its effect; but let equal liberty be given to all, and the peaceable friction of varied aptitudes will produce its usual result. — The principle of nationalities, as we have formulated it, does not possess absolute legitimateness. While recognizing in each one the right to choose a nationality to which he prefers to belong, we should consider circumstances which exercise a power similar to this right and limit its application, or at least render its exercise harmful to individuals, to nations, and to humanity. In the present state of things, the absolute application of the principle of nationalities is even completely impossible; it would have to struggle against material and moral obstacles sometimes invincible, or at least against powerful interests. One of these interests, with slender right, however, in spite of the number of its partisans, would appear under the form of the theory of *natural frontiers*, and this theory is an excellent criterion in distinguishing sincere adherents of the principle of nationalities from those who look on it merely as a weapon. The theory of natural frontiers is an argument of the conqueror, and the principle of nationalities is opposed to conquest. But there are persons who are in favor both of the frontiers and of nationalities, according to the wants of the moment. If our doctrine were to be summed up in the form of a proposition, we should perhaps say that, generally, the principle of nationalities is legitimate when it tends to unite, in a compact whole, scattered groups of population, and illegitimate when it tends to divide a state. When the two operations must take place at once, the verdict of history will be in accordance with the circumstances of the case. It will not say, Woe to the conquered, but Woe to the mistaken. MAURICE BLOCK.

NATIONALITY, Law of. *Definition of Terms.* The word *nation* is used in two senses. It means

sometimes a "folk" or people, whose natural unity is demonstrated chiefly (but not solely) by the use of a common language, but whose territorial limits do not necessarily coincide with those of any political community. With the nation in this sense, with the natural nation, as it may be termed, the law has nothing to do. The law knows nations only as political communities, as sovereign and independent states. *Nationality*, therefore, as a legal attribute of persons, is connection with a certain body politic, membership in a particular state. — The members of a state are called its *subjects* or *citizens*. The former term, if properly construed, is applicable to the people of any nation, without regard to the form of government; for every state is based upon the subjection of its members to its sovereignty. But the word subject has become historically associated with the theories of feudal and absolute monarchy, and has thus fallen into disfavor. It is officially employed, at the present day, in no constitutionally governed country except Great Britain. We use in its stead the word citizen, which has the disadvantage of a double meaning. For primarily and strictly only the active members of the body politic, the holders of political rights, are citizens; but in the official language of the United States the term citizen includes all persons of American nationality, whether possessed of political rights or not. French and German jurists avoid this ambiguity without using the term subject, distinguishing citizens in the strict sense (*citoyens, Staatsbürger,*) from members of the state or nation (*nationaux, Staatsangehörige.*) — In federal states an additional ambiguity attaches itself to the word citizenship: it is employed to describe membership in one of the several federated commonwealths as well as membership in the nation. No such uncertainty of meaning attends the use of the word nationality. But in the absence of a corresponding concrete term, such as the French *national* and the German *Reichsangehöriger*, we are obliged to make use of the word citizen.

Legal Importance of Nationality. The importance of nationality at civil or private law has greatly diminished in modern times. At ancient law all rights were dependent upon citizenship: the foreigner had no rights, not even the fundamental rights of life and liberty, except by virtue of treaty. Modern jurisprudence, however, has substituted for the national the humanitarian principle: civil rights appertain to man as man, not to man as citizen. The exceptions to this rule, numerous and important a hundred years ago (*droit d'aubaine*, etc.) have now generally disappeared. In several states of the American Union aliens are still unable to own real property unless they have declared their intention of becoming citizens. In several European countries aliens are excluded from the exercise of certain trades and professions. But modern law is everywhere tending toward the rule of the Italian civil code: "The foreigner is admitted to all the civil rights belonging to citizens." — At civil law, accordingly, questions of nationality are seldom material. The same is true of criminal law. Only the citizen, indeed, can be called to account for acts done out of the limits of the state; but as regards offenses committed within the territory of a state, the alien, unless he be an exterritorial person, is subjected as completely as is the citizen to its criminal jurisdiction. — At constitutional law, on the other hand, nationality is of prime importance. It is true that constitutional law concerns itself for the most part with active citizens only; but to be an active citizen, to be held to political duties and to hold political rights, one must first be a member of the nation. The alien, therefore, in the rule, has no vote and is incapable of holding office. On the other hand, he is usually exempted from essentially political duties; *e. g.*, he is not held to military service. Exceptions to these rules may indeed be found here and there in the legislation of single states. Several commonwealths of the American Union permit resident aliens to vote in national as well as in state elections. Nearly all states admit aliens to certain offices: some states, however make such admission a mode of naturalization. During our civil war resident aliens who had declared their intention of becoming citizens of the United States were subjected to conscription. Protest having been made by the representatives of the leading foreign powers, the aliens in question were granted sixty-five days in which to leave the country. The foreign powers interested acquiesced in this arrangement, maintaining, nevertheless, that the action of the American government was in violation of international comity. — More numerous by far than the internal questions of nationality are those which arise in the international intercourse of modern states. International law deals not only with the relations of states to each other, but also with the relations of states to the subjects of other states. Relations of the latter class are governed by the following rules: 1. Every state is bound and entitled to protect its subjects. The obligation to protect is an obligation of municipal law solely, each state according or withholding its protection as it sees fit. The right to protect is an international right, and its content is determined by international law and usage. In considering the limits of this right it must always be remembered that every state is sovereign in its own territory, and that the alien, unless invested by law or treaty with the privilege of exterritoriality, is subjected within its borders to the authority of its laws. In the exercise of the right of protection, the alien's government can demand only that he be recognized and treated as its subject; *e. g.*, that all treaty privileges granted its subjects be extended to him. Beyond this point, protection is a matter of comity, not of right. By the comity of nations, each state is permitted to watch over the interests of its subjects in foreign states: particularly to see that they receive justice. Not abstract justice, how-

ever, nor what the protecting state holds to be justice, but such justice as is afforded by the law of the land. Protection of the alien against the law of the land is possible only by force or threat of force. Such protection may be justifiable, but its justification is not to be found in the law which governs the peaceful intercourse of nations. Such protection is an invasion of a foreign sovereignty; *i. e.*, an act of war. — 2. Every state has the right to expel aliens from its territory. The expelling state may return the alien to the territory of the state to which he belongs (*droit de renvoi*) and the latter state is bound to receive him.

Determination of Nationality. Questions of nationality, whether internal or international, are determined in the first instance by the organic or constitutional law of the state or states interested. Each state decides what individuals compose it: who are and who are not its members. But the application of municipal law to international questions results in this case, as in most cases, in conflicts and uncertainties. It frequently happens that a person is lawfully claimed as subject by two states: it is possible that the same individual may owe allegiance, on different grounds, to as many as three different states. It sometimes happens, on the other hand, that a person is not recognized as its member by any state, that he is "*heimathlos.*" International law is forced to deal with these difficulties; it may not determine to what state the individual belongs; but it must at least decide how he shall be treated.

Plan of Treatment. The law of nationality will be described, in the following pages, I. In its historical development; II. In its present condition, by comparison of existing legislations.

HISTORICAL RÉSUMÉ.

Roman Law. The law which determined nationality in the ancient world is commonly known as the *jus sanguinis*, the law of blood or system of descent. It would be more accurate to term it the *jus familiæ*. The ancient state was based upon the family: it was indeed, originally, simply a collection of families. All persons, therefore, who were members of a citizen family were members of the state. But in addition to the wife and the children born of her, the Roman family included adopted children and slaves. Roman citizenship was accordingly acquired not only through descent from a citizen father, but also by marriage to a citizen, adoption by a citizen, and emancipation from slavery—*manumission*—on the part of a citizen master.— The foreign family, on the other hand, did not cease to be foreign by any term of residence within the limits of the state; the descendants of the "peregrine" remained peregrines to the remotest generation, unless adopted, *i. e.*, naturalized by the state itself. Such naturalization was frequently conferred upon entire communities. All the Italian allies were invested with Roman citizenship during the republican period, and in the third century of the Christian era an edict of Caracalla made all the free inhabitants of the empire citizens. The right of citizenship, however, was not thereby made territorial; the edict naturalized those persons only who were domiciled in Roman territory at the date of its publication; it did not affect peregrines who subsequently acquired such domicile.— The connection between the state and the individual could be severed by either party: the state could exile the citizen, and the citizen, at least during the republican period, could expatriate himself. But since loss of citizenship meant the extinction of all property rights and the dissolution of all family ties; and since the exile, unless adopted by some other state, remained outside of the social pale, unprotected by human law, the Roman right of expatriation meant only the right of choosing exile in preference to death; a right of some significance before the *leges Porciæ* abolished the death penalty.

Early German Law. Membership in the primitive German state—if the word state can properly be applied to those loosely organized and migratory tribes which overthrew and dismembered the Roman empire—was acquired, as among the Romans, by descent. The child derived its civil status from its parents, without reference to its place of birth or of residence. During the period of the great migrations, from the fourth to the sixth century, the German tribes were gradually fused into larger monarchic states. The bond of union in these new states was the royal authority: it was the subjection of the individual to that authority which made him a member of the state. Allegiance thus became the basis of nationality.— Allegiance was primarily established by the oath of the subject: *sacramentum fidelitatis* at Frank law, *hyld-ath* in Saxon England. In return for the allegiance of the subject the king was bound to afford him protection: *mundium*. This reciprocal relation could not be dissolved by the act of the subject; the obligation of allegiance endured so long as the king lived, but was not transferred to his successor. A change of rulers necessitated a renewal of the contract.— When, with the close of the period of the migrations, these new states obtained comparatively fixed boundaries, the royal authority gradually became territorial. The oath of allegiance was retained, but was now exacted as a matter of right. All the inhabitants of the king's territory were held to take the oath on reaching the age of twelve. But habitancy or domicile being a matter not always easy of proof, and the place of birth being in the vast majority of cases the place of habitancy as well, the birth-place naturally became the criterion of habitancy and thus of nationality. It was no longer descent, therefore, which determined nationality, nor voluntary contract; but the fact of birth in the king's territory (*jus soli*).— Such seems to have been the general development

of the German law of nationality on the continent and in England. Such in particular was the legal development among the Franks; and with the establishment of the Frankish empire the law of the Franks became, in this matter at least, the law of continental Europe. It was this law which the Northman Hrolf found in force in the lands of which he made the duchy of Normandy; and through the Norman conquest of England the Frankish law of Normandy became one of the sources of the English common law of allegiance.

Effects of Feudalism. The system of nationality which we have just described was not, as is frequently assumed, of feudal origin. The German theory of allegiance and the feudal theory have something in common, and may perhaps be traced to a common starting-point. They have in common a reciprocal relation of service and protection; and the relation between the German prince and his *comitatus*, as described by Tacitus, was no other than this. But the German law of allegiance was not a product of feudal ideas: its development antedated that of feudalism. It governed the relation between subject and sovereign in that Frankish empire which feudalism helped to destroy. — With the disruption of the Frankish empire there arose in Europe a number of feudal monarchies. Two centuries later the Norman conquest established in England, where feudalism had already begun to develop itself, a monarchy more typically feudal than any on the continent. The effect of the feudal system upon the relation between subject and sovereign was, however, widely different in England and on the continent. In England the bond between subject and sovereign was strengthened. The theory that the king was owner of all the land in the realm made the monarchy more emphatically territorial than before, and gave to the *jus soli* a more logical basis. To the general duty of allegiance was added the special duty established by the vassal's special oath of fealty. But there was no merger of these duties: the feudal obligation did not take the place of the general obligation of allegiance. And, what was more important still, the feudal obligation of the sub-vassal to his immediate lord was not allowed to affect his prior and paramount duty to the king. In the continental monarchies, on the other hand, the obligation of the lower vassals to their immediate lords became in fact, whatever may have been the theory, more important than their allegiance to the king. Many of the most important royal rights were given in hereditary fee to the crown-vassals and by these again to their sub-vassals. Interposing thus a series of liege lords between the king and the people, feudalism weakened and in its extreme development destroyed the bond between the state and the individual: it disintegrated the nation. In Germany, where feudalism actually reached this extreme development, membership in the empire became, except as regarded the crown-vassals or imperial estates, a conception devoid of all practical consequence. The important bond was that which subsisted between the imperial estates as territorial princes and the inhabitants of their territories (*Landesunterthänigkeit*). This territorial subjection was held to be established by domicile. In western Europe, however, feudalism never reached this extreme development. Toward the end of the middle ages the monarchic authority was re-established in France and Spain in greater fullness than before: these monarchies became absolute. The *jus soli* remained the basis of nationality.

Influence of the Roman Law. Although, as we have seen, the practical value of allegiance was greatly lessened on the continent by the operation of the feudal system, the law of allegiance remained theoretically unchanged throughout the middle ages. The Frankish *jus soli* remained the common law of Europe: nationality continued to be determined by the place of birth. — Toward the end of the middle ages came what is known as the "reception" of the Roman law. The codification of Justinian, almost forgotten for centuries, began to be studied in the twelfth century; and before the end of the sixteenth century that codification had become the generally recognized basis of (continental) European law. Primarily, indeed, of private or civil law only; but the influence of the Roman law upon constitutional and international jurisprudence was very great. The leading writers on public law declared the *jus sanguinis*, or determination of nationality by filiation, to be the true system, and denounced as irrational the principle of indelible allegiance. — Already in Grotius' time no civilized state except England held allegiance to be indissoluble in the old Frankish sense. But it must not therefore be supposed that what is to-day termed the "right of expatriation" was generally recognized. Expatriation was not regarded as a right but as a penalty. By emigration and lapse of time, it was held, the subject might lose the rights of a subject and incur the disabilities of alienage. Whether the duties of allegiance were extinguished with the rights was a question which the legislator commonly left open, and which continental jurisprudence can not be said to have definitely decided until the present century. — The influence of Roman ideas upon the law regulating the original acquisition of nationality was also considerable. As the territorial principalities of Germany rounded themselves to independent and sovereign states, and as the conception of *Staatsangehörigkeit* (membership in the state) supplanted the mediæval conception of *Landesunterthanigkeit* (territorial subjection), the *jus sanguinis* became in every case the basis of nationality. France, however, retained the *jus soli* until the adoption of the code Napoleon; Spain, it seems, until about the middle of this century; and a number of European states retain it still, with certain modifications.

English Law to 1870. The doctrine of nationality, at English common law, is purely German. Certain details are more carefully worked out, but

the fundamental principles are the same as at Frankish law.—It is the personal relation of the individual to the sovereign which determines nationality. The Englishman is not subject to the king because he is an Englishman, he is an Englishman because he is subject to the king of England. It was decided in the seventeenth century (Calvin's case, 7 Coke), that all persons born in Scotland after the accession of James VI. (I) to the throne of England were natural-born Englishmen, although the union of the two kingdoms was at that time purely personal. A similar result was avoided in the case of the Hanoverian subjects of George I. and his successors, by the provisions of the act of settlement.—The bond which unites the subject to the sovereign is, as at Frankish law, indissoluble by any act of the subject. "Nemo potest exuere patriam": it is not in the power of the subject, by any act of his own, to divest himself of his allegiance. Blackstone explains and defends this rule on the old German ground: the subject owes allegiance because the king affords protection. Until the thirteenth century it seems to have been commonly believed that the allegiance of the subject was suspended by the king's death, as was the case at Frankish law. But Frankish monarchy was elective, and English monarchy became hereditary; the successor to the English throne inherited with the throne the allegiance of his predecessor's subjects. English allegiance thus became "perpetual"; expatriation was possible only with the express consent of the king. As parliament gradually encroached upon the royal functions it was held that even the king's consent was insufficient to divest a subject of his allegiance; an act of the legislature was necessary. No law permitting expatriation was passed until 1870.—The old German oath of allegiance was exacted as late as the eighteenth century; but it is not the oath but the fact of birth in the king's domain which makes the person a subject. Birth in the king's domain means birth "under the actual obedience of the king." Birth in a place over which the king has ever so valid title of sovereignty is, therefore, of no consequence if the place be not in his actual possession. Nor does birth in the king's territory make the child a subject if the parents be exterritorial persons. Conversely, children born to the king or the king's ambassadors in foreign lands are English subjects.—The common law doctrine of nationality thus reduces itself to two rules. Nationality is determined by the place of birth, and the individual can not change his allegiance. The common law was, however, subjected before 1870 to the following important modifications: 1. It came to be recognized as a rule of common law that the subject might freely withdraw his person and property from the jurisdiction of the crown, unless expressly prohibited by the king or by an act of parliament. But the right of emigration is inconsistent, in principle, with the doctrine of indissoluble allegiance. For the latter doctrine rests on the assumption that the subject owes certain duties to the king, in return for the protection which the king affords him, and that it is not permitted to a debtor to extinguish his obligation at his own pleasure. But by withdrawing his person and property from the domain of the king the subject renders his obligation inoperative; the crown has no means left of enforcing its claim. The Frankish law was therefore logically in the right in considering unauthorized emigration to be an act of treason. Authorized emigration, on the other hand, ought logically to have been regarded as expatriation. But the English law permitted the emigration and held to the theory of the continued allegiance of the emigrant.—2. A series of statutes (25 Edw. III., stat. 2; 7 Ann, c. 5; 4 Geo. II., c. 21; 13 Geo. III., c. 21) conferred English nationality upon the foreign-born children and grandchildren of English subjects. The territorial theory of nationality required that these persons should be considered aliens, and the common law so regarded them. If now the *jus soli* was to be set aside in respect to this class of persons; if the children of English subjects, wherever born, were to be regarded as Englishmen; then the same rule, the *jus sanguinis*, should have been applied to the children of aliens born in England. But here the territorial rule of the common law was left in force; children of aliens born in England were born Englishmen.—3. The bestowal of British nationality upon aliens, a practice evidently inconsistent with the theory of indelible allegiance, began in England at an early period. It was effected either by letters patent from the king, or by act of parliament. Only in the latter case was the alien said to be *naturalized;* naturalization by act of the crown was termed *denization.* Denization was always special, the royal prerogative being directly exercised in each case. Parliament, on the other hand passed general as well as special acts of naturalization. Of the former sort were the acts of 15 Charles II., c. 15, in favor of foreigners engaged in certain trades and manufactures; 13 Geo. II., c. 3, and 22 Geo. II., c. 45, in favor of foreign seamen serving on English ships; 2 Geo. III., c. 25, in favor of foreign Protestants, serving ten years in the royal American regiment or as engineers in America; and other similar statutes. All these acts, however, were restricted in their operation to certain classes or categories of foreigners. No law prescribing the conditions under which any foreigner might be naturalized existed before the present reign.—The denizen, or person naturalized by virtue of the royal prerogative, had not the full civil status of the natural-born Englishman. He could neither take real property by inheritance, nor could his children, born before denization, take from him. Naturalization by act of parliament, on the other hand, operated retrospectively: the alien and his children were placed, as regarded rights of inheritance, in the same position as if the naturalized person had been born a subject.—The political effect of denization and of naturalization was

identical: the alien, in either case, became a British subject. As such he was, in principle, subjected to all the political duties and possessed of all the political rights of a natural-born Englishman. His rights, however, were seriously curtailed by special statutory exceptions. The acts of 12 and 13 Wm. III., c. 2, and 1 Geo. I., c. 4, excluded all aliens, although naturalized or made denizens, from the privy council, from parliament, and from all offices or places of trust, civil or military. — The common law doctrine of allegiance, from whatever other standpoints it might be criticised, was at least simple and consistent. The modifications above described made the English law of nationality complex and inconsistent. The children of alien parents, born "under the obedience" of the English crown, were English subjects; the children and grandchildren of English parents, born in the territory of a foreign state, were likewise English subjects. The subjects of foreign princes were encouraged to forsake their natural allegiance and to make their knowledge and skill tributary to England's national wealth; they were even invited to withdraw from their sovereigns the services due to them alone, and to enter the army and the fleet of Great Britain: conversely, the British subject was permitted to avoid the obligations of allegiance by emigration; Irish subjects of the crown were even encouraged and aided, in this century, in emigrating not to British colonies only but to the United States; and yet allegiance was held to be indelible. The English system of nationality, as it was in 1870, may fairly be called a system of double nationality. It seems, at first glance, inexplicable that a system of law so certain to impose antagonistic obligations upon the individual, so likely to involve the state in international conflicts, should have continued to exist to so late a day. In the actual operation of this system, however, the diplomatic inconveniences were not so great, nor were the perils to which the individual was exposed so serious, as might have been anticipated. — International conflicts were to a great extent avoided, in cases of double nationality, by the attitude of the English government. In its diplomatic practice England is accustomed frankly to recognize the possibility and, when the thing exists, the fact of double allegiance. It concedes to other states, in such cases, the right which it claims for itself: the right of enforcing its own law of nationality in its own territory. The English government, therefore, refuses to protect its subject against another government which claims his allegiance on grounds recognized by English law as establishing nationality. The person who is English by descent is not protected against a foreign state in whose territory he was born and which claims his allegiance under the *jus soli*. The person who is English by the fact of birth on English soil is not protected against the government which claims him as its subject because his father was its subject. The person who is English on either or both of the above grounds is not protected against the state in which he has caused himself to be naturalized; nor is the naturalized Englishman protected against the state to which his original allegiance is due either by the *jus soli* or the *jus sanguinis*. — This solution of the problem of double nationality lessens the difficulties of the state, but not those of the individual. It may easily be inconvenient, even in time of peace, to owe allegiance to two states. In case of war between those two states the double obligation may become a source of peculiar peril. If the *sujet mixte* voluntarily espouse the cause of either state he commits treason against the other. The fact that he was ignorant of his allegiance to the latter constitutes, of course, no defense. According to some English authorities the plea of compulsion, *e. g.*, conscription, is not a sufficient answer. But the law was, in fact, never enforced in such cases. Æneas Macdonald, educated and domiciled in France, but by birth a subject of Great Britain, was condemned to death in 1745 for bearing arms against England under a French commission. But the sentence was commuted into banishment; *i. e.*, he was simply sent home. During the war of 1812, England undertook to put a number of prisoners, by birth English subjects, by naturalization American citizens, upon trial for treason. The American government isolated twice as many English prisoners and threatened reprisal. England selected twice as many again of the American prisoners and threatened counter-reprisal. But it was obviously impossible for a civilized state to initiate, rightly or wrongly, a general butchery of prisoners of war. The prosecutions for treason were not pressed, and the English-born prisoners were eventually exchanged with the rest.— Neither to the state, then, nor to the individual, was the English law of nationality so perilous as it seemed. This negative fact, however, in no wise explains the development and only partially accounts for the long retention of that law. The positive explanation is as follows. In England, as elsewhere, aliens were subjected until the present century to serious civil disabilities. The most serious of these was their incapacity to hold real property. It was to remove this disability that English nationality was first extended to the foreign-born children of English parents: the act of 25 Edw. III. was an act in favor of "children-heritors." It was chiefly in order to escape this disability that other aliens sought and obtained letters of denization or acts of naturalization. It was thus the attempt to mitigate the working of the law of alienage which made the English law of nationality inconsistent. The law, thus modified, might still have been made consistent by the complete rejection of the *jus soli* and the establishment of the rule that English nationality should be extinguished by naturalization in a foreign state. But these further changes in the law could not be made without creating new cases of disability. The abrogation of the *jus soli* would have made children of aliens, born and brought

up in England, incapable of holding land; and the expatriation of an English subject would have entailed the forfeiture of his real property. The reform of the law of nationality was therefore blocked by the necessity of first reforming the law of alienage. This latter reform was long delayed by prejudices now deemed irrational and apprehensions now seen to be causeless; prejudices and apprehensions nevertheless which long controlled the political thought not of England only but of Europe, and from which we have not wholly freed ourselves in the United States. — Both the law of alienage and the law of nationality were reformed in England by the same statute, the naturalization act of 1870, (33 and 34 Vic., c. 14).

LAW OF THE UNITED STATES.

Federal and State Citizenship. When, in 1776, the American colonies separated themselves from Great Britain and became independent states, these new states claimed that the allegiance which their inhabitants had previously owed the British crown was now transferred to them. But these new states were already members of a confederation. It was a declaration of the confederate government which dissolved the bond of allegiance between the colonists and Great Britain, and it was a treaty between Great Britain and the United States which gave that dissolution of allegiance legal sanction. There existed accordingly from the outset, besides the idea of allegiance due to the several states, the idea of a general allegiance due to the United States. With the establishment of the firmer union of 1787 the national idea obtained clear expression. The constitution was declared to be established by "the people of the United States." The constitution mentioned not only state citizens but also citizens of the United States. Which of the two allegiances was prior and paramount was long a mooted question. This question may now be regarded as determined. The United States is a nation, and the allegiance of the individual to his state is subordinate to his allegiance to the United States. The latter relation only will be here discussed. Membership in the single state is not nationality. A word is necessary, however, as to the peculiar relation which exists in the United States between federal and state citizenship. In some federal states the determination of nationality is left to the several states; the members of these states are, as such, members of the nation. In other federal states, as in our own, the federal law determines nationality, and the member of the nation is also member of the state in which he resides. But in no federation except our own can a person be member of a part, a state, without being also member of the whole, the nation. In the United States there seems to be nothing in the constitution or the laws of congress to prevent a person who is not a citizen of the United States from becoming a state citizen under the laws of a particular state; and such state citizenship does not make him a member of the nation. It may, however, enable him to vote for presidential electors and for congressmen; for the right of suffrage is conferred by state law, and nearly all our states confer this right on all their adult male citizens. Fourteen states give the right of voting to aliens who have declared their intention of becoming United States citizens. We have, accordingly, the further anomaly that the right which is usually deemed the criterion of active citizenship may be exercised in the United States by persons who are not members of the nation. The state citizenship of a citizen of the United States is determined, according to the fourteenth constitutional amendment, by domicile.

"*Citizens*" *and* "*Subjects.*" The constitution of 1787 established no rules governing the acquisition or loss of American nationality. The whole matter, therefore, remained governed by the subsidiary law of the land, the English common law. All persons born in the territory of the United States were its subjects; all persons born out of its territory, though of American parents, were aliens. But the constitution did not speak, nor has any treaty concluded by the executive nor any act of congress ever spoken, of *subjects* of the United States. The written law knows only "citizens." — The courts have frequently declared, and still more frequently assumed without declaring, that citizen and subject, citizenship and nationality, are equivalent terms. But, in the famous case of Scott *vs.* Sanford, 19 Howard, 393, Chief Justice Taney expressed a different opinion: gave to the word citizen a different interpretation. He did not assert, indeed, that the word was to be taken in its original and strictest sense, that only the actual holder of political rights was to be considered a citizen; but he asserted that only that portion of the inhabitants of the United States which possessed political power at the period when the constitution was established, only the "dominant race," could be deemed to be citizens. The "people of the United States," in the meaning of the constitution, "are what we familiarly term the sovereign people." Hence a free negro could not be a citizen, since he was one of that "subordinate and inferior class of beings who had been subjugated by the dominant race, and, whether emancipated or not, remained subject to their authority." But of course the free negro, if born in the United States, was born its subject. Hence, in Chief Justice Taney's opinion, there might be subjects of the United States who were not citizens. — Some uncertainty has also been caused by the peculiar political status of the Indian tribes living in the territory of the United States. The members of these tribes have never been regarded as citizens of the United States. But it has been doubted whether they are not its subjects, as being born in its territory. The courts, however, have followed, up to the present time, the theory formulated by Chief Justice Marshall in the Cherokee cases. (5 Peters, 1; 6 Peters, 515.) These tribes are not, indeed, "foreign states,"

nor are their members "foreign citizens or subjects," in the meaning of section two of article three of the constitution. They are not independent nations, for they are under the "protection" of the United States. But they are distinct political communities with which the United States lives on a footing of treaty. The fact that in the exercise of its protecting power the United States practically governs these communities does not alter the legal aspect of the relation. As long as the tribal organization of Indian bands is recognized by the political department of the government as still existing; as long, that is to say, as the national government makes treaties with them, the courts are bound to recognize them as separate nations. (The Kansas Indians, 5 Wallace, 737.) Their members, though born in the territory, are not born "under the obedience" of the United States, and are therefore not its subjects.

Acquisition of United States Citizenship by Birth. Citizenship and nationality being equivalent terms, the acquisition of citizenship in the United States was determined from the outset by the common law of England, *i. e.*, by the *jus soli*. All persons born in the limits and under the actual obedience of the United States were its "natural-born citizens"; and it is in this sense that the phrase is used in section one of article two of the constitution. Conversely, all persons born out of the limits and jurisdiction of the United States, though of citizen parents, were aliens; for the English statutes by which these persons were naturalized were not part of our law. The naturalization act of March 20, 1790, declared that "the children of citizens of the United States that may be born beyond sea or out of the limits of the United States shall be held as natural born citizens; provided that the right of citizenship shall not descend to persons whose fathers have never been resident in the United States" A similar clause appeared in all the subsequent naturalization acts, down to that of 1802. The law at present regulating this matter is the act of Feb. 10, 1855, (Rev. Stat., 1993). This act refers only to the children of citizen *fathers*, and such children are declared to be citizens, not natural-born citizens. There was thus introduced into the law of the United States the same inconsistency which has been noticed in the English law. The children of citizens born abroad are citizens *jure sanguinis*, while the children of aliens, born in the territory of the United States, are also citizens *jure soli*. Such was the law until 1866. The civil rights act, adopted in that year, and the fourteenth amendment to the constitution, adopted two years later, each contains a definition of citizenship. We have, therefore, to examine these definitions, and their relation to each other and to the rule of the common law.— The definition contained in the civil rights act, adopted April 9, 1866, (Rev. Stat. 1992), is as follows: "All persons born in the United States, *and not subject to any foreign power*, excluding Indians not taxed, are declared to be citizens of the United States." This act confirms the *jus soli*, but exempts from its operation: 1. All persons subject to a foreign power. The meaning of the clause is clear, but its practical application presents considerable difficulty. How are our courts to determine whether a person is subject to a foreign power? Our municipal law certainly does not afford any answer to this question; nor does international law. The answer is to be found only in the various municipal laws which govern foreign nations. It can not be that the judge or diplomatic official, who is called upon to decide the question of nationality, is to scrutinize and interpret these foreign laws *ex officio*. Nor can it be that he is to call upon the party asserting citizenship to prove the negative contained in the law It can only mean that if the individual born in the United States show, or if it be shown against him, that another government claims him or according to its law may claim him as its subject, he is then not to be regarded as a citizen of the United States. But until such claim be actually raised by a foreign government, or until it be shown that the law of some foreign state makes such a claim possible, the person born in the United States is to be deemed its citizen. The object of this change in the law is presumably to avoid conflicts of nationality: the clause is inserted in a spirit of international comity. The legislator could hardly have gone further either in the observance of international comity or in the sacrifice of national dignity. Our law is brought into harmony with foreign legislations by being made dependent upon them in its operation. The effect of the statute is to place in doubt the nationality of a person born on our soil of alien parents. *Prima facie*, such person is a citizen; but it is open to him, or to any person attacking his citizenship, to show that he is claimed by his father's country under the *jus sanguinis*. This claim could not in all cases be shown to exist. The father might have lost his foreign nationality before the child's birth; *e. g.*, by absence of a certain duration. Or the person himself might thus have lost his foreign nationality. (See below: Comparison of Existing Legislations, Loss of Nationality.) — 2. The act excludes from the operation of the *jus soli* non-taxed Indians. This is unnecessary; for, as we have seen, these persons are not born under the actual obedience of the United States, and are not citizens by common law.— The definition contained in the fourteenth amendment to the constitution, adopted July 28, 1868, is as follows: "All persons born or naturalized in the United States, *and subject to the jurisdiction thereof*, are citizens of the United States and of the state in which they reside." This definition simply reproduces the rule of the common law. All persons born in the territory of the United States are its citizens, provided they are also born subject to its jurisdiction. But except foreign envoys and the members of their households, and members of Indian tribes recognized by the government as distinct political communities, all per-

sons are subject to the jurisdiction of the United States so long as they are in its territory. In our territory, the alien is "subjected," no less completely than the citizen, to the jurisdiction of our courts (jurisdiction in the narrower sense) and to the general authority of our government (jurisdiction in the wider sense). Aliens, in the language of the common law, are temporary subjects of the state in which they sojourn; they owe the sovereign who harbors them in his domains temporary or local allegiance. The phrase "born subject to the jurisdiction" is therefore precisely equivalent to the common law expression "born under the actual obedience." * — The constitution, then, invests with citizenship all persons born under the jurisdiction or obedience of the United States, without regard to the nationality of their parents or to the opposing claims of foreign states. The civil rights act, as we have seen, declares that such persons are not citizens if claimed as subjects by any foreign power. But it is obvious that where citizenship is conferred by the constitution it can not be withheld by an act of congress. The definition contained in the civil rights act, in so far as it conflicts with the definition contained in the constitution, is therefore void. — The main purpose of the fourteenth amendment was to establish the citizenship of the negro. (Slaughter-house case, 16 Wallace, 73.) The citizenship of the free negro had been denied, in the Dred Scott case, on the assumption that citizenship and subjection were not identical ideas; that a person might be a subject of the United States without being its citizen. In declaring that citizenship is acquired in the same manner in which subjection is established at common law, the fourteenth amendment has placed the equivalency of these terms, and thus the citizenship of the negro, beyond the possibility of a doubt.

Naturalization and Expatriation in the United States. Section eight of article one of the constitution empowered congress "to establish an uniform rule of naturalization." This power was first exercised in the act of March 26, 1790. This act provided that, under certain conditions, any free white alien might be admitted to citizenship by any court of record in the state in which he resided. The conditions were: previous residence of two years in the United States and of one year in the state; good character; and oath "to support the constitution of the United States." The acts of Jan. 29, 1795, and June 18, 1798, increased the term of residence (in the United States) necessary for naturalization first to five and then to fourteen years. The act of 1795 also added a new condition, viz., a preliminary declaration of intention to become a citizen and to abjure the prior allegiance. The act now in force is that passed April 14, 1802. The requirements of this act are: 1. Preliminary declaration (as under the act of 1795) three years before admission. (But the act of May 26, 1824, section 4, permits this declaration to be made two years before admission.) 2. Proof of five years' residence in the United States and one year's residence in the state. 3 Proof of good conduct attachment to the principles of the constitution etc. 4. Renunciation of any title or order or nobility. 5. Declaration, on oath or affirmation, that he (the person desiring admission) will support the constitution of the United States and abjures his prior allegiance. 6. No alien may be naturalized if his government is, at the time, at war with the United States. The first or the second of the above conditions is relaxed or removed: 1, in the case of aliens who have resided three years or more in the United States before reaching the age of twenty-one, (act of May 26, 1824); 2, in the case of aliens who have enlisted in the armies of the United States and received honorable discharge, (act of July 17, 1862), 3, in the case of alien seamen taking service in our merchant marine, (act of June 7, 1872).—The naturalized citizen is not eligible, under the constitution of the United States, to the presidency or vice-presidency; nor may he be chosen as representative until seven years, nor as senator until nine years, after his naturalization. But, with these exceptions, the alien obtains by naturalization the full civil and political status of a native citizen.—The American law of naturalization, as compared with European legislation on this subject, exhibits certain new features. In the old states of Europe there is little foreign influx, and naturalization is an exceptional event. In the new states of America, states established by immigration, naturalization is a constant factor, it may almost be said a normal element, in the national growth. Our law of naturalization is based upon the idea that the alien who comes to our country *to stay*, thereby becomes a member of the body social and must be admitted to the body politic Naturalization in Europe was and is a favor, bestowed upon the individual at the pleasure of the legislative or at the discretion of the executive. Naturalization in America has been, since 1790, a right not to be withheld from any person who complies with certain legally established conditions. Its bestowal is vested in the judiciary, because this is the de-

* The phrase is thus construed in McKay *vs.* Campbell, 2 Sawyer, 118. A dictum of Mr. Justice Miller in the "Slaughter-house case," 16 Wallace, 73, implies a different interpretation. "The phrase 'subject to its jurisdiction,'" he says, "was intended to exclude * * * children of ministers, consuls, and citizens or subjects of foreign countries born within the United States." If this was intended, the intention has not been realized; for the clause can not be so construed as to exclude the children of (non-exterritorial) aliens. Mr. Justice Miller apparently assumes that the phrase "subject to the jurisdiction" means subject to the sovereignty—subject as opposed to alien. If now, for the sake of argument, we grant this; if we read: All persons born in the United States and subject thereto are citizens; how is the word *subject* then to be construed? Who are "subjects" of the United States? The constitution and the laws of the United States afford us no answer; we must have recourse to the common law. But by common law all persons born in the territory of a state and under the actual obedience of its sovereign are its subjects, whatever the nationality of the parents. To make Mr. Justice Miller's construction possible, the sentence should read: All persons born in the United States *of parents* subject thereto are citizens.

partment of government which properly passes upon questions of right. The effect of naturalization was usually restricted, in Europe, to the territory of the adoptive state. This restriction, viewed from the American standpoint, is a wholly unreasonable one. The individual is not naturalized in the United States merely because it is desired to relieve him from certain disabilities attached to alienage; he is invested with the rights of a citizen because he is already one of our people. By naturalization, therefore, he is completely incorporated in our body politic. It seems to us only reasonable that he should everywhere be regarded as we regard him, as an American citizen in the fullest sense of the word. It seems preposterous that the state which he has abandoned should still claim him as its subject. But as soon as our government attempted to obtain from the governments of Europe a recognition of the "right of expatriation," we were confronted not only with the statement that European law knew no such right, but also with the question whether any such right existed at American law. — Before entering upon the discussion of the "right of expatriation," it will be well to determine what the phrase means. Expatriation is the dissolution of that legal relation which we term nationality. It is obvious that a legal relation can be terminated only by operation of law. When we speak of a legal relation as being extinguished by the operation of certain facts, (*e g.*, by the acts of an individual), we mean that the law attaches to these facts the result or effect of extinguishing the legal relation. A right of the individual to expatriate himself can only mean the power of doing something to which the law attaches the effect of expatriation.* The question whether the American citizen possesses the right of expatriation should therefore be stated as follows: Does the law of the United States attach to any acts of its citizens the effect of extinguishing their nationality? The constitution is wholly silent upon this matter; and, until 1868, no act was passed by congress regulating or even referring to expatriation. Until 1868, then, the common law remained in force. But the common law does not give to any act of the individual the effect of expatriation. — Expatriation was pleaded, before 1868, in a number of cases decided by the supreme court. In no case was it held to have taken place. In no case, it is true, was the decision based upon the common-law doctrine of perpetual allegiance. In every case in which the court denied that expatriation had taken place, the decision was based either upon the inadequacy of the acts from which it was claimed that expatriation resulted, or upon the fact that these acts were done in fraud of the law. But if the possibility of self-expatriation has been neither affirmed nor denied in the *decisions* of the supreme court, some of its leading members have clearly indicated their opinion in the matter. The gist of their *dicta* is that in the absence of a law authorizing self-expatriation the American citizen can not divest himself of his allegiance. This was also the opinion of Chancellor Kent. (Comm. II., 49.) — But in spite of the apparent obviousness of this conclusion, and the array of authority by which it is supported, a contrary current of opinion has existed from the very beginning of our national existence. It has been asserted by the majority of our politicians, and by some of our jurists, that the English doctrine of perpetual allegiance has never been a rule of our law. In many cases this opinion rested on the failure to distinguish between emigration and expatriation; in others upon the assumption that emigration necessarily results in expatriation. In the absence of special restraint, it was said, the American may emigrate; *therefore* he can expatriate himself. Those who avoided these errors argued that freedom of emigration was at least inconsistent with the theory of perpetual allegiance. This is doubtless true; it is also true, as these jurists asserted, that the naturalization of aliens and the abjuration of the old allegiance required by our naturalization laws are strikingly inconsistent with the theory that no person by his own act can divest himself of his allegiance. But England also has permitted emigration and has naturalized aliens for centuries, without attributing to emigration or naturalization acquired in a foreign country the effect of extinguishing English nationality. It has never been held, under any system of jurisprudence, that an established rule of law is abrogated by the adoption of another rule perfectly compatible with the first in its operation and inconsistent with it in theory only. — In 1856 Attorney General Cushing furnished Secretary Marcy with an opinion asserting the right of the American citizen to expatriate himself. The opinion was evoked by a question from a foreign minister, which the secretary of state requested the attorney general to answer. Mr. Cushing argued: 1. That the legislation of the United States is inconsistent with the theory of indelible allegiance. This argument has been noticed and the answer indicated. Two rules of law may be inconsistent and yet both may be law. 2. That expatriation is a natural right. Assuming, for the sake of argument, that there are "natural rights" and that self-expatriation is one of them, it in nowise follows that a citizen of the United States may expatriate himself. The law which restricts or denies a natural right may be a bad law, but is not the less on that account law. 3. That the expatriation of the individual by his own act has been recognized by the legislation of several of our states, and "has thus become a part of our public law." Undoubtedly; but not a part of that part of the public law which we are now considering, viz., the federal law. 4. That the separation of the colonies from England

* Expatriation is often confounded with emigration. Expatriation is a legal conception: emigration is simply a fact to which the legal result of expatriation may or may not be attached. Few legislations give to emigration *per se* the effect of expatriation.

was a complete denial of the claim that allegiance may not be cast off without the consent of the sovereign. It is assumed, in this argument, that a declaration of independence made by an entire community is analogous to a renunciation of allegiance made by an individual; and that if one was admissible the other must be. If this analogy be admitted, it may be answered that, until our independence was recognized by England, the dissolution of allegiance effected by the declaration of congress was a *de facto* dissolution only, like that effected by the acts of secession which certain of our states passed in 1861. Such a dissolution of allegiance a citizen may doubtless effect by emigrating and renouncing his obligations to his native country. But the cases which Mr. Cushing compares are not analogous. The American declaration of independence was a revolutionary act Revolutions may create states, but not precedents for the administration of municipal law in those states. — On these grounds, however, Mr. Cushing decides that the rule of the common law is not a part of our law, and that the American may expatriate himself. But in what manner? To what acts of the individual is the law to attach the result of expatriation? To renunciation simply, without emigration? Or to emigration without renunciation? Or only to both combined? Mr. Cushing wisely decides that both renunciation and emigration are necessary, but assigns no warrant of law either for his selection of this method or his rejection of the others. — But why did not congress cut this legal knot by the adoption of a law regulating expatriation? There were two difficulties in the way. It was objected by many of our politicians that the passage of such a law would imply that self-expatriation had not previously been possible. The second difficulty was more serious. In many of our states, no persons except citizens of the United States and such aliens as have declared their intention of becoming citizens are able to hold real property. The expatriation of a citizen would therefore entail the forfeiture of his real estate. The difficulty is the same which so long retarded the reform of the English law. But the difficulty is with us greater. For parliament was able to remove the civil disabilities of alienage before touching the question of expatriation, but congress has no such power. — The only law relating to expatriation which congress has passed up to the present time, is the "act concerning the rights of American citizens in foreign states," approved July 27, 1868. The preamble declares expatriation to be "a natural and inherent right of all people." Then follows the enactment, "That any declaration, instruction, opinion, order or decision of any officer of this government which denies, restricts, impairs or questions the right of expatriation, is hereby declared inconsistent with the fundamental principles of this government." It is difficult to see what effect can be given to this law, as far as the self-expatriation of the American citizen is concerned. The judicial and executive departments of government are instructed to recognize the "right of expatriation," but no light is thrown upon the cardinal question how this right is to be exercised. To what acts of the individual is the effect of expatriation to be attached? Apparently, since expatriation is declared to be a natural and inherent right which may not even be restricted, impaired or questioned, *any acts* which clearly indicate the intention of the individual to put off his allegiance will suffice; *e. g.*, abjuration of allegiance before a notary public. But no one is likely to maintain that this lay in the intention of the legislator. But if some acts are insufficient, what acts are sufficient? — The executive department has proceeded itself to fill the gap in the law; with what legal right will not here be discussed. Protection has been refused to a number of native and naturalized citizens of the United States, resident in foreign states, on the ground that they have expatriated themselves. As far as the department of state can confer it, American citizens may accordingly be said to enjoy (?) the right of expatriation. If the courts, also, shall decide that self-expatriation has been made possible by the act of 1868, and shall themselves proceed, as the executive has done, to determine what acts of the individual constitute expatriation, the right of the American citizen to expatriate himself may obtain practical recognition in another respect. It may be held that the real property of the expatriated American, if situated in a state whose law excludes aliens from the ownership of land, escheats to the state. — The possibility of self-expatriation has been discussed in the above pages with reference simply to the municipal law of the United States. Under the expatriation treaties concluded by our government (see below) the American citizen may undoubtedly divest himself of his citizenship.

FOREIGN RELATIONS OF THE UNITED STATES.

Conflicts of Nationality. When a citizen of the United States is claimed by a foreign state as its citizen or subject, on grounds recognized by American law as establishing nationality, the American government does not ordinarily attempt to protect this double citizen against the foreign state which claims his allegiance. The American government, like the English, recognizes as a rule the right of every state to enforce its law of nationality in its own territory. The son of an American father, born abroad, is not protected against the state in whose territory he was born, if that state claims him *jure soli.* (Consular Regulations, art. XI., sec. 115) The son of an alien father, born in the jurisdiction of the United States, is not protected against his father's state, if claimed by the latter *jure sanguinis.* (Case of François Heinreich.* U. S. For. Rel., 1872, p. 172.) An American citizen who causes or permits himself to be

* Heinreich was an American *jure soli*, but an Austrian *jure sanguinis*. The refusal of protection was, in this case, erroneously based upon the assumption that Heinreich had become *by naturalization* a subject of Austria.

naturalized in a foreign state is, as a matter of course, not protected against the state of his adoption; for, in the view of our department of state, he is no longer an American citizen even within our jurisdiction. But his minor children also, though born before his naturalization and therefore born American citizens, are, if claimed by the father's adopted state, to be deemed its citizens so long as they are in its territory and jurisdiction. ("Santiago" Smith's Children, For. Rel., 1879, pp. 815, 816, 825.) Nor, until 1859, did our government claim the right to protect its naturalized citizens against the states to which these persons owed original allegiance. If the state to which the emigrant belonged by birth chose to consider him as its subject in spite of his American naturalization, it had, within its jurisdiction, the power and the right to treat him as such. Our government, of course, resisted the attempt of England to enforce its law of nationality within *our* jurisdiction, by means of the so-called "right of visitation and search"; and the repeated invasion of our "floating territory" by English officers was the principal cause of the war of 1812. During this war, as we have seen, the attempt of England to place naturalized Americans on trial for treason was met by the United States with threat of reprisal. But this was an act of war, not an exercise of the ordinary right of protection.* The right of protecting our naturalized citizens against the state to which they owed original allegiance was not only never asserted before 1859, but was expressly and repeatedly disavowed by our ministers in foreign countries and by our department of state. But while our government recognized the right of foreign states to enforce their own law of nationality in their own territories, it repeatedly endeavored to secure by negotiation the modification of the foreign law. It argued, with justice, that the individual who had ceased to be a member of the body social ought not to be deemed a member of the body politic. — Comparatively few of the states to which our naturalized citizens originally belonged denied the possibility of self-expatriation. Great Britain, Russia, and some cantons of Switzerland, belonged to this category. The legislations of these states recognized no dissolution of allegiance without the express and special consent of the state. — In Prussia, and in most of the German states, authorized emigration or unauthorized absence of a certain duration (in Prussia, by the law of Dec. 21, 1842, ten years) effected expatriation. By the *Code Napoléon* naturalization acquired in a foreign country was one of the facts to which the law attached the loss of French nationality. But in all the legislations of this second category, expatriation was understood to mean, primarily, loss of the rights of a citizen; and it was by no means admitted that the duties of a citizen were extinguished with the rights. — Our government accordingly endeavored to secure, by reform of the foreign legislations or by treaty, the recognition of the following principles: 1, That naturalization effects expatriation; 2, That expatriation extinguishes not only the rights of the citizen but also the rights of the state over the citizen. — But pending the adoption of these principles, the American government (until 1859) recognized the right of each state to enforce its own law in its own territory, and made no attempt to protect its naturalized citizens against their old governments. In the year 1859 our government changed its attitude. Secretary Cass asserted that the naturalized American, returning to his native country, "returns as an American citizen and in no other character." (Instructions to Mr. Wright, July 8, 1859.) President Buchanan declared, "Our government is bound to protect our naturalized citizens everywhere." (Message, Dec. 3, 1860.) The refusal to recognize the territorial validity of the foreign law was based upon the assertion that the right of expatriation was a right established by the law of nations. The "right of expatriation," in this connection, meant, of course, the right of the individual to divest himself of his obligations to his native country by migrating to and acquiring naturalization in another; and the claim of the American government, legally stated, was this: That international law (independently of treaty) attaches to emigration and subsequent naturalization the extinction of the prior allegiance. But international law, being enacted and enforced by no superior, has no existence except by the agreement of the nations which it governs. A rule, therefore, which was not recognized, a score of years ago, by the majority of civilized states, and to which no effect is given to-day except by force of municipal legislation or of treaty, can hardly be termed a rule of international law. The consensus of civilized nations is *now* so general as to the propriety of its observance that it may easily come to be regarded as a rule of international law a generation or two hence. But it certainly was not such in 1859. Legally, then, the ground taken by the American government in 1859 was indefensible. Politically, it was well chosen; it gave our diplomacy a basis for incessant agitation. The American claim of protection was of course denied, but despite all denials was steadily renewed. In denying the American claim, each foreign government knew itself to be legally in the right; but with each renewal of the controversy it became more obvious that the existing law was inequitable and must be reformed.

The Expatriation Treaties. The principles advocated by the United States first obtained international recognition in the treaty with the North German confederation, negotiated by Minister Bancroft, and signed Feb. 22, 1868. The difficulties between the United States and Prussia had centred in the question of military duty. The Prussian who left his country without authorization, before

* During the war between England and France, at the close of the last century, France was similarly threatened with reprisals in case it should treat as traitors any *emigrés* serving under the English flag. But these persons were not claimed by England as its subjects.

or during the period in which his service was due to the state, was liable, upon his return, to punishment, and, if he was still within the military age, to compulsory enlistment. But if during his absence the Prussian had acquired American citizenship, our government maintained (since 1859) that he was no longer a Prussian and owed the Prussian state no military service. His duties to the Prussian state were terminated at the moment of his naturalization. In fact, our government went further than this, and asserted that the Prussian naturalized in America was not liable to punishment for non-performance of military service, unless that service was actually due at the moment of emigration. — In the treaty with the North German confederation, every point of the American claim is conceded. Not only is it agreed that naturalization shall extinguish the duties of the citizen to his former state, but also that the naturalized citizen shall not be punished except for offenses committed before emigration The extinction of duties effected by naturalization is thus dated back to and includes the act of emigration. The essential provisions of this treaty are briefly as follows. Citizens of the one nation who have become naturalized citizens of the other shall be regarded and treated as citizens of the latter nation, if they have resided uninterruptedly within its territory for five years. (Art. 1) The naturalized citizen is liable, on return to his original country, to trial and punishment for offenses committed before emigration. (Art. 2.) If a naturalized citizen renews his residence in his former country without the intent to return to his adopted country, he shall be held to have renounced his naturalization. "The intent not to return may be held to exist when the person naturalized in the one country resides more than two years in the other country." (Art. 4.) The purpose of the fourth article is obvious. Without some such limitation, the treaty would enable any German, by a temporary residence of five years in America, to escape military duty in his native country. American citizenship would have been sought by persons who had no intention of becoming in reality members of the American people: it would have been sought simply as a means of obtaining a privileged position in a foreign country. The provisions of this article have been criticized because the persons whom it affects seem to be left without any country. They have forfeited their naturalization without regaining their former nationality. But if our naturalized citizen has forfeited his American citizenship it is no concern of ours whether he has regained his German nationality or not, and *vice versa*. The reacquisition of the former nationality is an internal, not an international, question. The matter is therefore left, as it should be, to be settled by each nation for itself. The German government settles it by compelling the naturalized American, at the end of the two years, to reassume German nationality or leave the country. During the same year (1868) Minister Bancroft concluded similar treaties with Bavaria, Baden, Würtemberg and Hesse. Expatriation treaties based upon the same principles were made, in 1868, with Mexico, Great Britain and Belgium; in 1869, with Sweden and Norway, in 1870, with Austria; in 1872, with Ecuador and Denmark. The treaty of 1868 with Great Britain was of a preliminary character, the British government not desiring to anticipate the action of parliament on the question of expatriation A formal treaty was concluded immediately after the passage of the English naturalization act of 1870. — The majority of these treaties correspond with the North German treaty in attaching the effect of expatriation to naturalization *and* five years' residence. The treaties with Belgium, Denmark, Ecuador and Great Britain provide that naturalization shall extinguish the former nationality without reference to any term of residence in the adopted country. All the treaties agree that the naturalized citizen shall not be punished by his original country except for offenses committed before emigration. All the treaties further agree in providing that the naturalized citizen may renounce his naturalization; and the majority of them, like the North German treaty, attach this result to renewed residence in the original country when such residence exceeds two years. But this latter clause does not appear in the treaties with Austria, Baden, Belgium and Great Britain; and under the Mexican treaty the naturalized citizen may avoid the forfeiture of his naturalization by proving his intent to return to his adopted country. A number of the treaties containing the two years clause explain, in the text or in the protocol, that the two years residence in the old country does not of itself re-establish the old nationality. These treaties give to American naturalization, in the vast majority of cases, the effect of extinguishing the original allegiance. Nearly 90 per cent. of the immigrants whom Europe sent us in 1881, and nearly 93 per cent. of the total European immigration to the United States from 1821 to 1881, came from countries with which we now have expatriation treaties. — States with which we have no such treaties, but whose municipal law attaches to a foreign naturalization the effect of expatriation, furnished 5 4 per cent. of our total European immigration from 1821 to 1881; 6.2 per cent. in 1881. In all the states belonging to this category, it is now held that expatriation extinguishes the duties as well as the rights of the citizen. — The rest of our European immigration (1821–81, 1.9 per cent.; 1881, 4.4 per cent.) is derived from Russia and Switzerland. Russia does not permit the individual to expatriate himself without special authorization. Switzerland permits self-expatriation, but does not attach this result to naturalization acquired in a foreign country.

COMPARISON OF EXISTING LEGISLATIONS.

Acquisition by Birth. All modern states, even those which apply the *jus soli* within their respective territories, claim as citizens the children of citi-

zen parents born abroad. But many legislations make the derivative citizenship of the child born abroad dependent upon his return and to residence in the father's country (Portugal, Bolivia, Brazil, Chili, Colombia, Ecuador, Paraguay and Uruguay. Peru requires the inscription of the child's name in the civil register. In the Argentine republic and in Venezuela, the individual born abroad must declare, when of full age, that he elects the nationality of his parents.) The same result is obtained, in other legislations, by attaching to residence in a foreign country without intent to return, or to absence of certain duration, the effect of expatriation. The English act of 1870 permits the child of an Englishman, born abroad, to make when of full age a declaration of alienage. — But although the *jus sanguinis* or principle of filiation is applied by all modern states to the children of their citizens born abroad, no such general agreement exists in the treatment of children of aliens born within their respective territories. Existing legislations may be divided, in this respect, into five classes. — 1. Pure *jus sanguinis*. In Austria, Germany, Hungary, Sweden and Switzerland the child of an alien, born in the territory, is born an alien and remains an alien always unless he becomes naturalized. The conditions under which he may obtain naturalization differ in no respect from those prescribed for the naturalization of other aliens. — 2. Modified *jus sanguinis*. In France the child of an alien, born in the territory, is born an alien; but when of full age he has *droit d'option* of French nationality. That is, he has the right to become a Frenchman if he chooses, and he becomes a Frenchman by declaring that such is his choice. He must also declare that it is his intention to live in France; and if at the date of his declaration he is resident in a foreign country, he must acquire a French domicile within a year. This system, established by the Code Napoleon (Art. 9) has been adopted with slight variations in the legislations of Belgium, Greece, Luxemburg, Monaco, Spain, Rumania, Russia, Turkey and Costa Rica. — 3. Pure *jus soli*. The children of aliens, born in the territory, are born members of the state in Denmark, Norway, Bulgaria, the United States, Hayti, the Argentine republic, Bolivia, Brazil, Chili, Colombia, Ecuador, Guatemala, Peru, Uruguay and Venezuela. But under the laws of some of the above states, the nationality thus established is lost if the child becomes resident in the father's state (Denmark, Norway, Guatemala). — 4. Modified *jus soli*. The children of aliens born in England are natural-born Englishmen, but when of full age may make a declaration of alienage. The same system obtains in Portugal. In Mexico the child of an alien, born in the territory, is an alien as long as he remains under the paternal authority. (At Spanish as at Roman law a person of full age may be subject to the *patria potestas*.) But as soon as he is freed from the paternal authority, as soon as he becomes *sui juris*, he becomes a Mexican unless he reclaims his father's nationality. — 5. Combination of *jus soli* and *jus sanguinis*. The Italian code and the Dutch law of July 29, 1850, take an additional element into consideration, viz., the domicile of the parents. The child born in the Netherlands is a Netherlander if his parents have resided in the kingdom for three years or if they have resided there eighteen months after declaring their intention to establish their domicile there. The acquisition of nationality in this case is definitive: the Dutch law permits no reclamation of the father's nationality. Under the Italian code the child born in the territory is born an Italian if his parents have resided in the kingdom uninterruptedly for ten years; but on reaching full age he may reclaim the nationality of his father. Under both legislations, the children of non-domiciled aliens, born in the territory, are born aliens; but they have the right of electing the nationality of the state in which they were born (*droit d'option*). — A word as to the advantages and disadvantages of the above systems. The *jus soli* or territorial system has the advantage of attaching nationality to a fact easily proved. But it has the disadvantage of imposing nationality, in a certain number of cases, upon persons whom it is absurd to regard as members of the state in which they happen to be born. If the parents were not domiciled in the territory, and if the child is removed to and grows up in the father's country, it is preposterous to regard him as a member of any other than his father's state. The *jus sanguinis* or system of filiation is not open to this objection, but is open to others equally serious. The nationality of the individual can be proved only by showing the nationality of the father; but this depends again upon the nationality of the grandfather, and so on without end. Under the *jus sanguinis*, again, the members of a family originally foreign but established for generations in the state may retain their alien character, if they choose, indefinitely Of course they will choose to do this wherever the burdens of citizenship are greater than the disadvantages of alienage; *e. g.*, in all states where universal and compulsory military service exists. In all such states the *jus sanguinis* will create a privileged class within the population, a class exempted from political duties because of its inherited alienage. This has notably been the result of the establishment of the *jus sanguinis* in France. The *droit d'option* given to all persons born in the territory is seldom exercised. In order to check the rapid and alarming increase of the resident foreign population *born on French soil*, French legislation has been obliged to revert, in a measure, to the territorial system. A law of Feb. 12, 1851, provided that all persons born in France whose fathers were also born there should be deemed Frenchmen, unless on reaching majority they reclaimed the paternal nationality. This law did not have the desired effect. Alienage was regularly reclaimed by the persons in question, and the domiciled foreign population continued to increase. A law amending the law of 1851 was accordingly

adopted Dec. 16, 1874. Under this latter law the individual who desires to reclaim his father's nationality is required to produce a certificate (*attestation*) from the government of his father's state, showing that it regards him as its citizen. This he will rarely be able to do. (See below: Loss of Nationality.)—The disadvantages of the *jus soli* on the one hand and of the *jus sanguinis* on the other are in the main avoided by the Dutch law of 1850, described above. The combination of the two systems in that law seems the most satisfactory solution of the problem yet attained.

Naturalization signifies in the widest sense the bestowal of nationality. So the children of Englishmen born out of the territory were said to be naturalized by the acts of 25 Edw. III., 7 Ann, etc. Commonly, however, naturalization means the acquisition of nationality otherwise than by birth, the bestowal of nationality upon a person who is by birth an alien. But nationality may either be imposed upon an alien *de plein droit*, without regard to his wishes in the matter; or it may be bestowed upon him at his own request (voluntary naturalization).—1. Naturalization is conferred *de plein droit* by all existing legislations upon the alien woman who marries a citizen. At English common law, it is true, marriage did not have this effect; but the rule of the common law has been superseded by statute in both England (7 and 8 Vic., c. 66) and in the United States (Act of Feb. 10, 1855).—Naturalization *de plein droit* is conferred by the laws of Denmark and of Norway upon all persons who become domiciled in the territory of these states. At old Spanish law, the alien who was domiciled in the kingdom, or who resided there under circumstances which showed *animus commorandi* (marriage with a Spanish woman, possession of real property, exercise of a profession, keeping a shop) acquired *ipso facto* communal citizenship (*vecindad*), and these communal citizens were regarded as Spanish subjects. But a law of 1870 enacts that the *avecindados* shall be regarded as Spaniards only when they have caused themselves to be registered as such and have renounced their prior nationality. At present, therefore, the acquisition of *vecindad* is simply a means of voluntary naturalization. The law of the *vecindad* was transplanted from Spain to the Spanish colonies in America; and, until recently, many South American legislations outdid the Spanish model in the matter of compulsory naturalization. But at the present time naturalization has become wholly voluntary in all these states except Bolivia and Venezuela.—A few countries (*e. g.*, Germany and Mexico) impose their nationality upon all persons who enter the service of the state. But in this case the intent of the individual to obtain naturalization may be presumed to exist without any expressed declaration; and this method of naturalization may fairly be termed a voluntary one.—2. Voluntary naturalization is provided for in all existing legislations; but the method, conditions and effects of naturalization vary greatly in different countries. In all the cases where a union of states exists, in Europe, naturalization is left to the single states. This is the case not only when the union is merely personal or the bond of federation loose (the Netherlands and Luxemburg; Russia, Poland and Finland; Norway and Sweden; Austria and Hungary), but also in the firmer federal unions (Switzerland, Germany). But in Switzerland and in the German empire the federal law determines at least the conditions of naturalization. In the British empire each colony has the power of naturalization, and fixes the conditions upon which it shall be granted.—The department of government by which naturalization is conferred is different in different states. Where absolute monarchy exists this power is of course vested in the crown. In constitutional states the right belongs in principle to the legislative, and in many states it is directly exercised by the legislature (Belgium, Bulgaria, Denmark, Luxemburg, the Netherlands, Norway, Rumania, and the majority of the Swiss cantons). In other states naturalization is bestowed by the administrative department, under conditions prescribed by law (England, France, Germany, Hungary and Portugal). In England, besides the naturalization conferred by the secretary of state, naturalization by virtue of the royal prerogative and naturalization by special act of parliament are still possible. A mixed system exists also in Italy, Greece and Spain.—The power of naturalization, wherever vested, is discretionary in all European states. Although the alien complies with all the conditions prescribed by law, naturalization may be refused him. (Except in Spain, where the alien may acquire *vecindad* by his own act, and then by abjuring his prior allegiance may become a Spaniard.) In the United States the theory of naturalization is a different one. The alien who fulfills the legal conditions of naturalization has a right to be naturalized, and naturalization is conferred by the judiciary. The same system exists in the dominion of Canada. In Central and South America, naturalization is bestowed either by the executive or the legislative, and the bestowal is discretionary. But since the institute of the *vecindad* exists in the majority of the Spanish-American states it is usually possible for the alien to acquire naturalization by obtaining domicile and causing himself to be registered as a citizen.—The conditions prescribed by law for naturalization differ widely in different states. Present domicile or the intent to establish domicile in the country is always required, unless in the case of those engaged or intending to engage in the service of the state. Residence of a certain duration is usually demanded, but foreign residence in the service of the state is accepted as an equivalent by France, England and Brazil. Good moral character is generally required, and, in some states, visible means of support (Finland, Germany, Hungary, Portugal, Sweden, many Swiss cantons, Mexico, Chili and Peru).—By naturalization the alien always obtains full civil rights, but not al-

ways the political rights of a natural-born citizen. But the tendency of modern legislation is to establish complete equality between native and naturalized citizens. — Many European states refuse to protect their naturalized citizen against his native country, if the latter still claims him as its citizen. The Netherlands, Luxemburg and Switzerland refuse to naturalize aliens when their naturalization seems likely to produce international difficulties.

Status of the Family of a Naturalized Citizen. 1. *The wife* is naturalized *de plein droit*, in most countries, by the naturalization of the husband. By the laws of England and Italy, however, the naturalization of the husband extends to the wife only when she resides with him in the adopted country. In Germany and in Switzerland the wife may be expressly excluded. In France she must be expressly included, and that at her own desire: *i. e.*, the French jurisprudence repudiates entirely the naturalization of the wife *de plein droit*. — 2. *The children.* The naturalization of the father usually extends to the minor children. But they may be expressly excluded (Germany, Switzerland). They are included only when resident in the father's adopted country (England, Italy, United States). The children are included during their minority, but may reclaim the father's original nationality on reaching full age (Italy, Portugal). — The naturalization of the father does not extend to the children born before his naturalization (Belgium, France, Luxemburg, Russia, Spain, Sweden, Turkey, the Argentine republic and Brazil) But in many of these states the children, on reaching majority, may elect the father's acquired nationality.

Expatriation, or Loss of Nationality. Existing legislations may be divided, as regards loss of nationality, into two classes; viz., those in which expatriation is not possible without the express and special consent of the sovereign, and those which attach the result of expatriation to some act or acts of the individual. — 1. In Russia and in Turkey a woman becomes an alien by marrying an alien, and in Russia a naturalized subject may renounce his naturalization; but the natural-born male subject can not expatriate himself in either state without express authorization. The Russian or Ottoman who emigrates and acquires a foreign naturalization without the consent of his sovereign, exposes himself to sentence of banishment; but although banished he retains his original nationality. — In a number of South American states it is doubtful whether the individual can or can not expatriate himself. The constitutions of these states contain rules concerning the loss of *citizenship* (*ciudadania*), and it is uncertain whether loss of nationality is meant, or merely loss of political rights. The latter seems to be the accepted interpretation in Peru and Ecuador. In these states, then, self-expatriation is impossible. In the Argentine confederation and in Venezuela allegiance is clearly indissoluble by any act of the individual. — 2. The great majority of modern states attach the effect of expatriation to some act or acts of the individual. In many cases it is imposed as a punishment: in Germany, for example, the unauthorized performance of ecclesiastical functions, in Bolivia, Paraguay and Uruguay fraudulent bankruptcy, and in Portugal and Brazil sentence of banishment, entail the loss of the national character. Unauthorized entrance into the service of a foreign government effects expatriation by the laws of France, Italy, the Netherlands, Portugal, Mexico, Hayti, Bolivia, Brazil, Chili, Colombia, Paraguay and Uruguay. In other cases the penal character of expatriation is less marked. It results, for example, from emigration simply (Austria, Sweden), from emigration and renunciation (Italy), from foreign residence without the intent to return (Belgium, Denmark, France, the Netherlands, Norway, Hayti), from a foreign residence of ten years without passport or inscription in the consular register (Germany, Hungary). — Expatriation on any of the above grounds is objectionable from the international standpoint as tending to create *heimathlose*, individuals without any country. — International comity demands that the effects of expatriation be attached to those acts and to those acts only which establish a new nationality. These are: (*a*) voluntary naturalization in a foreign state. This is recognized as a cause of expatriation in all the expatriation treaties concluded by the United States and in the legislations of Belgium, England, France, Italy, Luxemburg, Monaco, the Netherlands, Portugal, Spain, Sweden, Mexico, Hayti, Bolivia, Brazil, Chili, Colombia and Uruguay. (*b*) Declaration of alienage, or reclamation of foreign nationality, made by a person whom a foreign state regards as its citizen or subject. For the cases in which this is permitted, see above: Acquisition by Birth. — In Switzerland, abandonment of the native domicile, possession or prospective acquisition of a foreign nationality *and* renunciation of Swiss citizenship are the conditions precedent of expatriation; but the Swiss citizen who has fulfilled all these conditions is not expatriated until a declaration of expatriation has been issued by the proper cantonal authority. — (*c*) On the part of a woman, marriage to a foreigner. This effects expatriation by the laws of almost all modern states (but not in Brazil, Hayti or San Salvador). — *The status of the wife and children* of an expatriated person is different in different legislations. Most states, of course, apply the same rules in this case as in that of naturalization. (See above: Status of the Family of a Naturalized Citizen.) But the rule laid down by England and Italy in reference to the family of a naturalized person is adopted, as regards expatriation, by three other states: Germany, Hungary and Switzerland. That is, in all these states the expatriation of the head of the family extends to the wife and minor children only when they have followed him to his new home. EDMUND MUNROE SMITH.

NATIONS, in Political Economy. From the earliest historical ages humanity has been di-

vided into a multitude of nations, dissimilar in manners, aptitudes and language, and possessing different institutions. Each of these nations has its own particular physiognomy and its own existence, its *autonomy*. — This phenomenon, which interests in a high degree all branches of moral and political science, must be considered here only from an economic point of view. The economist must first inquire whether the division of humanity into a multitude of nations is beneficial, or whether it would not be better, as some declare, for the human race to form only one community, a universal monarchy or republic. There can be no doubt as to the answer to this question. The division of humanity into nations has its utility, because it develops a principle of emulation of considerable power. There is in each nation a feeling of honor, or a kind of collective self-esteem, which, directed toward useful ends, can accomplish wonders. An example of this was furnished at the universal exposition at London, to which the greater part of civilized nations brought the tribute of their industry, and each made it a point of honor not to be too far behind its rivals. If humanity constituted only a single political assemblage, would not the spirit of emulation, deprived of the stimulant of national honor, be manifested in a less degree? Another drawback, more serious still, would result from the unification of humanity: the faults committed in the government of society would reach much farther than they do in the existing state of affairs. If a bad measure is taken to-day by a government, if a false theory is applied to the management of the affairs of a nation, the evil which results from it is confined to a certain locality. Other nations can refrain from renewing an experience, the results of which have been disastrous. If all humanity, on the contrary, were subjected to a uniform law, would not the evil resulting from the application of a bad measure be universal? And the division of society into nations is no obstacle to progress, which betters the condition of man. When an experiment has resulted successfully with a nation, are not other nations eager to take advantage of it? Are they not most frequently obliged to do so by the pressure of competition? — The division of humanity into autonomous nations may therefore be considered as essentially economic. Besides, this division results from the primitive arrangement of things; it is a natural phenomenon that no artificial combination can destroy nor even sensibly modify. Conquerors, for instance, have dreamt of the utopia of universal monarchy. Have they succeeded in realizing it? Have not those who have approached nearest to it, beheld their gigantic political establishments dissolve by the very force of things? Has not experience taught them that there are limits which no domination can exceed in any lasting manner? Other utopists have dreamt of unity of religion, and some have wished to enforce it by violence; but it was useless for them to employ fire and the sword to compass their design, and they failed. Religious beliefs have continued to reflect the diversity of temperaments, of manners, and of the intelligence of different nations. Others, finally, have dreamt of unity of language, and governments have been known to endeavor to force a uniform language upon peoples of different origin, whom they had united under their rule. The Dutch government, for example, attempted to substitute the Dutch language for the French language in some of the southern provinces of the old kingdom of the Netherlands. What was the result? An aversion was taken to the language required by law, by the populations upon which the government wished to force it, and this experiment, which was contrary to the nature of things, contributed much to the downfall of the government which tried it. Languages like religious beliefs and political institutions, are the expression of the special genius of different nations. The form of institutions and of language can without doubt be modified in an artificial manner, but their substance will nevertheless remain. Although it would be absurd to wish to efface, for the sake of a chimerical unity, the characteristic marks of nationalities, it does not follow that nations must be isolated from and kept in a permanent state of hostility toward each other. The autonomy of nations implies neither isolation nor hostility. Nations are interested in freedom of communication with one another, in order that they may increase in wealth and power; they are still more interested in living in peace with one an other. — These truths, too long unrecognized, have been admirably demonstrated by economists, especially by J. B. Say. To those who pretend, for instance, that a nation can only be enriched by the impoverishment of its rivals, the illustrious author of the *theory of outlets* replies with truth: "A nation bears the same relation to a neighboring nation that a province does to another province, that a city does to the country; it is interested in seeing it prosper, and certain to profit by its wealth. The United States are right, then, for example, in always having tried to encourage industry in the savage tribes; it has been their purpose to obtain something from them in exchange; for nothing can be gained from people who have nothing to give. It is of advantage to humanity for a nation to conduct itself toward others, under all circumstances, according to liberal principles. It will be shown, by the brilliant results it will obtain from so doing, that *vain systems, baleful theories*, are the exclusive and jealous maxims of the old states of Europe, which they with effrontery endow with the name of *practical truths*, because, unfortunately, they put them in practice." — Nothing is more deceitful, adds this judicious economist, than the advantage which a nation thinks it gains by an encroachment upon the domain of another, by the conquest of a province or a colony from a

rival power. "If France had possessed," he says, "at any time whatever, an economic government, and had employed for fertilizing the provinces in the centre of the kingdom, the money which she expended for conquering distant provinces and colonies which could not be kept, she would be much more happy and more powerful. Highways, parish roads, canals for irrigation and navigation, are means which a government has always at its disposal to improve provinces which are unproductive. Production is always expensive in a province, when the expense of the transportation of its products is great. An interior conquest indubitably augments the strength of a state, as a distant conquest almost always enfeebles it. All that constitutes the strength of Great Britain is in Great Britain itself; it has been rendered much stronger by the loss of America; it will be more so when it shall have lost India." — Hence J. B. Say is thoroughly convinced that, when economic intelligence shall be more widely diffused, when the true sources of the prosperity and the greatness of nations shall be better known, the old policy, which consists in conquering new territory to tax its people to excess, in taking possession of new markets to submit them to a selfish and pitiless exploitation, this evil policy of antagonism and hatred, will end by losing all credit. "All this old policy will perish," he says; "ability will consist in meriting preference, and not in demanding it by force. The efforts which are made to secure domination procure only an artificial greatness, which necessarily makes an enemy of every foreigner. This system produces debts, abuses, tyrants and revolutions; while the attraction of a reciprocal agreement procures friends, extends the circle of useful relations; and the prosperity which results from it is lasting, because it is natural." — If, then, economists do not share the illusions of the humanitarian socialists, who would like to unite all nations into a single flock, ruled by an all-governing shepherd; if they do not think that it is a measure of utility to efface, in an artificial manner, the characteristic differences of nations; if they only accept with reservations the beautiful verses of the author of the *Marseillaise of Peace:*

> "Nations! mot pompeux pour dire barbarie!
> * * * * * *
> Déchirez ces drapeaux ! une autre voix vous crie;
> L'égoïsme et la haine ont seuls une patrie;
> La fraternité n'en a pas";

if they think that nations have their *raison d'être* itself in the bosom of civilization, they do not work less actively to demolish the walls of separation, which old errors, prejudices of centuries and barbarous hatreds have raised between nations; they show to nations that it is for their interest to exchange their ideas and their products in order to augment their wealth, their power and their civilization; they condemn war as a bad speculation, as an operation in which the risks of loss exceed the chances of gain; and without being humanitarians or advocates of unity, they show to nations the true methods of realizing practical fraternity. — Errors no less fatal, on the subject of the interior government of nations, have attracted the attention of economists. As once it was the common conviction that a nation could only be powerful and rich by the enfeeblement and impoverishment of its rivals, a singularly exaggerated share of influence and action in the life of nations was attributed to the government. Because the government and society were confounded in primitive communities, when the division of labor had not yet separated social functions, it was thought that it must always be so; it was thought that it was the province of the government to communicate movement and action to the social organism, and make life circulate there; it was thought that nothing could be effected except by the impetus of this sovereign motor. Political economy has done justice to so disastrous an error. — Economists have demonstrated that the functions of government should be simplified and specialized more and more, by virtue of the principle of the division of labor, rather than extended and multiplied; they have demonstrated that communism belonged to the infancy of nations, and that it ceased to be expedient in their maturity. With the coolness of a surgeon who removes a cancer, J. B. Say has shown to what point a government which is not strictly limited to fulfilling its natural functions can cause trouble, corruption and discomfort in the economy of the social body, and he has declared that in his eyes such a government was a veritable ulcer. This figurative expression, *ulcerous government*, employed by the illustrious economist to designate a government which interferes improperly in the domain of private activity, reglementary and socialist writers have frequently cast as a reproach upon political economy. Some even have taken it as a foundation for the assumption that political economy has misunderstood the importance of the mission with which governments are charged in society, and they have accused it of having given birth to the celebrated doctrine of *an-archy*. (See ANARCHY.) But nothing is less merited than such a reproach. Political economy, rightly understood, leads no more to the suppression of governments than it does to the destruction of nationalities. J. B. Say says: "When authority is not a despoiler itself, it procures for nations the greatest of benefits, that of guaranteeing them against despoilers. Without this protection which lends the aid of all to the needs of one alone, it is impossible to conceive any important development of the productive faculties of man, of land or of capital; it is impossible to conceive the existence of capital itself, since capital is only values accumulated and working under the safeguard of public authority. It is for this reason that no nation has ever arrived at any degree of wealth, without having been subject to a regular

government; it is to the security which political organization procures, that civilized nations owe not only the innumerable and varied productions which satisfy their wants, but also their fine arts, their leisure hours, the fruit of accumulation, without which they could not cultivate their intellectual gifts, nor consequently rise to all the dignity that the nature of man admits of."— Political economy is not therefore *an-archic*. Economists are perfectly convinced that governments play a necessary part in society, and it is precisely because they appreciate all the importance of this part, that they consider that governments should be occupied with nothing else. — Finally, economists think that the same practices of scrupulous economy, which are the rule in private industry, should be the rule also in the government of nations. Let us again quote J. B. Say, on this subject: "A nation which only respects its prince when he is surrounded with pomp, with glitter, with guards, with horses, with all that is most expensive, has to pay for it. It economizes, on the contrary, when it accords its respect to simplicity rather than to display, and when it obeys the laws without display."— Causes purely political, and the form of government which they produce, influence the expense of the salaries of civil and judicial functionaries, that of representation, and that which public institutions and establishments require. Thus, in a despotic country, where the prince disposes of the property of his subjects, he alone fixing his salary— that is to say, what he uses of the public funds for his own personal benefit, his pleasures, and the maintenance of his household—that salary may be fixed higher than in the country where it is discussed by the representatives of the prince and those of the tax payers. The salaries of subordinates depend also either upon their individual influence, or upon the general system of government. The services which they render are costly or cheap, not only in proportion to the price paid for them, but also according as their duties are more or less well performed. A service poorly performed is dear, although very little may be paid for it; it is dear if there is but little need of it. It is like a piece of furniture which does not answer the purpose for which it was intended, of which there is no need, and which is a trouble rather than a benefit. Such were, under the old French monarchy, the positions of grand-admiral, grand-master, grand-cupbearer, master of the hounds, and a multitude of others, which served only to add lustre to the crown, and many of which were only methods employed to distribute perquisites and favors. For the same reason, when the machinery of the administration is complicated, the people are made to pay for services which are not indispensable to the maintenance of public order; this is like giving a useless shape to a product, which is not worth more on that account, and is generally worth less. Under a bad government, which can not keep up its encroachments, its injustices, its exactions, except by means of numerous satellites, of an active system of espionage, and by the multiplication of prisons; these prisons, spies and soldiers are an item of expense to the people, who are certainly not happier on that account."— To sum up, political economy recognizes that the division of humanity into nations has its utility, its *raison d'être;* it recognizes that no nation, unless it be composed of angels, can dispense with a government; but, at the same time, it demonstrates that it is for the interest of nations to base their foreign policy upon peace, and their domestic policy upon economy; it demonstrates that it is for the interest of nations to maintain free and friendly relations with one another, and to be governed as little as possible.

G. De Molinari.

NATURALIZATION, the concession by the sovereign power of a state of the rights of citizenship to an alien. This concession, when complete, clothes the alien with all the privileges and subjects him to all the burdens and duties of a native-born subject. Among civilized nations the right is conceded upon the performance of certain prerequisite conditions laid down by the country of adoption, and involves the renunciation, by the naturalized person, of his native allegiance. — The system of admitting foreigners to the privileges of citizenship is a growth of civilization unknown to communities in an early stage of development. Ancient Rome not only refused such rights to aliens, but its polity did not even contemplate the possibility of a Roman attempting to throw off his native allegiance. The title *Civis Romanus* was indelible. A citizen might be deprived of his life, but he could not be deprived of his citizenship—*civitatem vero nemo unquam ulto populo usu amittet invitus.* (Cic. pro. dom.) — The social compact which was involved in the early Roman notion of the state, was one which bound the members of the *civitas* by peculiar obligations, and conferred upon each peculiar and sacred rights. Outside of the sharers in this compact, clothed with their special prerogatives and subject to correlative obligations, all other human beings were grouped as *hostes* or *barbari.* With the development of the trade instinct in the progress of civilization the *cives* were brought into friendly relations with those foreigners who came to Rome for commercial purposes, and to these latter were conceded limited privileges, although for a certain intermediate period they were still regarded as a distinct and separate class, *peregrini*, mere sojourners. Under the *Jus Latinum* private rights were granted to individuals, and a sort of collective naturalization was permitted by the *Jus Italicum* which conferred public rights upon whole towns. Finally, all distinctions were swept away by the edicts of Caracalla, who granted citizenship to all the free subjects of the empire, and, later, by the constitution of Antoninus, by which the free inhabitants of the various Roman provinces were made citizens. The feudal system was even more jealous of native

rights, and under the common law the development of a liberal policy toward aliens was of a very slow growth. In Great Britain, before the statute of 1844, instances of naturalization were extremely rare, the rights of a native-born subject being conferred only by act of parliament. In the time of Charles II. that body was wont to bestow these privileges with greater freedom than at later times. By the act of 1701 the rights which an alien could acquire were considerably restricted. A more liberal policy prevailed during a part of Queen Anne's reign, but popular prejudice was strongly opposed to the naturalization of aliens, and a more stringent act was passed in 1711. — Among continental nations the general practice is to grant naturalization upon petition to the state department or by legislative enactment. In most European countries naturalized foreigners acquire all the civil and political rights enjoyed by native-born citizens. — Questions relating to nationality and citizenship have caused frequent international disputes where the claim to the exercise of sovereign rights by the country of birth has come into collision with that of the country of adoption. It is a well-settled principle of international law that to every nation shall be conceded the right to dictate upon what terms it will clothe an alien with the rights of a native-born citizen. But while conceding this, many authorities upon public law have tried at the same time to admit the equal right of every nation to prescribe the terms upon which it will allow a citizen to dissolve his native allegiance. International law, it has been claimed by many publicists, reconciles these conflicting admissions by subordinating both to the principle of recognizing the absolute supremacy of the laws of each state, within its own territory. Thus, an alien who had procured naturalization, after satisfying all the conditions necessary for the acquirement of citizenship in his adopted country, might, according to such authorities, find, upon coming within the territory of his native land, that he had not fully complied with the conditions which that country had laid down for the expatriation of its subjects; and if, while within her borders, the land of his birth should attempt to exercise sovereign rights, those rights and the obligation of his native allegiance would obtain a recognition within the domain of public law. The reasoning which, it is claimed, sustains this attempted reconciliation is, however, wholly specious, and frequent international disputes have proved it incapable of a practical application. In point of fact, the distinction obtains no recognition in municipal law. Every state arrogates to itself the exclusive right to prescribe the conditions upon which it will admit an alien to its citizenship, and when those terms have been complied with, declares his naturalization complete without looking to see whether or not he has succeeded in expatriating himself in accordance with the local law of his native land. — This claim of sovereignty involves, of course, a recognition of the correlative right in the naturalized citizen to the protection of his adopted country, wherever he may be, and the principal nations of the civilized world are prompt to recognize that right and to afford the protection, when demanded, even against the country of origin. This point has been a most prolific source of dispute between the United States and other countries, owing to the great quantities of immigrants which we annually receive, and the ease with which the mass of aliens can procure naturalization. With Great Britain, especially, the question has more than once involved us in complications of the most serious nature. Until a recent date (treaty of 1870) English judges have insisted that no subject could relieve himself of the duty of allegiance save by the consent of his native country; and American jurists, following the interpretation of the common law which, they claimed, had been unchanged by the revolution, substantially acquiesced in the decisions of the English bench. In point of authority, therefore, English diplomates were far better supported than their American opponents. Yet in the face of the common opinions of English and American jurists, our executive has invariably insisted that the Briton who by naturalization becomes a citizen of the United States was *ipso facto* relieved of all allegiance to his native country; and although England was able to quote against us the opinions of our most eminent judges, she invariably yielded the point when pushed to the issue, conceding in practice what she denied in principle. The doctrine of common sense always prevailed in the end, the concession being made, sometimes for the sake of international comity, and sometimes to avoid the bloody conflict which an insistence on the point involved seemed to assume. A single instance will suffice to illustrate this statement. The first serious dispute of this character arose during the war of 1812, when Great Britain insisted upon treating as traitors native-born Englishmen, naturalized citizens of the United States, who were taken in arms against the mother country. Upon our attempting to retaliate by confining double the number of English prisoners as hostages, we were notified that the British government, by order of the regent, had imprisoned double that number of Americans, who would be treated with equal severity as the prisoners confined by us; and we were threatened, if we should attempt further retaliation, with a prosecution of the war "with unmitigated severity against all cities, towns and villages belonging to the United States." Fortunately none of the prisoners were executed, but an exchange was effected by the convention of July 16, 1814, the British government wisely forbearing to push to the extreme the unreasonable and barbarous doctrine of non-expatriation, a doctrine opposed to the practice of all other civilized nations; for, as eminent publicists have agreed, the right of expatriation obtains everywhere, "save where the state is a jail"—*et ubique licet ubi civitas non caret est.* (Bynkershoeck, *Quæs. Jur. Pub.*, cap.

22.) — The close connection which naturalized Irish-Americans usually keep up with their friends at home, and the fact that numerous Fenian organizations have, from time to time, been started upon American soil, have naturally given rise to many disputes between England and the United States. Irish-Americans, returning to Ireland after naturalization here, have, on certain occasions, been arrested and confined by the English authorities for alleged complicity with treasonable practices, whether proved or suspected, and have relied on their American citizenship to secure them from the operation of the English law authorizing their detention. It has been the invariable practice of our foreign representatives, in considering these applications for intervention, to insist that no distinction should be made between native-born and naturalized citizens of the United States; but at the same time the state department has taken pains to caution our consuls, and our ministers at the court of St. James, from Mr. Adams to Mr. Lowell, while doing all in their power to aid their fellow-countrymen, not to interfere in behalf of those who relied upon a naturalization which they had practically abandoned to protect them in the prosecution of treasonable designs against the government of their native land. That these instructions have been just and reasonable admits of no doubt, despite the clamor of those who insist that in acting upon them our ministers have been wanting in a proper respect for the dignity of American citizenship. We demanded that England should exercise a like discrimination when the relative positions of the two countries were reversed, during the recent civil war, and we insisted upon our right to arrest and imprison British subjects under the suspension of *habeas corpus*, upon reasonable suspicion of their connection with treasonable acts or designs. — During the Fenian troubles of 1867–8 an important amendment was added to our naturalization laws. The arrest in Ireland, of Burke, Warren, Costello, and other naturalized Irish-Americans engaged in Fenian plots, was the signal for a loud outcry against Mr. Adams, our minister at London, for his alleged failure to exert himself actively in behalf of men who were engaged in unquestionably seditious proceedings, and who sought to use their certificates of naturalization to protect them against the law of the land, whose provisions they were openly violating. The course pursued by Mr. Adams, like that recently followed by Mr. Lowell, was wholly in accordance with the usual practice of our government, and received the unqualified indorsement of the state department. He was firm to insist upon the thoroughly American principle, that a naturalized American should be treated upon the same footing as a native-born subject of the United States; at the same time he was too much of a statesman not to know that one who violates the law of the land, whether he be a subject or an alien, can not claim exemption from the penalty, and he was too much of a diplomate not to foresee that an attempt to oppose the principle of territorial sovereignty, without being able to show that the law whose enforcement was protested against was abhorrent to the customs of civilized nations, would only involve the mortifying result of placing his government in a position which ultimately they would be forced to abandon. So far from displaying an un-American weakness in yielding to foreign aggression, his attitude was a model of loyal firmness and diplomatic tact. His representations to the British foreign secretary, backed by the sanction of judicial precedent and international practice, showed clearly enough that he would be firm in resisting any encroachments upon the rights of American citizens, as such, while at the same time he avoided even the appearance of an ungenerous and irritating insistence upon purely abstract principles. He thus paved the way for concessions on the part of Great Britain, which practically yielded the points in dispute, concessions which, certainly, would never have been made if he had adopted the sort of policy outlined by those statesmen who pushed through the barbarous act of reprisal which deforms the otherwise commendable statute of 1868. This clause directs the president, when naturalized citizens of the United States are detained by any foreign government "in contravention of the intent and purposes of this act," "in case no other remedy is available," to "order the arrest and to detain in custody any subject or citizen of the said foreign government who may be found within the jurisdiction of the United States, except ambassadors or other public ministers and their domestics and domestic servants, and who has not declared his intention to become a citizen of the United States." "This strange reprisal," says Phillimore, "after the fashion of the first Napoleon, of seizing and imprisoning innocent foreign subjects, is novel in modern public law. It would be equivalent to a declaration of war against the state to which the subject belonged." (Int. Law, vol. i., § 330, note.) — In junctures such as those which marked the diplomatic relations of England and the United States, in 1848, 1866–8, and 1881, the question of the duty of a state toward its citizens in a foreign country becomes one of great delicacy. The difficulty does not lie in any attempted discrimination between native-born and naturalized citizens of this country. We are bound to insist that none shall be made. But there does arise a difficulty, requiring the soundest judgment and discretion, when the representative of this government in a foreign land has to decide at what precise point it is his duty to interfere and protect his fellow-citizens, native-born or naturalized, from the operation of some law of the country where they happen to be sojourning. Writers upon public law have laid it down as a settled principle that every state is sovereign in its own territory, and that an alien within its borders is under an implied contract, in return for the protection which he

receives, to yield implicit obedience to its laws, whether they be of a permanent or temporary nature. It has been further stated as the enunciation of an established principle, that no state has a right to demand that its citizens while sojourning in a foreign country shall be exempt from the law of that country. While this is undoubtedly true as a general rule, the uniform sentiment of civilized nations requires that the principle, to be correctly stated, should be qualified by certain limitations. A little reflection will make it clear that occasions may well be apprehended when the United States, for example, would not be satisfied, in answer to its protest against the operation of the law of a foreign state upon one of its subjects temporarily residing in that state, with the reply that the law in question was enforced with no more severity upon Americans than upon the subjects of that country. We should have a right to demand, and the practice and sentiment of civilized nations would undoubtedly sanction the demand, that however that foreign state might treat its own citizens, no American should be subject to the execution of a law which in its principle or its operation was opposed to the customs and jurisprudence of the civilized world. It is a difficult thing to say when a law is of such a nature as to justify such interference, and the nation which arrogates to itself the right to decide that a given statute is contrary to the foundation principles of civilized jurisprudence, assumes the weighty responsibility of making good its assertion. Yet a statement of the general principle should involve the contemplation of such a contingency. By a recent (August, 1881) declaration of this character, unaccompanied by the qualifying limitation contended for above, Mr. Lowell, while pursuing, in the main, a course which will commend itself to every fair-minded American, has given his opponents an advantage which they were not slow to seize upon in their attempt to put him in a false light before the country. — Even as late as 1868 it was an open question, at least so far as any settlement between England and America was concerned, whether or not a subject could, without the consent of his native country, throw off his native allegiance. Mr. Vernon Harcourt, writing, over the signature "Historicus," to the "London Times," Dec. 11, 1867, pointed out the inconsistency of both nations in at times denying, and again at times asserting, either expressly or by implication, and as convenience seemed to dictate, the absurd maxim of the feudal law, *nemo potest patriam exuere*. Congress finally declared, by the act of 1868 (U. S. Rev. Stat., § 1999), that "expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty and the pursuit of happiness"; and pronounced any declaration questioning this right to be "inconsistent with the fundamental principles of the republic." This statute is undoubtedly declaratory of the sentiment if not the uniform practice of civilized nations, the great majority of whom now concede that when an alien acquires citizenship by naturalization the country of his origin loses all its rights. — Great Britain finally admitted this principle by the treaty of 1870, urged thereto by the recommendations of a royal commission appointed in 1868 to consider this question, among others, relating to naturalization, and which advised her majesty that "the common law doctrine of non-expatriation was neither reasonable nor convenient." — Most of the diplomatic disputes upon the point of nationality which have arisen between the United States and other countries, with the exception of the more important and embarrassing differences with Great Britain, have been those involving the right to exact military duty from naturalized citizens of the United States on their return to their native land. In order to settle definitely all such questions, we have entered into treaties with Austria, Baden, Bavaria, Belgium, Great Britain, the grand duchy of Hesse, Mexico, the North German confederation, Norway and Sweden, Würtemberg and Denmark, which generally provide · 1, that naturalization in accordance with the laws of the adoptive country after a residence of five years shall free the naturalized person from his native allegiance; 2, that the simple declaration of intent to become a citizen shall not have the effect of naturalization; and, 3, that a renewal of domicile in the mother country, with the intent not to return, (and two years' residence is presumptive evidence of such intent), shall work a renewal of the former allegiance. A further provision is included in some of the treaties, to the effect that where the subject has left his native country owing military duty, the right to exact which is complete before his departure, such service may be enforced upon his return in spite of intervening naturalization. Although our state department has tried to make these treaties as nearly uniform as possible, and so drafted as to furnish a general rule applicable to all the contingencies of international intercourse likely to happen, it has, so far, been found impossible to cover every case, and questions relating to the construction of the treaties themselves and to their effect have frequently arisen, and will probably from time to time require settlement. For example, in the recent Buzzi case, before the Spanish-American claims commission, the umpire, Count Lewenhaupt, has decided that the claimant can not appear before the tribunal as an American citizen, not having obtained his naturalization papers in accordance with law. Mr. Blaine protested against this ruling, on the ground that the certificate of naturalization is conclusive. Yet where the fact in dispute is covered by a treaty provision, as, for instance, the clause prescribing a five years' residence before naturalization, it would seem that either of the contracting parties should be at liberty to prove, before such a commission, that the conditions of the treaty had not been complied with in procuring the naturalization in

dispute. It is hardly to be supposed that other nations will not insist upon the right to question our certificates, as to such particulars as are covered by treaty provisions, when it is notorious that in the city of New York alone shoals of aliens have been fraudulently naturalized by the thousand by corrupt and reckless judges. (See Davenport's "New York Election Frauds," vol. i.)—In one respect our laws relating to this subject are less liberal than those of any other civilized nation. We alone have prescribed a certain physical standard, and have ruled out certain indelible race characteristics, declaring them obstacles to naturalization which no attainments, moral, intellectual or political, shall suffice to remove. Until 1870 no one but a "free white person" could acquire citizenship. An attempt by Charles Sumner to amend our naturalization laws by striking out the word "white," so as to "bring our system in harmony with the Declaration of Independence," was defeated by a single vote (23 to 22). The opposition came from those senators who wished to exclude the Chinese, while they admitted the negro by adding a clause extending the provisions of the statutes to "aliens of African nativity and persons of African descent." (Act of July 14, 1870.) We therefore deny this privilege to all save "free white persons" and African negroes. The Chinese, the Japanese, the Malay, and others of a similar ethnological group, are debarred from our citizenship, and our courts are bound to deny them naturalization on the ground of *color* only—an illiberal and un-American discrimination in startling contrast with the declarations contained in the constitutional amendments enacted since our civil war. GEORGE WALTON GREEN.

NATURE OF THINGS. Political economy is not, as has been sometimes said and thought, a collection of arbitrary principles and maxims; it is a science founded upon the observation of the permanent laws of the very nature of things, following the experiential or inductive method, which also guides human investigations in the physical sciences. J. B. Say has expressed with his usual precision this fundamental truth, and we do not think we can do better than reproduce here what he has written upon this subject.—"The manner in which we find things, or in which they happen, constitutes what is called the *nature of things*, and the exact observation of the nature of things is the only foundation of all truth. Hence spring two kinds of sciences: the sciences which may be called *descriptive*, and which consist in naming and classifying things, like botany and natural history; and the *experimental* sciences, which teach us the reciprocal action which things exercise upon each other, or, in other words, the connection of effects with their causes; such are physics and chemistry. These latter require that we should study the intimate nature of things, for it is by virtue of their nature that they act and produce effects; it is because it is the nature of the sun to be luminous, and the nature of the moon to be opaque, that, when the moon passes before the sun, the latter body is eclipsed. A careful analysis is sometimes sufficient to enable us to understand the nature of things; at other times it is completely revealed to us only by its effects; and observation, when we can not have recourse to experiment, is necessary to confirm what analysis was able to teach us.—These principles, which have guided me, will aid me to distinguish two sciences, which have almost always been confounded: political economy, which is an experimental science, and statistics, which is only a descriptive science. Political economy, as it is studied today, is entirely founded upon facts; for the nature of things is a fact, as well as the event which results from it. The phenomena, the causes and results of which it seeks to make known, may be considered either as constant and *general facts*, which are always the same in all similar cases, or as *particular facts*, which happen by virtue of general laws, but where many laws act at once, and modify without destroying one another; as in the jets of water in our gardens, where the laws of gravity are modified by the laws of equilibrium but do not cease to exist on that account. Science can not pretend to make known all these modifications, which are renewed each day and vary *ad infinitum;* but it exposes their general laws, and explains them by examples the reality of which each reader may prove for himself.—There is in society a nature of things which depends in no way upon the will of man, and which we can not arbitrarily regulate. This does not mean that the will of man has no influence upon the arrangement of society, but only that the parts of which it is composed, the action which perpetuates it, are not an effect of its artificial organization but of its natural structure. The art of the cultivator can prune a tree, can train it against a wall, but the tree lives and produces by virtue of the laws of vegetation, which are superior to the art and skill of any gardener. In the same way, society is a living body, provided with organs, which give it life; the arbitrary action of legislators, administrators, military men, a conqueror, or even the effect of fortuitous circumstances, may influence its manner of life, can make it suffer or cure it of its troubles, but can not give it life. Artificial organization has so little to do with producing this effect, that it is in the places where it makes itself the least felt, where it is limited to preserving the social body from the attacks which threaten its proper action and its development, that society increases the most rapidly in numbers and in prosperity. The artificial organization of nations changes with time and place. The natural laws which govern their maintenance and effect their preservation are the same in all countries and in all ages. They were among the ancients what they are to-day; only they are better known now. The blood which circulates in the veins of a Turk obeys the same laws as that which circulates in

the veins of a Frenchman; it circulated in those of the Babylonians as in our own; but it is only since the discovery of Harvey that we have known that the blood circulates, and that we have been acquainted with the action of the heart. Capital fed the industry of the Phœnicians in the same way that it feeds that of the English; but it is only since a few years that the nature of capital, and the manner in which it works, and produces the effects which we observe, has become known; effects which the ancients saw as well as we do, but which they could not explain. Nature is old; science is new. — Now, it is the knowledge of these natural and constant laws, without which human societies could not subsist, which constitutes the new science, designated by the name of political economy. It is a science, because it is not composed of invented systems, of plans of organization arbitrarily conceived, of hypotheses devoid of proof; but of the knowledge of what is, of the knowledge of facts, the reality of which can be established. A science is complete, relatively to a certain order of facts, in proportion as we succeed in determining the bond which unites them, in connecting their effects with their real causes. This is attained by studying carefully the nature of each of the things which play any part in the phenomenon which is to be explained; the nature of things unfolds to us the manner in which things work, and the manner in which they support the action of which they are the object; it shows us the relations and the connection of facts with each other. Now, the best way to know the nature of a thing is to make an analysis of it, to see all that is in it, and nothing but what is in it. For a long time the fluctuations of the tides were observed without man having the power to explain them, or rather to give a satisfactory explanation of them. To be able to assign the true cause of this phenomenon, it was necessary that the spherical form of the earth and the communication established between the large bodies of water should be demonstrated facts; it was necessary that universal gravitation should be a proven truth; from that time the action of the moon and sun upon the sea was known, and it was possible to assign with certainty the cause of the tides. So, when analysis had shown the nature of that quality of certain things which we have called their value, and when the same process had revealed to us what are the component parts of the cost of production, and the influence of such cost on the value of things, we knew positively why gold is more precious than iron. The connection between this phenomenon and its causes has become as certain as the phenomenon is constant. — The nature of things, proud and disdainful as well in the moral and political sciences as in the physical sciences, while it allows any one who studies it with constancy and good faith to penetrate its secrets, pursues its way regardless of what is said or done. Men, who have learned to know the nature of things, can, in truth, direct the acting part of society to the way of applying the truths which have been revealed to them; but, even supposing that their eyes and deductions have not deceived them, they can not know the numerous and diverse relations which make the position of each individual, and even of each nation, a special one, which no other resembles in all its aspects. Science is only systematized experimentation, or, perhaps, a mass of experiments put in order, and accompanied by analyses, which unfold their causes and their results. The inductions, which those who profess science draw from it, may pass for examples, which it would be well to follow strictly only under exactly similar circumstances, but which must be modified according to the position of each. The man who knows most about the nature of things can not foresee the infinite combinations which the movement of the universe is constantly bringing about."

J. B. Say.

NAVIGATION ACT. The famous navigation act promulgated for the first time under Cromwell's administration, and which was perpetuated with various modifications in England up to very recent times, is to-day only a matter of history. But it has occupied so large a place there, it was considered for so long a time as the chief foundation of British greatness, it has been the object of so many commentaries, debates and quarrels, as well within as without Great Britain, that it still merits our attention. — We shall, therefore, after having summarily indicated the object of this act, analyze it in its essential provisions, and relate its history. We shall then see whether it really accomplished, during its existence, the object had in view in passing it. — *Object of the Navigation Act.* The avowed and recognized object of the navigation act was to encourage the British merchant marine, by reserving to it, by restrictive measures against foreign ships, the best part of the carrying trade. Its object in the beginning was also to discourage the Dutch marine, which then acted as carrier for most of the nations of Europe, and the ascendency of which England feared. All the provisions of the act were framed with this double motive. Let us examine the substance of them. — *Analysis of the Original Act.* It would be useless, as well as tedious, to recall here the terms of the original act, which was passed in 1651, an informal and very obscure act, written in the tortuous style which the English laws seemed to affect at that time; or even to quote the wording of that more explicit and clearer act which was substituted for it in 1660, during the reign of Charles II. A concise analysis, accompanied by a few comments, will give a more exact idea of the act than the reproduction of the text itself would give. — This law related to five different subjects, which are ordinarily classified in the following manner: 1, Coasting trade; 2, Fisheries; 8, Commerce with the colonies; 4, Commerce with the countries of Europe; 5, Commerce with Asia, Africa

and America. The following is the way in which these different subjects were regulated by the law. — The coasting trade, that is to say, the navigation from one port to another of Great Britain, was exclusively reserved for English vessels. — As regards the fisheries, the law was less exclusive. It did not absolutely exclude from British ports the products of foreign fisheries; it only imposed upon them double duties. This was sufficient, however, to drive away, little by little, foreign fishermen from the market of the country. — The commerce of the mother country with the colonies and of the colonies with each other was, like the coasting trade, exclusively reserved for English vessels. In this respect the navigation act did not differ from the principles generally admitted at that time, and which have unhappily prevailed until the present time, among most commercial nations. It was a recognized maxim, that all mother countries could and should exclude all foreigners from all commerce with their colonies. This maxim England had already followed previously, when she had the power to do so, and the navigation act merely sanctioned it anew. Let us only add, that, unlike France, which has always reserved colonial commerce for ships of the mother country alone, England granted from that time, to her own colonies, a sort of reciprocity. — As regards commerce with the countries of Europe, the navigation act provided that the importation of merchandise into England coming from those countries should be effected only upon English ships, or upon ships belonging either to the country which produced such merchandise or to the country which forwarded it, that is to say, England excluded from this commerce the intervention of a third party. The exclusion of a third party was not absolute, however; it was enforced only as to a certain number of articles, specially designated in the act, and which have since been called *enumerated goods*. The number as well as the kind of these goods often varied. In the act of 1660 there were eighteen kinds of these enumerated goods; but, after 1792, others were successively added to the list, so that in the law of 1825, which took the place of the old act, there were twenty-eight. This is the number also found in the later acts, and notably in the last, which was passed in 1845; only, the enumerated goods in the act of 1845 are not all the same as those which figured in the act of 1825. It is probable that at all times it was the intention to reserve specially for national vessels the kinds of merchandise which then appeared to be most encumbering. Perhaps, also, in the original law, some of those kinds which the Dutch marine most usually carried were named in preference. To consider, then, only the terms of the navigation act, it would seem that the exclusion of a third party was the only object then had in view in European international navigation. In fact, no provision is found in this law which specially taxed the importation of merchandise by foreign vessels, provided these vessels belonged to the country which produced such merchandise or to the country which forwarded it; according to this, the law of that time was much more liberal than any of those which followed it. But it must be remarked, that as a complement to the act there was the customs bill or customs tariff, adopted about the same time, in 1652, and by virtue of which the merchandise imported by foreign ships was, in all cases, even when the ships belonged to the country producing the merchandise, subject to an additional tax, which most frequently constituted a double customs duty. It is this last provision, foreign to the navigation act properly so called, which gave rise to most complaints on the part of foreigners, and provoked the greatest number of reprisals. It was this provision, too, as we shall presently see, which was destined to disappear first by the successive adoption of reciprocity treaties. — The fifth and last subject regulated by the navigation act was commerce with Asia, Africa and America. In this respect the regulation was simple; it was the absolute exclusion of every foreign vessel. It must not, however, be believed that this last exclusion was more severe than all the others. On the contrary, it was nothing else than the application of the principle previously adopted, of the exclusion of a third party. As there did not exist at that time any nation in Asia, Africa or America which had a national marine, or at least a marine capable of carrying merchandise to the ports of Great Britain, third nations alone would have been able to dispute this carriage with the British marine. By reserving it for English vessels, the law, therefore, merely remained true to its principle; only it applied it here with much greater rigor, by making the exclusion bear upon all merchandise, without distinction of kind. It was for the same reason, and because they had not then any marine of their own, that Muscovy and Turkey, although situated in Europe, were placed on the same footing as the countries situated in the three other parts of the world. Let us add to this, that the native merchandise of Asia, Africa or America could not in any case be imported into England from any country in Europe, even by English ships, unless they had undergone the process of manufacture in that country; a provision, whose purpose it was to discourage in rival nations, and especially in Holland, the system of entrepôts. — Such was the navigation act in its essential provisions. The enforcement of these provisions necessitated, however, many others, which were, so to speak, natural corollaries of the former. From the moment that their treatment varied according to the nationality of the ships, it became necessary to define that nationality and to regulate the conditions of it. It was therefore established that a ship should only be considered as English and should only enjoy the privileges attached to that title, when it had been duly registered, when it belonged wholly to English subjects, and when the captain and three fourths of the crew were

English. In the beginning, it was admitted that such ship might have been built in a foreign country, provided it had become the legitimate property of Englishmen; but this toleration afterward ceased, and it was necessary that all ships, with the exception of those which might be taken from the enemy in time of war, should be entirely built in British ports. Similar conditions were imposed upon foreign ships to establish their respective nationalities. — As regards the coast navigation, the law was still more severe. It was necessary here that the crews should be wholly composed of English subjects. — Whatever we may think of this act and the influence which it exercised upon the development of the British marine, if we compare it with the legislation adopted by most modern nations, we shall find nothing exactly exceptional in its rigorous measures. It is nothing else, at bottom, than the system which we have seen established almost everywhere, with this difference, however, that this system has been greatly modified, since 1825, by the adoption of treaties of reciprocity. — *Successive Alterations of the Navigation Act.* The navigation act, as we have just analyzed it, continued in force without material alteration until after the American revolution, that is to say, during 120–130 years after its publication. It was not even till from 1822 to 1825 that it was replaced by a new law. It was always respected, moreover, even under the new form which it received then. At this last epoch, however, it had already received severe attacks. Let us go back to the time when its first modifications were introduced. — During 130 years England had carried on by means of her own ships all her trade with Asia, Africa and America, without allowing in any case, in this trade, the intervention of foreign vessels. However, war broke out between herself and her colonies in North America; the independence of the United States was declared, and, in 1782, that independence was recognized by the mother country. This produced a new situation, which the navigation act had not foreseen. Henceforth, separated from the mother country, North America could no longer pretend to carry on navigation with the British ports by virtue of its former colonial privileges; and, on the other hand, the act formally excluded, in the commerce with America, all foreign vessels. It was impossible, however, that the United States should remain under the ban of such an exclusion: it would never have consented to abandon all transportation to English ships; it was necessary that the navigation act should yield. After long negotiations between the United States and England, in which different systems were proposed and debated, it was agreed that the ships of the United States, although coming from America, should be allowed, contrary to the tenor of the law, to frequent the ports of Great Britain on the same conditions as those of the old states of Europe. This modification was the first of any importance. Later, similar ones were allowed in favor of the old Spanish and Portuguese colonies of South America, when they became independent of their mother countries; as well as in favor of the black republic of Hayti; so that, the part of the act which related to the commerce with the new world fell gradually to pieces. It must be acknowledged, however, that these successive modifications attacked rather the letter than the spirit of the law, since, in the midst of them all, the prevailing principle of the act, the sacred principle of the exclusion of third parties, was maintained intact. — But the emancipation of the United States had other and very different consequences. The colonial system, a system so severe up to that time, was shaken by it. Although most of the states of Europe had in this regard been almost as rigorous as England, they, considering the great distance between the places, and the uncertainty of supplies coming from the mother country, nevertheless allowed their colonies to receive, in case of need, from ships of foreign countries nearer to them, the things necessary for their subsistence, such, for example, as flour and meat; England alone had refused this toleration, of which she had not till that time felt the absolute necessity. Thanks to the great number of her colonies, to the importance of some of them, and to their proximity to each other, she had been able, strictly speaking, to deprive them of all foreign assistance, by forcing them to rely upon themselves. But from the moment the colonies of North America, the most important of all, were emancipated, this state of things changed. The English Antilles, accustomed to rely upon supplies coming from these former colonies, found themselves left suddenly in the lurch; it was necessary, therefore, to allow, in their interest, new modifications of the navigation act, modifications more grave than the former ones, because they altered the very principle of the law. — At this time commenced, between the government of Great Britain and that of the United States, a sullen struggle, rarely interrupted, and which could end only when the last vestiges of the old system should have entirely disappeared. The people of the United States, accustomed up to that time to carry on trade only with Great Britain and her colonial possessions, and desirous of continuing in this the usual field of their activity, solicited at first of England, as a favor, the preservation of their former relations, offering in return to the British marine exceptional advantages in their ports. This proposal having been refused, despite what there was tempting in it to England herself, the American people changed their tactics: they demanded that at least their ships should be admitted into the ports of the mother country on a footing of perfect equality, that is to say, that the additional tax established by the tariff of duties should no longer be applied to the merchandise imported by these ships. From 1782 to 1792 this very natural demand was incessantly renewed by them, with solicitations even more pressing, sometimes even

with threats followed by action; but it could not prevail against the restrictive and jealous spirit which then ruled in English councils. Finally, weary of these vain solicitations and diplomatic struggles without results, after having tried all means of conciliation, the American government resolutely adopted reprisal measures. Congress passed, in 1792, a navigation act, corresponding in certain respects to the English act; more elastic, however, as it authorized the government to suspend its effects, whenever arrangements concluded with other nations required it. From this moment there commenced, between the United States and England, a veritable tariff war, continued without interruption, in spite of many unforeseen events which changed the state of things, until 1815. Hence, the commercial and maritime relations between the two countries became exceedingly difficult. This can be judged of by the following comparisons: The tonnage of English vessels admitted to American ports was, in 1790, 218,914 tons; in 1791, 210,618; in 1794 it fell to 37,058, in 1795, to 27,097, and in 1796, to 19,669. After having risen a little during the first years of the nineteenth century, it commenced to decline again from the year 1805, and in 1811 and 1812 it was reduced to almost nothing. — Having reached this degree of intensity, the struggle could no longer be prolonged; it had to come either to open war, or to an amicable arrangement, which should put an end to the differences between the two countries. In 1812, in fact, war was declared; a war, determined perhaps by political motives, but the original cause of which was these commercial quarrels. Fortunately, this war did not last long, and it finally led, in 1815, to the conclusion of a treaty of commerce and navigation, founded upon reciprocity and equality of rights. — This treaty of 1815 may be considered as the point of departure of the new policy, successively adopted by the greater part of the states of Europe. Still this treaty did not end all quarrels. Besides the fact that it was not always faithfully carried out, it made scarcely any concessions except as regards the intercourse between the United States and the United Kingdom, leaving the colonial commerce, at which the American people had not ceased to cast longing glances, as it had formerly been. This second point, therefore, remained to be settled. It was the object of fresh debates, which were prolonged with more or less acrimony for many years, and to which the definite repeal of the navigation act alone could put an end. — The example given by the United States was not lost. Some years after 1815, Prussia exacted the advantages which had been accorded to the American Union, and showed herself disposed to use the same means to obtain them. England was tempted again to respond by a formal refusal, for the prestige of the navigation act was not yet, by any means, destroyed. But the government and parliament, much as they were devoted to the protective law, did not care to recommence a fatiguing and ruinous war similar to that which they had just gone through, nor to repeat the experience which had shown them its uselessness. It was to be feared, besides, that other nations would join Prussia, and that they would league together to resist the British monopoly. This consideration prevailed over all the others, and England understood soon enough that it was necessary to yield again. The treaty with Prussia was concluded in 1823; but already the question appeared under another aspect; England had taken a great step in advance. — On the proposition of the ministry, of which Mr. Huskisson was then a member, parliament passed, in 1822, not without dread nor without casting a desperate look backward, a bill which authorized the government, in a general manner, to conclude similar treaties with all foreign nations. This was to throw down with a single blow one of the supports of the system, which rested on the tariff of duties. By virtue of this bill a great number of treaties were successively concluded with all the independent states of Europe and America. — In the following years many new provisions were adopted, all modifying the original law, like that, for example, which extended to the nations of Europe the power, previously accorded to the American people, of trading, on certain conditions, with the English colonies. It was at this time also that for the first time the exportation to foreign countries of certain kinds of colonial merchandise, and particularly of sugar, was authorized. From this moment it may be said that the navigation act was battered in all its parts. — In 1725 it was entirely remodeled, to make a new act of it, in which an effort was made to take into account the principal modifications which it had undergone. After that time it was twice revised, in 1833 and in 1845. The last draft, that of 1845, recalls, in its essential provisions, the original act, to such a degree, that if we were to judge only from a comparison of the text of the two laws, we might think that from the one epoch to the other the system had undergone little change. But the last authorizes the government, in consequence of treaties concluded with foreign powers, to make so many and such notable exceptions, that these exceptions have almost destroyed the rule. Let us see what was the real state of the law before the definite repeal of the act. — *State of the Law before the Repeal of the Act.* We have just seen that even before the repeal of the law, differential duties, in direct international navigation, had ceased almost everywhere by virtue of the treaties of reciprocity. However, it seemed that the exclusion of third parties had been strictly maintained: this exclusion continued, indeed, in principle. But even in this respect there were already numerous exceptions, resulting principally from a sort of artificial extension of nationalities. After 1838 a large number of the states of Europe had been successively authorized to consider as ports belonging to them, so far as their maritime relations with Great Britain were concerned, the

ports situated at the mouths of rivers which flowed through any part of their territory. It was in this way that Austria, the first power to profit by this exception, could consider as hers the ports situated at the mouths of the Danube and the Vistula, and that her ships could sail from them to Great Britain with the same privileges as if they had set out from Austrian ports. It was in this way, also, that the ships of the zollverein could make use, under the same conditions, of the ports situated at the mouths of the streams or rivers which crossed any one of the associated states. Hanover, the two Mecklenburgs, the duchy of Oldenburg, Holland, Russia, and many other states, had successively obtained similar privileges, which became more and more extensive; so that all central and northern Germany, as well as a good part of the north of Europe, formed scarcely more, in the eyes of the English law, than one and the same country. There was now no nation which had not obtained the privilege of trading with the English colonies. Yet this privilege remained subject to many reservations. Granted to each power separately, by orders in council, it was more or less extended, according to the case in question, that is to say, according as the power which obtained it granted greater or less reciprocity. France and Spain were in this respect the least favored of Europe, because they had maintained more than the others their system of restriction. In any case, foreign ships were admitted only into certain ports of the English colonies called free ports. It is proper to add, that these free ports were very numerous, so much so that Jamaica alone had fourteen. Finally, in colonial commerce, the carriage of certain kinds of merchandise specially designated, and, besides, few in number, remained the exclusive privilege of English ships; and it was not permitted to foreigners to sail from one colony to another, that sort of navigation being likened to the coasting trade. Nothing had been changed in the provisions relative to the registration of ships and the conditions of their nationality. — *Repeal of the Act in 1849; what remains of it.* After the numerous and powerful attacks, which it had already been subjected to, the moment had come when the navigation act had finally to disappear. The time when it had been surrounded by a respect almost religious, and when it was considered as the palladium of British power, was past. It still had, it is true, a very great number of partisans, above all among those directly interested in the merchant marine. But each of the alterations it had undergone since 1815 had so little justified the fears and sinister predictions of the sectaries of the past, these alterations had been followed, on the contrary, by such favorable consequences, that the old faith in the efficacy of the act had been extinguished in some and strongly shaken in others. At the time when the first changes were introduced into it, changes necessitated by circumstances, the sacred ark was touched only with trembling, and in obedience to a fatal necessity. But later, after the unexpected success of the first trials, changes were made with a more cheerful spirit, and it was easy to foresee thenceforth that the moment would soon come when the navigation act would receive its death blow. The commercial reforms brought about in England, from 1842 to 1846, only hastened this moment by preparing the way. It is from 1815, or at least from 1822, that the first serious attacks made against the navigation act date, and since that time it may be said that the old edifice of restrictions, barriers and monopolies, which it established, only advanced from day to day toward an inevitable and fatal downfall. — To Mr. Huskisson belongs the honor of having commenced, from 1822 to 1825, the work of its destruction; to Sir Robert Peel, that of having prosecuted it, from 1842 to 1846, by ruining all that protected the edifice; and to Lord John Russell, the honor of having finished it, in 1849. In this latter year the navigation act was definitively repealed. — By virtue of the new law, which went into force Jan. 1, 1850, all the old restrictions are abolished. Since then, the ports of Great Britain have been open to all foreign vessels, from whatever country, and such vessels are received there, in whatever touches the laws of navigation, on the same footing as English vessels. Foreign vessels are also received upon the same conditions as English vessels in all the British colonies, and may import into and export from them such merchandise as they please. — Nevertheless the act of 1849, after having proclaimed the virtual abolition of the old restrictions, retains some of them, few in number, the maintenance of which appeared necessary, or which it was not thought should be entirely done away with. In the first place, it retains those restrictions in what concern the coasting trade, that is, the navigation from one port of Great Britain to another, as well as in regard to the navigation between Great Britain and the Channel islands: Guernsey, Jersey, etc. In the second place, it retains them also in regard to the navigation from one colony to another, and from one of the ports of a colony to another port of the same colony. Still, upon this point, the interdiction of foreign ships is not absolute. It is allowable for the colonies themselves to put an end to it, by addressing to the queen a request that they may be authorized to regulate their coast navigation themselves. Finally, no change has been effected by the new law in the provisions relative to the constitution of the crews of English vessels, and to the recognition of their nationality. These restrictions are the only ones which continue. They have not been maintained with a view of favoring the British marine, that system of protection having been condemned as harmful and vain, but only because their repeal would have given new facilities for smuggling, and therefore have reduced the public revenues. — *Did the Navigation Act accomplish,*

during its existence, the good which was expected of it? There is no doubt but that, in the early periods of its promulgation, the navigation act must have dealt a heavy blow at the Dutch merchant marine, which was then the general carrier between all the nations of Europe. Excluded, or almost so, from the ports of Great Britain, by reason of the severe prescriptions which forbade, in international navigation, all intervention of third parties, the Dutch ships lost at once one of their best customers. The damage was so much the more serious because the example given by England was not slow in being followed, at least in a certain measure, by some other states, (notably by France), which strove, as if in rivalry, to make their ports less accessible to foreigners. The Dutch merchant marine, therefore, saw the circle of its activity visibly narrowing from day to day. And as at this time, even more than to day,* the merchant marine was the real nursery of the naval army, the maritime power of Holland, which had been heretofore without a rival, was greatly influenced by it. The navigation act may therefore be considered as the first check given to the maritime greatness of Holland, although this artificial greatness must sooner or later have passed away, and although many other causes, both internal and external, contributed to its decay. — There can no longer be any doubt that the immediate effect of the navigation act was to give a certain impulse to the English marine. If commerce and industry had to suffer enormously from the severe restrictions imposed upon them all at once, and to experience a great injury from them, it is easy to understand that the merchant marine could and must increase, in a certain measure, at the expense of everything else. Did the advantage obtained on the one side furnish a sufficient compensation for the injury experienced on the other? Without doubt it did not, if we look at it from the point of view of the commercial interests of the country; for certainly the marine did not gain so much from this innovation as commerce and industry lost by it. But if, leaving the interests of industry and commerce out of the question, we consider the effect produced only from the point of view of maritime power, it appears to us certain that the navigation act fulfilled, at least up to a certain point, the intentions of those who were its authors. In a word, from the economical point of view, the measure was detestable in all respects, even at that time.— From the political point of view, and as a war measure, it can be justified or explained, and for a certain length of time it certainly produced the results which were expected of it. It is in this way that Adam Smith regarded it, when, despite his just horror for all restrictive measures, he made an exception in favor of the navigation act, which he considered a patriotic and wise act. He did not and could not ignore the injury this law had caused to the national wealth, but he thought it justified by considerations of another order. It was in his eyes a measure of public safety The damage which it must have caused to industry and commerce he considered as a sacrifice imposed upon the country in the interest of its security.—But if such were the first effects produced by the navigation act, it was not the case afterward. The first impulse once given to the British marine, it suffered itself, almost as much as foreign marines, from the restrictions established in its sole interest. These restrictions, in fact, traced a circle about it, and forbade it in a certain manner to overstep it. A proof of this truth is found in the fact that later, as the severe prescriptions of the act had to be relaxed, by the force of circumstances, the English marine prospered and increased much more than it had before. Thus, in 1815, a treaty of reciprocity was concluded with the United States, and, as a consequence of this treaty, so far from English ships being excluded from the ports of the United States, as had been feared at first and as shipowners had jealously predicted, it was found that the British tonnage in its ports increased from year to year, and finally rose far above what it had ever been. We have seen that, from 1792 to 1815, the tonnage did not exceed, in the best years, 210,000 tons; in 1844, before the great commercial reforms brought about by Sir Robert Peel, it had already gradually increased to more than 700,000 tons. All the other alterations which the navigation act successively underwent had like consequences; if the measure had had its useful side in the first moments of its existence, its day had gone by. Such is, moreover, the ordinary effect of restrictive measures established for the profit of any industry. They exalt it, they raise it up and increase it for a short time at the expense of all others; but later they become fetters even for that industry, by inclosing it, so to speak, in the narrow circle which they have made for it. — Freed henceforth from the inextricable network of its restrictive laws, England will become, without any doubt, the general rendezvous of the marine of the world. Its principal maritime cities, London and Liverpool, are destined to become the great entrepôts of Europe. Already colonial commodities flow there, to be distributed thence throughout the whole of northern Europe. Truly, other nations would have little ground to complain of this. They should not envy the English people these advantages, which are not acquired at their expense. CH. COQUELIN.

* We say, even more than to-day, because at that time the seas being generally infested with pirates, almost all merchant vessels were armed as for war, so that sailors commenced really an apprenticeship of maritime war on board merchant vesse'e.

NAVIGATION LAWS. From a very early period in the history of Europe, or from the time when the domestic and foreign trade of its different states attained to any considerable development, it was regarded as sound commercial policy, and indeed as an essential function of govern-

ment, to attempt to regulate by statute every species of production and exchange: *domestic*, with a view of preventing any class, guild, town, city or province from obtaining any industrial or commercial advantage over some other; and *foreign* or *international*, for the purpose of preventing any undue drain or export of money or the precious metals (which alone were regarded as wealth), as well as for securing to the people of every state a monopoly of the business or profits arising from its exports and imports, and for debarring from participation in the same, to the greatest extent possible, the people of all other nations. As the regulation of trade and commerce involved, furthermore and of necessity, the regulating of the machinery by which trade and commerce are conducted, all the states of Europe accordingly, whose trade and commerce were to any extent maritime, or across the sea and through their ports, from time to time enacted special codes or statutes known as "navigation laws," the object of which was to regulate, on the basis of the above assumptions, the use of ships, and of all business and commerce of which ships were an essential adjunct and instrumentality. — The first British navigation law of which a record has been preserved, was enacted in 1381, in the fifth year of Richard II., and provided "that none of the king's liege people should from henceforth ship any merchandise, in going out or coming within the realm of England, but only in ships of the king's liegance, on penalty of forfeiture of vessel and cargo." This law was modified the subsequent year, when it was found impossible of execution, by adding a clause that if British ships could not be had, foreign ships might be used. Subsequently another act was passed, providing that British ships should carry goods at reasonable rates, and in default thereof, foreign ships might be employed. This was followed by another act, about the time of Henry VII., fixing the rates which were to be charged by British ships. "In the reign of Elizabeth all restrictions on importing in foreign ships were abolished; and any goods could be imported or exported in any ship whatever, with a proviso that, if in alien ships, they should pay alien duties." The object of the change, as stated in the preamble of the act, was, that the laws in force were injurious to commerce, and provoked retaliation on the part of foreign states. — Following the discovery by Vasco de Gama of the new route to India by way of the cape of Good Hope, and of America by Columbus, and the subsequent establishment of colonies by the various maritime nations of Europe in the eastern and western hemispheres, the importance of navigation laws as a feature of state policy was greatly magnified, while at the same time the sphere of the influence of such laws was greatly extended. The various trans-oceanic colonies of the European states above referred to, were not in a single instance established or fostered by the mother country with the least reference to the pecuniary or political benefit of the colonists themselves; and, with such views, it was not to be expected that other nations would be allowed to participate in the benefits accruing from any trade or commerce with any colonies which were not of their own planting and under their own government. England, France, Spain, Portugal and Holland accordingly, through their navigation laws, prohibited all commercial intercourse on the part of other nations with their colonies, and enforced prohibition with great severity; Spain especially regarding, and sometimes treating, as pirates, even the crews of such vessels as through stress of weather or shipwreck were constrained to visit any of her colonial ports or territory. Foreign ships were first excluded from the English colonies in 1650; while other enactments in 1651 and 1660 (which constituted the foundation of the British navigation laws for the next 200 years), prohibited importation into England of the products of foreign countries, except in British ships, or in ships of the country of which the goods were the produce. — One of the agencies which powerfully contributed at this time to a change from the liberal commercial policy of England adopted under Elizabeth, was alarm at the continued maritime enterprise and ascendency of the Dutch; which nation, even as early as 1603, according to a pamphlet ascribed to Sir Walter Raleigh, "*everywhere surpassed us*"; and "*had as many ships and vessels as eleven kingdoms of christendom, let England be one.*" How great the hostility engendered in England by this competition is well illustrated by the fact, that the earl of Shaftesbury, as lord chancellor, officially announced, in 1672, that the time had come when England must go to war with the Dutch; for that it was "impossible both should stand upon a balance; and that if we do not master their trade, they will ours. They or we must truckle." One of the first governmental measures also after the restoration of Charles II. was to re-enact the laws of the commonwealth touching the colonial system, and the use of ships as commercial agencies, and combine them all in one act, which has since been known in British jurisprudence as the "first navigation act." The preamble of this act assigns, as a reason for its creation, "the encouragement of British shipping." In the navigation laws enacted under Cromwell there was no discrimination as to the *build* of ships; but in 1662, under Charles II., it was enacted, "that no foreign built ship shall enjoy the privilege of English or Irish built ships, even though the owners be Englishmen; prize ships only exempted." (See Ricardo's "Anatomy of the Navigation Laws," p. 27.) "This statute," says Sir Stafford Northcote, in his evidence given as legal adviser of the board of trade before a parliamentary committee in 1848, "did not wholly prohibit the employment of foreign built ships, but subjected them to alien's duties, on the same principle that aliens were always charged double duties." The same authority also states, that "in 1686 the British *coasting trade* was closed to for

eign built ships; the preamble of the act citing the continued decay of British shipbuilding as the cause, although ever since the time of Elizabeth it had been confined to ships owned by British subjects." And here one important and most instructive fact is to be noted, and that is, that although England closed the trade of her colonies and her coast line to foreign shipping, and framed her navigation laws with a special view of hindering or destroying the extensive ocean commerce of the Dutch, the shipping interests of the latter nation continued to so prosper and expand as to call forth from the British lord chancellor, as late as 1743, or more than eighty years after the navigation acts of the commonwealth, the following official declaration in the house of lords: "*If our wealth is diminished, it is time to ruin the commerce of that nation which has driven us from the markets of the continent, by sweeping the seas of their ships and by blockading their ports.*" — Recurring again to the influence of the transoceanic colonies of the European maritime states upon their navigation codes, it is to be observed, that as whatever did not enhance the trade and commerce of the mother country was deemed unfit to be a part of its colonial policy, the industry and trade of the colonies was in consequence subjected to the most stringent and unnatural regulations and restrictions. Thus, by a statute enacted by the parliament of Great Britain in 1663, it was ordered, that "none of the products of the English plantations or factories," "in Asia, Africa or America," "shall be carried anywhere (except to other plantations) till they be first landed in England, under the forfeiture of ships and cargoes." Scotland was not admitted to the trade of the British plantations until the union in 1706, and Ireland not until 1780. Other laws provided that the colonies should not be allowed to purchase, in any but British markets, any manufactured article which England had to sell. The effect of these skillfully devised instruments for the torture of industry and commerce was, that whatever of raw material the British colonies produced, and which the English manufacturer needed, could be sold to the latter alone and at his own price; on the other hand, whatever of wares the British manufacturer offered in the colonial market, the colonists were obliged to buy on the manufacturer's terms, or not purchase at all. And whether in the case of purchase or sale, the product could be transported only in British vessels, and at the carriers' own price: and to all this was added the further provision of a revenue tax of 5 per cent. upon all colonial exports and imports. By the act of 1699, in the tenth year of William and Mary, it was forbidden to ship colonial wool, or any woolen manufacture, from one colony to another; and British sailors were forbidden to purchase, for their own use, more than forty shillings' worth of woolen goods in any American port. By subsequent enactments, in the reign of George I., the transportation of hats, the product of colonial industry, was also forbidden; as well as the cutting, without a license, of any pine tree, two feet in diameter and not within any inclosure, between the Delaware and St. Lawrence rivers; the object of this latter statute being to maintain an ample supply of masts for the English navy. When Bishop Berkeley proposed to establish a great American university, he was answered by Walpole, that from the labor and luxury of the "plantations great advantages may ensue to the mother country; yet the advancement of literature and the improvement in arts and sciences in our American colonies can never be of any service to the British state." A colonial commissioner who was sent to ask of the royal (English) attorney general an increased allowance for the churches in Virginia, concluded his earnest appeal in these words: "Consider, sir, that the people of Virginia have souls to save." "*Damn* your souls! make tobacco," was the immediate reply. Sir William Berkeley, governor of Virginia, writing, in 1671, upon the feelings of the colonists in respect to these navigation laws, says: "Mighty and destructive have been the obstructions to our trade and navigation by that severe act of paliament which excludes us from having any commerce with any nation of Europe but in our own ships; we can not add to our plantations any commodity that grows out of it, as olive trees, or cotton, or vines. Besides this, we can not procure any skillful men for our hopeful commodity of silk, and it is not lawful for us to carry pipe-stems or a bushel of corn to any place in Europe out of the king's dominions. If this were for his majesty's service, or the good of the subject, we should not repine, whatever be our suffering; but, on my soul, it is contrary to both, and this is the cause why no small or great vessels are built here. For all are most obedient to the laws, while the New England men break through them, and trade to any place where their interests lead them to." — It is by means of these, and many other like historical citations which might be given (and which the reader desirous of further information can readily find in all standard histories of the sixteenth, seventeenth and eighteenth centuries), that it is alone possible to clearly comprehend the curious economic ideas which prompted the enactment of navigation laws in the first instance, and for more than six centuries have prompted rulers and statesmen to defend their policy and expediency and struggle for their continued maintenance. Absurd, tyrannical and even cruel, furthermore, as have been many of these provisions, it would be a mistake to regard them as the work of either heartless or corrupt men; on the contrary, they were rather the result of a false and vicious theory of wealth and trade—once universally and even still accepted in at least a degree in many countries—"which ignored the beneficent and immutable laws of value and exchange, and undertook, by capricious and arbitrary rules, not only to regulate the great social forces which bind men to each other and to nature, but, in defiance

of these, to torture industry in every conceivable way, in a vain attempt to force it into those artificial channels which they had marked out for it." They were also, it is to be remembered, but the part of a general economic system, which in all its features was consistent and harmonious. If England forbade her colonists to transport wool from one plantation to another, she also, at the same time, had a law upon her statute book which made it felony for any Englishman to export sheep. If the colonists were not permitted to carry any article of their produce upon the seas except in British ships, there was no different law for the Scotch, or Irish, or any other subjects of the crown; and the laws of trade, furthermore, which England adopted, were the same in all essential particulars which were adopted by all the other maritime nations of Europe during the periods under consideration. In evidence also that the laws regulating the early commerce and the carrying trade of the ocean were not exceptionally absurd, and in further illustration of the former continued interference of government with individual pursuits and personal freedom, it may be also mentioned, that the people of England at one period, subsequent to the reformation, were forbidden by statute from eating meat during Lent, in order "that the fisheries of the kingdom might be encouraged, and the number of seamen employed therein be increased": while in 1630, the crown issued a proclamation against erecting houses on new foundations in London, Westminster, or within three miles of any of the gates of London, or of the palace of Westminster; also against entertaining inmates in houses, which would multiply the inhabitants to such an excessive number that they could neither be governed nor fed. It is also desirable at this point to call attention to the circumstance that, apart from the immediate and direct influence of the early navigation laws upon industry and trade, their political and moral effect, or rather, of the spirit that led to their enactment, was also of the most momentous character. It was for the enforcement of these laws, or for the maintenance of the principles upon which they were founded, that more than half the battles of the eighteenth century were fought; and, as has already been shown, they were the prime cause of the revolt of the British-American colonies, and their separation from the mother country. (See AMERICAN MERCHANT MARINE.) The multitude of restrictions which these laws imposed on transactions which were in no way repugnant to the moral sense of good men, created a multitude of new crimes. Half the commerce of the world, at periods during the eighteenth century, was engaged in smuggling or in piracy; smuggling on the ocean leading, by easy transition, to piracy, while smuggling on the land frequently resulted in the brigandage which so long infested Europe. Mrs. Martineau, in her "History of England during the Thirty Years Peace," thus describes the state of affairs in England and France, even as late as the year 1824: "While this was going forward on the English coast, the smugglers on the opposite shore were engaged with much more labor, risk and expense, in introducing English woolens, by a vast system of fraud and lying, into the towns, past a series of custom houses. In both countries there was an utter dissoluteness of morals connected with these transactions. Cheating and lying were essential to the whole system; drunkenness accompanied it; contempt for all law grew up under it; honest industry perished beneath it, and it was crowned with murder." And Blanqui, in his "History of Political Economy," declares, that to such an extent was trade and commerce throughout Europe interfered with by legislation, that all trade would have perished had it not been for smuggling.—The fact that the restrictive laws passed by England in the seventeenth and eighteenth centuries to hinder the growth of the shipping and carrying trade of the Dutch failed to accomplish the result expected, has already been pointed out; but no better success attended the efforts in the same direction in respect to the British North American colonies. On the contrary, the shipping interests of the Americans continued to so prosper and increase, that in 1725 the shipwrights of the river Thames complained to the crown that their business declined, and that their workmen emigrated, because of the number of ships that the plantations built and furnished to England; and for the year 1775 the register of Lloyds returned, as the aggregate of new tonnage for the three years next preceding, 3,908 British vessels of 605,545 tons, and 2,311 of American build, with an aggregate tonnage of 373,618.—The principal features of the British navigation code, as it existed in 1849 (the time of its repeal), and which did not differ in any essential particulars from the provisions of the codes adopted by the other maritime states of Europe, were as follows: No foreigner could own, either wholly or in part, a British ship, and the captain and at least three-fourths of the crew of such vessels were compelled to be British subjects. Certain enumerated articles of European produce could only be imported into the United Kingdom for consumption, in British ships, or in ships of the country of which the goods were the produce. No produce of Asia, Africa or America could be imported for consumption into the United Kingdom, *from any European port*, in any ships whatever; and such produce could only be imported from any other places in British ships, or in ships of the country of which the goods were the produce. No goods could be carried coastwise from one part of the United Kingdom to another, except in British ships. No goods could be carried from any one British possession in Asia, Africa or America to another, in any but British ships. No foreign ships were allowed to trade with any of the British possessions, unless they had been specially authorized to do so by order in council. No goods could be exported from the United Kingdom to any of the British

possessions in Asia, Africa or America (with some exceptions with regard to India), in any but British ships. The following details of the experience of British trade and commerce under these laws will also to some extent illustrate their absurdity and injurious influence. For example: "An American vessel might carry American cotton to England direct; but if such cotton was landed at a continental port, no ship of any nationality could afterward land it for consumption in England. The grain of Russia, if once landed in Prussia, or in the ports of any other nation, was absolutely shut out from England, no matter if a deficiency of food in that country was threatening starvation to its people. In 1839 the price of coffee was especially high in the London market. Large quantities of Java and Dutch colonial coffee were in store in Amsterdam, but it could not be brought into England because it had been landed at a continental port. Under these circumstances it is said that a British ship was chartered, sent to Amsterdam, and despatched to the cape of Good Hope, where the cargo was landed, actually or constructively, and by some process recognized by the law so became the naturalized produce of that colony. It was then carried to England, and coming direct from a British colony in a British ship was admitted for home consumption. It is said that many thousand tons of merchandise were thus sent cruising half round the globe, involving an enormous waste of capital, in order that the letter of the law might be fulfilled, although its spirit was nullified." (Lindsay's "History of Merchant Shipping," Hamilton Hill, American Social Science Association, 1878.)—*Navigation Laws of the United States.* Up to the time of the American revolution, treaties of commerce between nations had been little other than agreements to secure special and exclusive privileges to the contracting parties, and to antagonize, as far as possible, the commercial interests of all other countries. But in the treaty of commerce entered into between France and the revolted colonies in 1778, the commissioners of the two nations—Franklin, Deane, Lee and Gerard—evidently determined to attempt to inaugurate a more generous policy, and to establish a precedent for freer and better commercial relations between different countries than had hitherto prevailed. It was accordingly agreed in the treaty in question to avoid "all those burdensome prejudices which are usually sources of debate, embarrassment and discontent," and to take as the "basis of their agreement the most perfect equality and reciprocity." And they further stated the principle which they had adopted as a guide in their negotiations to be that of "founding the advantages of commerce solely upon reciprocal utility and the just rules of free intercourse." The commissioners were, however, ahead of their times, as they even yet would be, if still alive and participating in the public policy of the United States. The traditions and habits of Europe were too strong to be at once broken down. No Adam Smith had then arisen to combat the then prevailing idea, that whatever of advantage one nation or country gained in trade and commerce necessarily entailed an equal and corresponding loss upon some other nation or country; and in the end the Americans succumbed, and within a comparatively few years their own country, falling into the rut of old prejudice, enacted (as will be hereafter shown) a commercial code as illiberal and narrow in most respects as any that had preceded it, and which still stands as the most striking and, in fact, the only relic of the unchristian and barbarous commercial legislation which everywhere characterized the eighteenth century. — When the convention that framed the federal constitution came together in 1789, there were two sectional questions of importance that came before it, and two only: the question of slavery, and the regulation of commerce. The extreme southern states wanted slavery and the slave trade legalized and protected. The south, as a whole, also favored free trade. New England, on the other hand, largely interested in shipping, a not insignificant proportion of which, either directly or indirectly, was engaged in the slave trade (her people, Massachusetts men especially, importing molasses from the West Indies, distilling it into rum, using the rum to buy slaves on the coast of Africa, and selling the slaves at the south,) desired, through a system of navigation laws, to hold a monopoly of the commerce of the new nation, while the middle states generally wanted neither slavery nor navigation laws. The sentiment of the country as a whole at this period was averse to slavery, and the cultivation of cotton not having then been introduced to any considerable extent into the southern states or made the source of profit that it subsequently became through the invention of the cotton gin, the anti-slavery feeling had developed itself much more strongly in some parts of the south than it had in New England.* So that if New England had been as

* "The sentiment was common to Virginia, at least among the intelligent and educated, that slavery was cruel and unjust. The delegates from Virginia and Maryland, hostile to navigation laws, were still more warmly opposed to the African slave trade. Delaware by her constitution, and Virginia and Maryland by special laws, had prohibited the importation of slaves. North Carolina had shown a disposition to conform to the policy of her northern sisters by an act which denounced the further introduction of slaves into the state as 'highly impolitic.'" (Hildreth, vol. iii., pp. 508-10.) Pennsylvania founded a society for the abolition of slavery in 1775, with Franklin for its first president and Rush its first secretary. New York had a similar society in 1785, with Jay as its first president and Hamilton as his successor. On the other hand, as some illustration of the then current New England sentiment, attention is asked to the following extract from an oration by Mr David Daggett (afterward United States senator and chief justice of Connecticut) at New Haven, July 4, 1787—a month before the federal convention, then in session, took up the subject of slavery and the navigation laws. The orator, after speaking of the gratitude and generous reward the country owed to the officers and soldiers of the late army, and its immediate inability to discharge such obligations, continued: "If, however, there is not a sufficiency of

true to the great principles of liberty as her people were always professing, it seems probable that, aided by the middle states, and in part by the south, she might have brought about an arrangement under the federal constitution, at the time of its formation, for the gradual but no very remote extinction of American slavery and an avoidance of the expenditure of blood and treasure which has since been entailed by its continuance. Selfishness and the love of the dollar, however, proved as omnipotent then as they ever have, and the result was a compromise of iniquity; the power to regulate commerce being inserted in the constitution, together with and as a consideration for the extension, by New England votes, of the slave trade until 1808 and the prohibition of export duties. — This curious chapter in our national history, although familiar to historical students, has been all but unknown to the mass of the American people. The evidence of its truth is, however, complete. The fourth section of the seventh article of the constitution of the United States, as originally reported by the committee of detail, provided that "no tax or duty shall be laid by the legislature on articles exported from any state, nor on the migration or importation of such persons as the several states shall think proper to admit; nor shall such migration or importation be prohibited." When the convention came to the consideration of this section they amended it by making the prohibition of the imposition of duties on exports general, or applicable to the federal government as well as to the states, although Mr. Madison tried to have the power to do so allowed to congress when two-thirds of each house should vote its expediency. The question next occurred on the residue of the section, which Mr. Luther Martin, of Maryland, moved to amend so as to authorize congress to lay a tax or prohibition at its discretion upon the importation of slaves. The provision as it stood in the report of the committee would, he said, give encouragement to the slave trade; and he held it "inconsistent with the principles of the revolution and dishonorable to American character to have such a feature in the constitution." Messrs. Rutledge and Pinckney, the South Carolina delegates, and Mr. Baldwin, of Georgia, warmly protested against Mr. Martin's proposition as an uncalled-for interference with the slave trade. Mr. Ellsworth and Mr. Sherman, of Connecticut, were both for leaving the clause as reported. "Let every state," they said, "import what they please." Elbridge Gerry, of Massachusetts, "acquiesced, with some reserve," in the complying policy of the delegates of Connecticut, while his colleague, Rufus King, "made a measured resistance" merely on the grounds of state expediency. George Mason, of Virginia, expressed himself with great energy in opposition to the views of the delegates from Connecticut. "This infernal traffic," he said, "originated in the avarice of British merchants"; and he "lamented that some of our eastern brethren had, from lust of gain, embarked in this nefarious traffic." In this state of things Gouverneur Morris arose, and, after adverting to the circumstance that the sixth section of the same article of the constitution under consideration contained a provision that no navigation laws should be enacted without the consent of two-thirds of each branch of congress, and that this provision particularly concerned the interests of the New England states, proposed that this section, together with the fourth section (relating to the slave trade) and the fifth section (relating to the assessment of a capitation tax on slaves) be referred to a special committee, remarking, at the same time, (see Rives' "Life and Times of Madison," vol. ii., pp. 444, 450), "that these things may form a bargain among the northern and southern states." — The hint thus given was not thrown away. All these matters were referred to a committee, and what this committee did is thus told by Luther Martin, one of its members, in a letter to the speaker of the Maryland house of delegates: "I found the eastern states, notwithstanding their aversion to slavery, were very willing to indulge the southern states at least with a temporary liberty to prosecute the slave trade, provided the southern states would in turn gratify them by laying no restriction on [the enactment of] navigation acts; and after a little time the committee agreed on a report, by which the general government was to be prohibited from preventing the importation of slaves for a limited time, and the restrictive clause relative to navigation acts was to be omitted." (Elliott's "Debates," 2d ed., vol. i., p. 373.) — The limit of time for the extension of the slave trade agreed to by the committee in making the bargain, was 1800; but when the report came before the convention, Mr. Pinckney, of South Carolina, moved to amend by substituting 1808 in lieu of 1800, as the term of the permitted traffic, and this motion was seconded by Mr. Gorham, of Massachusetts. Mr. Madison and others earnestly opposed this amendment, "but the coalition that had taken place rendered all remonstrance vain, and Gen. Pinckney's motion was carried in the affirmative; all of the three New England states, with South Carolina, Georgia, Maryland and North Carolina, voting for it, and Virginia, Pennsylvania, New Jersey and Delaware voting against it." Four days later the residue of the report, recommending that the sixth section, which imposed restrictions

property in the country, I would project a plan to acquire it. * * * Let us repeal all the laws against the African slave trade, and undertake the truly benevolent and humane merchandise of importing negroes to Christianize them. This has been practiced by individuals among us, and they have found it a lucrative branch of business. Let us then make a national matter of it. * * * We should have the sublime satisfaction of enriching ourselves, and at the same time rendering happy thousands of those blacks by instructing them in the ways of religion. * * * This would be no innovation. * * * This country permitted it for many years, among their other acts of justice, but their refusing to pay sacred and solemn obligations is not of so long standing."

against the passage by congress of a navigation act, was taken up and earnestly debated, and opposed by George Mason, Gov. Randolph and others, but as earnestly advocated by Pinckney and Butler, of South Carolina, "who earnestly invoked a spirit of conciliation toward the eastern states on account of the liberality they had shown to the wishes of the two southernmost states with regard to the importation of slaves," and, finally, "the bargain that had been entered into, in which the legalization of the slave trade for twenty years on the one side was the price of the abandonment of restrictions on the passage by congress of a navigation act" on the other, received its final ratification. (Rives' "Life and Times of Madison.") We quote also from Hildreth the following to the same effect: "Thus by an understanding, or, as Gouverneur Morris called it, 'a bargain,' between the commercial representatives of the northern states and the delegates of South Carolina and Georgia, and in spite of the opposition of Maryland and Virginia, the unrestricted power of congress to enact navigation laws was conceded to the northern merchants, and to the Carolina rice planters, as an equivalent, twenty years' continuance of the African slave trade." (Hildreth's "United States," vol. iii., p. 520.) "This transaction," continues Mr. Rives, "undoubtedly made a most disagreeable impression on the minds of many members of the convention, and seemed at once to convert the feeling of partial dissatisfaction that had already been excited in certain quarters, by one or two votes of the convention, into a sentiment of incurable alienation and disgust. Gov. Randolph, a few days after the first part of the bargain had been ratified, and while the latter part was pending, declared that 'there were features so odious in the constitution, as it now stands, that he doubted whether he should be able to agree to it.' Col. Mason, two days later, declared that 'he would sooner chop off his right hand than put it to the constitution as it now stands.'" And the names of neither of these delegates appear on the roll of delegates to the national convention who subsequently signed the constitution. — When the federal congress assembled for the first time under the constitution, New England was not dilatory in demanding the fulfillment of her part of this disreputable compact; and in 1789 and 1792 the foundation of our present navigation laws was laid, in acts levying tonnage dues and impost taxes which discriminated to such an extent against foreign shipping as to practically give to American ship owners a nearly complete monopoly of all American commerce. — By the act of 1789 a tonnage tax of six cents per ton was levied on all American vessels and fifty cents per ton on all vessels built and owned in foreign countries and entering American ports. Dec. 31, 1792, the registration act, in substance as it stands to-day, was enacted. In 1793 the coasting trade was wholly closed to foreign vessels. Discriminating duties on articles, the products of countries east of the cape of Good Hope, imported indirectly into the United States, were imposed, July, 1789. Subsequent to the war of 1812–14, the president was empowered to enter into more liberal arrangements with foreign nations in respect to shipping, but no disposition having been manifested by Great Britain and other nations to enact reciprocal legislation, nothing resulted; but on the contrary, in 1816, 1817 and 1820 congress enacted a system of navigation laws which were avowedly modeled on the very statutes of Great Britain which the Americans, as colonists, had found so oppressive that they constituted one prime cause of their rebellion against the mother country, the main features of difference between the two systems being that wherever it was possible to make the American laws more rigorous and arbitrary than the British model the opportunity was not neglected. — As an essential part of the history of this legislation, and as some extenuation of the illiberality of the first congress, it should be here stated that public sentiment in the United States in respect to the policy of the enactment of navigation laws, and of making them harshly discriminative against the shipping of foreign nations, experienced a marked change between the time when the power to regulate commerce was made in convention part of the federal constitution, and the time when the enactment of discriminating tonnage dues and tariff taxes came up for consideration in 1790 and 1792 in the federal congress. This was due entirely to the utter failure on the part of the American government (confederative and constitutional) to induce Great Britain to recede in any degree from the extremely illiberal commercial policy which she had adopted toward her former colonies since the attainment of their independence. Previously they could trade freely with other British colonies in America and the West Indies, exchanging lumber, corn, fish and other provisions, together with horses and cattle, for sugar, molasses, coffee and rum: but immediately after the conclusion of the war the people of the new nation were put on the same footing as those of other foreign countries; and, under the operation of the British navigation laws, were, in common with them, excluded from nearly all participation in an extensive and flourishing part of their former maritime trade. As illustrating the then temper of the times and the illiberal spirit that then pervaded the counsels of the nations, it may be mentioned that this policy was persevered in by Great Britain, even after it was proved in repeated instances to work most injuriously to her own home interests and to have inflicted great suffering upon her West Indian colonies. Thus, between 1780 and 1787, no less than 15,000 slaves were known to have perished from starvation in the British West Indies, by reason of inability, through the operation of the British navigation laws, to obtain the requisite supply of food from the North Americans, at a period when the home-grown portion of their subsistence had been destroyed by successive hurricanes. William Pitt, however, was a

man capable of rising above the ordinary level of his times, and his political surroundings, and foreseeing the serious difficulties of the situation, desired as chancellor of the exchequer, immediately after the close of the war, to deal liberally with the new nation; and accordingly, as early as 1783, introduced into parliament a bill, allowing comparatively free commerce between the United States and the British West Indies. But the measure, owing primarily to the resignation of the ministry, and the strong opposition of the British shipping interests, aided by the efforts of the loyalists of the remaining British North American colonies, was not only defeated, but in 1788 an act was passed absolutely forbidding the importation of any American produce into any British colony, except in British bottoms. These restrictions on the participation of the United States in British colonial trade very singularly remained unrepealed until 1830, in which year a British order in council was adopted authorizing vessels of the United States to import into the British possessions abroad any produce of the United States from these states, and to export goods from the British possessions abroad to any foreign countries whatever. — As some further evidence of the British jealousy of the commercial competition of the United States in the decade between 1783 and 1793 it may be also mentioned that Lord Sheffield, who headed the opposition to Mr. Pitt's bill (above noticed), published in 1783 a book, in which he advised the British government not to interfere too extensively with the Barbary pirates, on the ground that through lack of any sufficient naval force on the part of the United States to restrain and punish—but which force Great Britain was known to possess—the operations of the corsairs would be confined mainly to the destruction of American commerce and of the little states of Italy, whereby British commerce would be benefited. — Under such circumstances it was but natural that the representatives of the nation came together in Congress in 1791–2 with very different sentiments in respect to the policy of navigation laws from those entertained by the members of the federal convention in 1787. It was felt by the former and by the whole nation that the legislation of Great Britain—especially that part of it which broke up the then important trade of the United States with the British West Indies—was designedly hostile legislation, which could only be properly met and its continuance prevented by retaliatory legislation, and congress in 1790–92 accordingly did retaliate, and a quarter of a century later (1816–20), after another war, when Great Britain refused to accept the offer on the part of the United States of a more liberal reciprocal commercial policy, it enacted navigation laws even more stringent than any which had before found a place upon our statute books. To further complete this record it should be also here noted, that in connection with the restriction of commerce by the enactment of navigation laws in the first congress, the first selfish and sectional antagonism of the states in respect to the adjustment of duties on foreign imports also occurred. "The south" (we quote from Professor Sumner's "History of Protection in the United States") "wanted a protective duty on hemp, claiming that rice and indigo were unprofitable. Pennsylvania opposed any tax on hemp as a raw material of cordage, but wanted a tax on that. New England opposed the tax on cordage as a raw material of ships, but wanted protection on the latter." The most strenuous contention was, however, in respect to rum and molasses. "The south, except Georgia, wanted a high tariff on rum for revenue. The middle states wanted it in the interests of temperance; the eastern states for protection to their rum distilleries. Georgia opposed this tax because she used a great deal of rum and bought it in the West Indies with her lumber. The southern and middle states wanted a tax also on molasses, but this the eastern states vigorously opposed. Molasses was the raw material of rum." It was bought with salt fish, lumber and staves sent to the West Indies, distilled into rum in New England, sent as export to Africa to buy slaves, which in turn were sold to the south. After having bartered their souls by extending the horrors of the slave trade for twenty long years in consideration of a monopoly of shipping, was New England to permit the most profitable element of that monopoly to be at once taken away from her? Not if their representatives could prevent it! We are accustomed to look back upon the representatives that sat in the first congress, especially those sent from New England, as men infinitely removed from base and sordid motives, whose like it is never to be vouchsafed to us to see again in public office. But when one comes to look over the debates that took place in the first congress on the rum and molasses question, he can not help fancying that he is in the house of representatives at the present day and that a debate on the tariff is in progress.— The duty proposed to be assessed on molasses was six cents a gallon—a fourth of a cent less than molasses pays under the existing tariff of 1881; and the delegation from Massachusetts, it is recorded, "occupied the time of the house for several days with vehement remonstrances against it." One member, Mr. Thurber, went so far as to intimate that the people of his state "will hardly bear a tax which they can not but look upon as odious and oppressive." Mr. Fisher Ames, in a highly colored fancy speech on the woeful effects likely to follow the enactment of the proposed duty on molasses, used the following language: "Mothers will tell their children, when they solicit their daily and accustomed nutriment, that the new law forbids them the use of it, and they will grow up in detestation of the hand which proscribes their innocent food and the occupation of their fathers." And yet all the while none knew better than Fisher Ames that the "mothers" likely to be most distressed were the owners of distilleries, and that the occu

pation of the fathers that the children were to be debarred from following was sending this rum to Africa to be used to buy slaves. New England selfishness again triumphed. The proposed duty on molasses was reduced from six cents to two and a half cents a gallon, and rum was assessed at ten cents per proof gallon, while all other spirits were to pay but eight cents. — Such, then, is a brief history of the inception and growth of our present navigation laws. Conceived in sin and brought forth in iniquity, they seemed to have entailed a curse (not yet fully worked out, but in the process of completion) general for the whole country, but more especially on that section whose fathers sold their honor to accomplish the result, and who thereby merited execration, for having entailed for eighteen long years the horrors of the African slave trade. And when one journeys through New England and sees how thick are the graves of her sons slain in a war which slavery originated, the question might suggest itself: Would these graves exist had the ancestors of those who fill them not consented to strengthen and perpetuate domestic slavery as a consideration for the privilege of doing another wrong— namely, that of restricting their fellow-citizens from freely exchanging the products of their labor? — Having traced the inception and growth of the navigation laws of the United States, let us next inquire into their provisions. They may be in the main stated and illustrated as follows: 1. No American citizen is allowed to import a foreign-built vessel, in the sense of purchasing, acquiring a registry or title to, or of using her as his own property; the only other absolute prohibitions of imports being in respect to counterfeit money and obscene objects. (U. S. Rev. Stat., sec. 4132.) Furthermore, while we are the only people in the world who are forbidden to purchase foreign-built vessels, we freely permit all the world to enter our ports with vessels purchased in any market. Precluded, therefore, by the first provisions of our navigation laws, from engaging on equal terms in the carrying trade with foreigners, we wonder and complain that the carrying trade of even our own products has passed from our control. — 2. An American vessel ceases to be such if owned in the smallest degree by any person naturalized in the United States who may, after acquiring such ownership, reside "for more than one year in the country in which he originated, or more than two years in any foreign country, unless such person be a consul, or other public agent of the United States." (U. S Rev. Stat., sec. 4134.) — 3. If a native-born American citizen, for health, pleasure or any other purpose, except as a consul of the United States, or as a partner or agent in an exclusively American mercantile house, decides to reside ("usually") in some foreign country, any American vessel of which he may be in all or any part owner at once loses its register and ceases to be entitled to the protection of the flag of the United States, even though the vessel may have been of American construction and have regularly paid taxes in the United States, and the owner himself has no thought of finally relinquishing his American citizenship. (U. S. Rev. Stat., sec. 4133.) To illustrate this provision of our navigation laws, let us suppose Capt. John Smith, not a naturalized citizen, but a native American, is an owner, in all or part, of an American vessel. He becomes afflicted with a disease of the lungs, and, for his health, goes to live in the south of France, on account of the balmy atmosphere that prevails there. The moment that Capt. John thus, under the law, begins to "usually reside" in a foreign country, his vessel is liable to lose its register and the protection of the flag of his country. — 4. Every citizen of the United States obtaining a register for an American vessel must make oath "that there is no subject or citizen of any foreign power or state, directly or indirectly, by way of trust or confidence or otherwise, interested in such vessel or in the profits thereof." (U. S. Rev. Stat., sec. 4142.) We invite foreign capital to come to us and help build our railroads, work our mines, insure our property, and even buy and carry our government bonds as investments, but if a single dollar of such capital is used to build an American ship and thereby represents an ownership to any extent of the value received, we declare the ship to be thereby so tainted as to be unworthy of the benefit of American laws. — 5. A foreigner may superintend an American factory, run an American railroad, be president of an American college, or hold a commission in the American army, but he can not command or be an officer of a registered American vessel. (U. S. Rev. Stat., sec. 4131.) Notwithstanding this express provision of law, it is an indisputable fact that there is hardly an American vessel engaged in foreign trade that has not one or more foreigners employed as officers, and instances, it is said, are not rare of American vessels which have no citizens of the United States on board except the master. If Capt. John Smith, being a foreigner, took command of an American vessel, and falsely swore that he was an American citizen, he would "forfeit and pay the sum of one thousand dollars." If one of the owners should take such oath, Capt. Smith not being in the district, the vessel would be subject to forfeiture; but no such case of forfeiture has ever occurred. She would, however, not be subject to forfeiture if Capt. Smith "had been appointed the lowest officer on the vessel." To be sure, the law requires that "officers of vessels of the United States shall in all cases be citizens of the United States"; but there is no penalty whatever imposed on the vessel if they are not. Many American citizens, on the other hand, undoubtedly own vessels under foreign flags. Some of them transferred their vessels to English colors during the war to escape capture by confederate war vessels, but there are many who adopt this expedient to obtain cheap ships. They engage a trustworthy English clerk, for instance, and buy the vessel in his name, holding a mortgage for

her full value as security. Some years ago the American consul general to China (Mr. Seward), in a report to the state department, stated, as within his personal experience from 1862 to 1875, "that the rigid enforcement of this law would often have forced the owners or agents of those vessels engaged in that part of the world to lay up their ships or transfer them to other flags."—6. No foreign-built vessel, or vessel in any part owned by a subject of a foreign power, can enter a port of the United States and then go to another domestic port with any new cargo or with any part of her original cargo that has been once unladen, without having previously voyaged to and touched at some other port of some foreign country, under penalty of confiscation. By the construction of this law all direct traffic by sea between the Atlantic and Pacific ports of the United States via Cape Horn or the cape of Good Hope, or across the isthmus of Panama, is held to be of the nature of a coasting trade or voyage in which foreign vessels can not participate. (U. S. Rev. Stat., sec. 4347.) In view of the fact that there has been no attempt in recent times, on the part of the English, French or Dutch governments, to interfere with the transport of merchandise by American ships by the common highway of the ocean, between the home ports of these countries and their colonial possessions, this construction of law, not contemplated at the period of its enactment, was regarded by Europe as a bit of very sharp and mean practice on the part of the United States, as it undoubtedly was.—7. An American vessel once sold or transferred to a foreigner can never be bought back again and become American property, not even if the transfer has been the result of capture and condemnation by a foreign power in time of war. (U. S. Rev. Stat., sec. 4165.)—8. A vessel under thirty tons can not be used to import anything at any seaboard port. (U. S. Rev. Stat., sec. 3095.)—9. Previous to a repealing act, in June, 1882, all goods, wares and merchandise, the produce of countries east of the cape of Good Hope, when imported from countries west of the cape of Good Hope, were made subject to a duty of 10 per cent. in addition to the duties imposed on such articles when imported directly. This law was interpreted so stringently that old second-hand gunny-bags, nearly worn out, did not lose their distinctiveness to an extent sufficient to exempt them from additional duties if they finally came to the United States, in the process of using, from a place west of the cape of Good Hope. In one instance a vessel from China, destined to Montreal, Canada, was sent, on arriving, to New York without breaking bulk. It was held that the voyage ceased in Canada, and that the new voyage to New York subjected the cargo to an additional 10 per cent. By the original navigation laws (act of 1790) it was provided that the tariff on all articles imported in American vessels shall be less than if imported in foreign vessels. On "hyson" tea the duty in American vessels was twenty cents per pound; in foreign vessels, forty-five cents. The discriminating duties (repealed in 1882) on products of countries east of the cape of Good Hope, imported indirectly, were a remnant and legacy of these old restrictions. (U. S. Rev. Stat., sec. 2501.)—10. If a vessel of the United States becomes damaged on a foreign voyage, and is repaired in a foreign port, her owner or master must make entry of such repairs at a custom house of the United States, as an import, and pay a duty on the same equal to one-half the cost of the foreign work or material, or 50 per cent. *ad valorem;* and this law extends so far as to include boats that may be obtained at sea from a passing foreign vessel in order to assure the safety of the crew or passengers of the American vessel. (U. S. Rev. Stat., sec. 3114.) To the credit of former days it should be said that this provision of law was not a part of the original navigation laws of the United States, but was incorporated into them by special statute passed July 18, 1866, entitled "An act to prevent smuggling, and for other purposes." Under the treasury regulations it is held that, although no part of the proper equipment of a vessel arriving in the United States from a foreign country is liable to duty, such equipment, if considered by the United States revenue officers as redundant, is liable to the payment of duty as a foreign import, although there may be no intent of landing, disposing of or using such extra equipment except in connection with the vessel. Thus, for example, when two sets of chains were found on board of a foreign vessel, and one set was held to be all that was necessary, the other set was made chargeable with duty. In another case, where anchors and chains were bonded on importation and at the same time entered for exportation and placed on board the vessel as a part of her equipment, it was held by the treasury that the legal duties should be collected on the same.—11. Foreign vessels losing a rudder or stern-post, or breaking a shaft, and arriving in the United States in distress, can not import others to replace these articles here without payment of the duty on the same. In one case of actual occurrence a foreign line of steamers left their mooring chains of foreign manufacture on an American wharf. Some over-vigilant revenue officer reported the occurrence to the treasury department, and it was decided that as the chains were landed, the legal duties should be collected from them as an importation. A foreign vessel can not even land copper sheathing for the sole purpose of being recoppered by American workmen without paying duties on the old copper stripped off and the new copper put on as separate and distinct imports. During the year 1871 the owner of a Dutch vessel entered at Boston, ignorant of the peculiar features of the tariff of the United States in respect to the ocean carrying trade, put on board at the foreign port of clearance a quantity of sheet copper sufficient to sheath the bottom of his vessel, it being intended to have the work done in the United States upon

her arrival, in order to save time and put the vessel in good order for her return voyage. The agent, advised of this arrangement, referred the matter to the officials of the Boston custom house for instructions, only to learn that the new sheathing metal could not be used in the United States as proposed without paying a duty of 45 per cent., while the copper taken off the ship's bottom must also pay a duty of four cents per pound as old copper. The agent signified his willingness to pay the latter and sell the old metal for what it would bring, but requested to be allowed to land the new copper in bond for re-exportation, as it would be carried out by the same vessel that brought it in. He was informed, however, that the bond for exportation required for its cancellation a certificate of the landing of the bonded goods in the foreign port for which its export was declared, which could not be obtained if it was entered at the port of destination *upon* and not *in* the ship carrying it. The consequence was, that when the ship discharged her cargo at Boston she sailed for Halifax, Nova Scotia, carrying her sheathing copper with her, and, after having been there coppered by the shipwrights of the British provinces, returned in ballast to Boston for her return cargo, all this costly proceeding being cheaper than the payment of 45 per cent. duty for the privilege of employing American workmen to take off the old sheathing and put on the new. — 12. If a citizen of the United States buys a vessel of foreign build which has been wrecked on our coast, takes her into port, repairs and renders her again serviceable and seaworthy, he can not make her American property, unless it is proved to the satisfaction of the treasury department that the repairs put upon such vessel are equal to three fourths of the cost of the vessel then so repaired. (U. S. Rev. Stat., sec. 4136.) The following is an illustration of the working of this provision of our navigation laws: In 1871 a citizen of Baltimore purchased a foreign-built vessel wrecked on the American coast and abandoned to the underwriters, and, by spending a large sum in reconstruction, rendered her again seaworthy. He then, being desirous of employing his capital embodied in this instrumentality of trade in the most profitable manner, and assuming that the reconstructed wreck was his lawful property, arranged for an outward cargo under the flag of the United States; but when the vessel was ready to sail, registry was refused by the customs officials on the ground that the vessel was of foreign construction, the sum of the repairs put on the wreck being a little less than three-fourths of the original cost of the vessel; or, in other words, the substance of this decision, which was correct in law, was, that while the citizen, under the laws of the United States, might lawfully buy and acquire title to a wreck and use it for any purpose other than navigation, he could not acquire title to it and make it American property lawful to use as a vessel, even after he had paid duties on its old materials as imports, unless he could show that he had expended upon the abandoned construction for the purpose of restoring it to its original quality for service, a sum nearly equivalent to the cost of building an entirely new vessel. The owner by law, most mercifully, in such cases is not, however, deprived of the privilege of selling the property to a foreigner. — 13. Every vessel belonging to the mercantile marine of the United States engaged in foreign trade (vessels employed in the fisheries excepted) must pay annually into the federal treasury a tonnage tax at the rate of thirty cents per ton. (U. S. Rev. Stat., sec. 4219.) At the commencement of the war in 1861 there were no tonnage taxes; but by the act of July, 1862, a tonnage tax of ten cents per ton was imposed, which was afterward increased to thirty cents, the present rate. Although there was nothing specific in the recent enactments to warrant it, and American shipping engaged in foreign trade was in such a condition as to demand the kindliest consideration from government, the treasury officials, interpreting the statute according to the invariable rule for the benefit of the government and to the disadvantage of the citizen, were in the habit, up to 1867, of collecting this tax at every entry of a vessel from a foreign port; but by the act of March, 1867, tonnage taxes can now be levied but once a year. On a ship of 1,000 tons the present tax, amounting to $300 per annum, represents the profits or interest (reckoned at 6 per cent) on an invested capital of $5,000, and, on a ship of 2,000 tons, of $10,000. Mr. F. A. Pike, of Maine, in a speech in the United States house of representatives, May, 1868, stated that this tax was equivalent in many instances to 3 per cent on the market valuation of an inferior class of American vessels, employed only in the summer months and largely owned by his constituents. In 1789, when the first tonnage tax was imposed, and the treasury of the new nation was sorely in need of revenue, the maximum rate for American vessels was six cents per ton. Vessels belonging to foreign states, between whom and the United States ordinary commercial relations are established, pay the same tonnage taxes as American vessels. But if any person not a citizen of the United States becomes an owner to the extent of the merest fraction in a ship of American build, then such ship is not entitled to the privileges accorded to ships owned wholly by foreigners, but must pay, on entering a port of the United States, a tonnage tax of sixty cents, or double rate, and such vessel at once ceases to be entitled to registry or enrollment as a vessel of the United States. Here, then, we have piled up, as it were, on the top of all other provisions, another direct, odious and stupid discrimination against the employment of foreign capital, provided it should so incline, for the developing of the American shipping interest and the employment of labor even in our own dock-yards and harbors. Suppos-

ing a similar law to be proposed, discriminating in like manner against the investment of foreign capital in American railroads, mines, factories, and mercantile enterprises generally, does any one doubt that the proponent would be at once hooted into contempt? And yet the hypothetical law is no more absurd than the law that actually exists upon the statute book. Practically the law is a dead letter. In the case of ordinary vessels rigid inquiry as to ownership is rarely or never instituted, and the oath required is regarded and taken as a mere form. In case of incorporated American ocean navigation companies (if there are any such), the president of the company has only to swear to the ownership of any vessel by the company, and the federal officials will not care if the ownership of one or a majority of the shares of the corporation vest in citizens of foreign nationalities; the provision of the statute, as with a view of making the law of no effect, being that in this swearing to ownership by a company it shall not be necessary to designate the names of the persons comprising such company. The result of this is, that any foreigner can purchase shares in any American navigation company, and not a vessel of their fleet will thereby lose American registration and American protection; but if a foreigner became the owner of the smallest fraction of a hundred-ton steamboat, plying between Key West and Havana, the registration of such vessel would be instantly vitiated. If a Sunday-school or a picnic party, out on an excursion, happen to come into an American port on a foreign (Canadian) vessel (as was recently the case on one of our upper lakes) for mere temporary and pleasure purposes, the vessel is liable to a tonnage tax, and a libel against such vessel, instituted by an over-zealous official for its payment, has been decided by the treasury department (August, 1876) to be a proceeding which the government must enforce. — 14. By the act of June 6, 1872, all materials necessary for the construction of vessels built in the United States for the purpose of foreign trade, may be imported and used free of duty. But all American vessels receiving the benefit of this act can not engage in the American coasting trade for more than two months in any one year without payment of the duties on which a rebate has been allowed. — 15. The several ports of the United States are classified by districts; and in each district one port is designated as a "port of entry," and others as "ports of delivery." All vessels on arriving from a foreign country in any district, must first report at the established port of entry, and then conform to the details of the custom house service; after which, if the vessel is American, it can proceed to any port of delivery in the district for the purpose of unloading. But if the vessel be foreign, it can only discharge at the port of entry, even though its cargo be imported exclusively for the use of American citizens at a port of delivery. A ship, therefore, may pass almost within hail of the point of destination of its cargo, and yet be compelled to unload many miles away, thus necessitating reshipping and repeated rehandling, at much additional expense. Thus the customs districts of Boston and Charlestown, Massachusetts, comprise only one port of entry, Boston; while Cambridge, Medford, Hingham, Cohasset, and other places, are all ports of delivery only If a foreign vessel arrives from abroad with a cargo of hemp for Hingham, instead of proceeding direct to the wharf in that port, she must first sail right by it, enter herself and cargo at Boston, and then unlade at a Boston wharf, and reship the goods, by coasting vessel or rail, to the owners at Hingham. — The following will also illustrate in some degree the manner in which the navigation laws of the United States have been executed: All vessels of the United States engaged in the coasting trade are required to be enrolled and licensed, and vessels engaging in trade and transportation without previously procuring such enrollment or license are liable to seizure and heavy penalties. On the east bank of the Hudson, in the city of Troy, state of New York, there are extensive iron works, the coal and ore supplies for which are largely transported over the Erie and Champlain canals. Boats coming down these canals loaded with such supplies are locked into the Hudson at West Troy, a point on the west bank nearly opposite to the furnaces; then after crossing the river, delivering their freight and recrossing, re-enter the canal and return on their route for another similar cargo. Some years ago the officials of the United States treasury department decided that under our navigation laws this temporary entry of boats from the canals into the Hudson for the purpose of delivering cargo, and their subsequent return into the canal, constituted a coasting voyage, for the engaging in which it was obligatory on the owners of the canal boats to have previously taken out a license. Of course the owners, not anticipating any such official interpretation of the law, had not provided themselves with licenses, but this nevertheless did not prevent a large number of boats from being seized and libeled for violation of the navigation laws, from which they were only released after expensive and annoying litigation and the payment of considerable sums in the way of costs or penalties. — Take another illustration of more recent date. It has of late years been customary for merchants and shippers on our northern lakes to buy and use for transporting grain large barges or hulks built in Canada, and as such constructions are not capable of moving or navigating except as they are towed, and are not provided with the usual appurtenances for navigation, they have not been regarded as subject to the provisions of our navigation laws relative to foreign vessels. During the summer of 1880, however, the collector of the port of Erie, Pa., on Lake Erie, called the attention of the treasury department to the circumstance that a certain barge, the William H. Vosburg, had been guilty of the heinous

offense of hoisting a sail on its apology for a mast—whether for the sake of avoiding a dangerous rock or a lee shore was not stated—and asked for instructions. The department promptly replied "that the only condition upon which that barge could continue to navigate those waters was to hoist her sails temporarily; any attempt to keep her canvas up beyond that would get her into trouble. Being Canadian built, she could not be enrolled, and, by consequence, the permanent use of sail upon her would entail forfeiture of cargoes and the payment of double tonnage tax at every port of arrival." "The official correspondence does not inform us what the result was, but it is safe to presume the little barge had to take down her little sail, as otherwise she would have been simply taxed out of existence, in accordance with the statutes in such cases made and provided."—In August, 1875, the Canadian yacht Oriole, of less than fifty tons burden, owned in Toronto, but belonging to the International yacht club and the yacht club of Detroit, arrived in Chicago from Toronto with a pleasure party of seven gentlemen for the purpose of participating, on invitation of the Chicago yacht club, in a regatta at the latter port, having previously made a tour of the lakes, stopping at various points of interest and taking on board, on several occasions, pleasure parties of ladies and gentlemen, who were entertained in part by transportation from port to port. On arrival at Chicago the Oriole was complained of to the treasury department as having violated the navigation laws of the United States, which forbid foreign vessels from participating in the coasting trade and from conveying passengers from one American port to another, and proceedings looking to seizure and confiscation were contemplated. This penalty the secretary of the treasury graciously remitted, inasmuch as there was evidently no intent on the part of the owner of the Oriole to violate the law; but owing to the absence of proper papers showing the nationality and occupation of the yacht, although these were well known, the privilege of exemption from tonnage taxes accorded by law to foreign pleasure yachts was not granted. The Chicago yacht club, therefore, paid on account of their guests, into the treasury of the United States, the sum of fifteen dollars, while the owners of the Oriole, not knowing what other legal difficulties they might encounter from a prolonged sojourn, slipped out of port in the early morning and returned home as soon as practicable. — We are accustomed, as we read of the sumptuary laws and arbitrary restrictions on commercial and personal freedom in years long past, to congratulate ourselves, as it were involuntarily, that we live on a higher and different plane, and that among nations calling themselves civilized and enlightened such things are no longer possible. It would be difficult, however, to find in any record of past experience more absurdities and iniquities than are embodied in the so-called navigation laws of the United States at present existing, and in the details of their administration during the last quarter of a century. And yet it was in respect to these same laws that a convention of one of the great political parties, held in Maine in August, 1877, unanimously resolved that "enacted in the infancy of the republic, they have proved their wisdom by long and varied experience. They embody the matured judgment of three generations of commercial men. Any radical change in these laws would be detrimental to the highest interests of American commerce and a damaging blow to the national independence of the country." In answer to the questions which must naturally here suggest themselves to every thoughtful mind, How is it that such laws can at this period of the nineteenth century be maintained and defended? and how happened it that a convention of presumably more than average intelligence could make public declaration of such nonsense and untruth as was embodied in the resolutions of the Maine convention above quoted? it may be said that upon no one public matter have the American people, until within a very recent period, been so little acquainted as in respect to our commercial laws and regulations. Scattered through statute enactments for over ninety years, and with court and treasury interpretations for the same period forming a part of the law and all of its administration, though not embodied in the statute, it has not been an easy matter for even those engaged in the business of law and lawmaking to know what the navigation laws actually were; and it is exceedingly doubtful whether in the convention referred to there was one single man that had any clear and definite knowledge of how these laws originated, what they embody, and what is the sphere of their influence. — *Repeal of British Navigation Laws.* It required a long time to induce even so much as a doubt in the minds of Englishmen, that such laws as her navigation code were not in every respect wise and expedient. Up to the year 1821, according to a report made to the British house of commons, "no fewer than two thousand laws" had been enacted at different periods for the protection, encouragement or regulation of British commerce, every one of which, according to the testimony of Buckle, "was an unmitigated evil." — Again, during the whole of the period of the existence of the British navigation laws, the predominant idea among British statesmen was, that commerce could not take care of itself, that it would decay under the influence of foreign competition, and that legislation—protective and interfering—was the essential thing to make it prosperous. Indeed, it was considered necessary that no parliament should go out of existence until it had enacted something pertaining to the regulation and encouragement of trade and commerce. "I pray you," said Charles II., in one of his speeches to parliament, "contrive any good short bills which may improve the industry of the nation; and so, God bless your councils." Mr. Ricardo, the celebrated economist and author, who wrote before the repeal of the navigation laws, in commenting

on this state of things, used the following language, which equally well applies to the existing situation in the United States: "All increase of shipping," he says, "they attributed to acts of parliament; none to increase of population and industry and wealth: according to them, all good is the result of restriction and protection, and only evil springs from enterprise and competition. Experience has taught them nothing; the word 'protection' has so mystified and deluded them that they are martyrs to it, and let it bind them down to inferiority and decay." "No one," says Mr. W. S. Lindsay, author of a recent work on merchant shipping, "can rise from a study of these laws without a feeling of amazement at the trouble our ancestors gave themselves to 'beggar their neighbors' under the erroneous impression which too long prevailed, that by their ruin our own prosperity would be most effectively achieved. It is therefore not surprising, that, under such legislative measures, maritime commerce was for centuries slow in growth, and that British merchants and ship owners frequently suffered quite as much through the instrumentality of laws meant for their protection as their foreign competitors against whom these regulations were leveled." — British legislators, in common with legislators of our own day and nation, were unwilling to learn, except by experience; but, after five centuries of experience in attempting to promote commerce and navigation by law, they began to realize that the general effect of such a policy was injurious, and not beneficial. This feeling first practically manifested itself in a motion in parliament, in 1847, by Mr. Ricardo, for the appointment of a committee to inquire into the operation and policy of the navigation laws; and, although strenuously opposed, the motion was adopted by a vote of 155 to 61. The committee thus created, owing to a termination of the session before they had concluded their labors, never reported; but the evidence taken by them, and placed on record, abundantly proved that these laws failed to secure superiority either in ships, officers or crews; that they failed to secure a supply of seamen for the navy; that they were prejudicial to both British foreign and colonial trade; that they caused the enactment by other countries of similar laws, framed, in part, for retaliation; and that they did not secure remunerative profits to the ship owner. One representative witness, deputed by an association of ship owners to appear before the committee, expressed the opinion that half the capital embarked in British shipping during the preceding twenty-five years had been entirely lost. — There was, moreover, a special stimulus acting on the British mind, at the time the reform movement commenced in 1849, in favor of a more liberal maritime policy. Ships were then built almost exclusively of wood. The United States could build cheaper and better ships than England, because the advantage in the material and skill for building was with them. And England, recognizing this fact, felt that the repeal of all restrictions in the way of the purchase by her citizens, of American ships, was one of the conditions essential to enable them to meet American competition on the ocean on anything like equal terms. By act of parliament, therefore, in 1849, all British navigation laws of a restrictive character, with the exception of such as pertained to the coasting trade, were repealed; and, in 1854, the British coasting trade also was thrown open, without restriction, to the participation of all nations. The reason why the British coasting trade was not also made free in 1849, the same as, and in connection with, British foreign trade, it is now well understood, was because of the unwillingness of the United States to make any reciprocal maritime concessions. — Although long discussed, and the end, to some extent, anticipated, this actual abrogation of the British navigation laws finally encountered great opposition throughout the kingdom; and predictions were freely indulged in by such men as Disraeli, Lord Brougham, Lord George Bentinck, and others, that henceforth "free trade in shipping would destroy the shipbuilding trade of Great Britain, ruin British ship owners, and drive British sailors into foreign vessels." In Liverpool, petitions to parliament against the repeal received 27,000 signatures, while a counter-petition received only 1 400 signatures. In London, the petitions against repeal received 23,000 signatures. Thomas Baring and other equally influential persons heading the list. Some leading British ship owners, seeing nothing but ruin before them, sold out their whole tonnage at the best price attainable in a depressed market, the moment that it became evident to them that all attempts to further perpetuate the navigation laws would be useless. In the house of commons, Mr. Disraeli concluded a long attack upon the first bill repealing the British navigation laws, in the following words, which would seem to have served as a model for nearly all the statesmen of the restrictive school in the United States from that time onward: "Will you, by the recollections of your past prosperity, by the memory of your still existing power, for the sake of the most magnificent colonial empire in the world, now drifting away amid the breakers, for the sake of the starving mechanics of Birmingham and Sheffield, by all the wrongs of a betrayed agriculture, by all the hopes of Ireland, will you not rather, by the vote we are now coming to, arrive at a decision which may to-morrow smooth the careworn countenance of British toil, give growth and energy to national labor, and at least afford hope to the tortured industry of a suffering people?" And he closed by sarcastically observing that "he would not sing 'Rule Britannia' for fear of distressing Mr. Cobden, but he did not think the house would encore 'Yankee Doodle.' He could not share the responsibility of endangering that empire which extended beyond the Americas and the farthest Ind, which was foreshadowed by the genius of Blake and consecrated by the blood of a Nelson—

the empire of the seas." Lord Stanley (afterward Earl Derby), in objecting to the proposal to admit a foreign-built ship to British registry, said, "It was essential to keep up the number and efficiency of our private building-yards, which would speedily decrease in number were such a proposal adopted." Admiral Martin testified before the select committee of the house of commons, "that if the abrogation of the navigation laws left the [British] ship owner at liberty to build his ships in foreign countries, and he availed himself of that license, it would inevitably diminish the shipwright class in this kingdom; yet on this class the safety of England greatly depended." Mr. Walpole, M. P., said that, "whatever gain might be reaped by individuals, the repeal of the navigation laws would imperil the safety of the country." Mr. Drummond, M. P., declared "the measure to be the last of a series invented by the Manchester school, the end and intention of which were to discharge all British laborers, and to employ foreign laborers in lieu of them—foreign sawyers instead of English sawyers, foreign shipwrights instead of English shipwrights, and so on through the whole category of employments." He added, "that if there was a satanic school of politics this was certainly it." The ship owners' society of London, in one of these appeals to parliament, after expressing the opinion that the maritime greatness of England depended upon the maintenance of the navigation laws, said, "that if these laws were abolished, 'Rule Britannia' would forever be expunged from our national songs, the glories of Duncan and Nelson would wither like the aspen leaf and fade like the Tyrian dye, and none but Yankees, Swedes, Danes and Norwegians could be found in our ports. Who would there be to fight our battles, and defend our sea-girt shores?" Lord Brougham also spoke of the laws that it was proposed to repeal, as having long been considered "not only as the foundation of our glory and the bulwark of our strength, but the protection of our very existence as a nation." But all of these appeals proved powerless to prevent the progress of reform, and common sense in the end triumphed by a majority of fifty-six in the commons and ten in the house of lords Sir Robert Peel, in closing the debate, met the predictions of disaster, so freely indulged in by the opponents of repeal, by showing that "the same outcry of ruin to the ship owner" had always been set up whenever any measure looking to the unshackling of ocean trade had previously been proposed; and adverted in particular to the circumstance that when in 1782, seventy years previous, it was proposed to admit Ireland to participation in the colonial trade, the ship owners of England prevented it on the ground that it threatened ruin to their interests, and that those of Liverpool, in a petition addressed to the house of commons, declared, "that if any such thing were permitted, Liverpool must be inevitably reduced to its original insignificance."—*Experience of British Shipping subsequent to the Repeal of the Navigation Laws.* Let us next inquire as to the results of the experience of this legislation, and how far the prophecies of doom indulged in by Disraeli, Brougham and Drummond were realized. From 1816 to 1840 the tonnage of the United Kingdom remained almost stationary, increasing during the period of twenty four years to the extent of only 80,118 tons. It began, however, to increase immediately and coincidently with the removal of British protective duties in 1842, and gained 444,436 tons between 1842 and 1849. After the repeal of the navigation laws it went up from 3,485,958 in 1849 to 3,662,344 in 1851; to 4,284,750 in 1854; to 4,806,826 in 1861; to 5,694,123 in 1871; and 6 574,513 in 1880.* But even this statement fails to convey a correct idea of the rapidity of growth which British commerce has experienced since the shackles for so many years imposed upon it by the navigation laws were removed; for, with the introduction of steam as a motive power for vessels, a very much larger amount of service is performed with a given amount of tonnage than formerly, thus continually diminishing the necessity for an absolutely large increase of tonnage. For a full understanding, therefore, of what has actually taken place, it is necessary to couple with the statement of the absolute increase of British tonnage a statement of the increase of tonnage entering or clearing the ports of the United Kingdom; which, comparing 1840 with 1880, has risen from 6,490 485 tons to 41,348,984 tons, an increase of over 500 per cent.—The statistics of the entries and clearances in the British foreign trade showed an increase in 1860 of 10,000,000 tons over 1850; 12,000,000 in 1870 over 1860; and 22,000,000 in 1880 over 1870. British steam tonnage increased two and a half times during the decade of 1850–60, more than trebled between 1860–70, and increased two and a half times again between 1870–80. "I am not acquainted with any national industry," says Mr John Glover, in a paper on "The Progress of Shipping," read before the statistical society of London, February, 1882, "of which such statements could be made on the authority of parliamentary returns." Wooden vessels, according to the same authority, are disappearing from the British register at the rate of about a thousand vessels each year. But, for every ton of effective carrying power thus lost, seven tons through replacement by steamers, it is estimated, are gained. Another curious fact showing the immense economy of steam, brought out by recent investigations, is, that the enormously increased work performed by the British commercial marine, in 1880, was performed by fewer hands than were employed in 1870. As has been already noted, the restrictions on the participation of foreign vessels in the coasting trade of Great Britain were not removed at the time of the repeal of the navigation laws in connection

* For the entire empire the aggregate of British tonnage is estimated at a much higher figure.

with foreign trade in 1849, but were continued until 1856. Much apprehension was even then felt at the possible effect of the removal of the last British barrier in the way of free ocean commerce; but experience soon showed that freedom was no less beneficial in the smaller sphere of its application than it had proved in the larger. The British coasting trade, as had been the case with the British foreign trade, immediately and largely increased under conditions of freedom; and while foreign vessels at once and for the first time came in and participated in it, the proportion of the total business transacted by British vessels eventually became greater than ever before, and the superiority once established has never been impaired.— Since Great Britain repealed her navigation laws in 1849, all maritime nations, except the United States, have either greatly modified the old time restrictions which they once imposed on the building and use of vessels, or abolished them altogether, Chinese and Japanese commercial exclusiveness having even yielded to the liberal spirit of the age. In the United States, however, the old laws, without material change, continue (1882) to hold their place upon the national statute book. International trade since their enactment has come to be carried on by entirely different methods. Ships are different, voyages are different, crews are different, men's habits of thought and methods of doing business are different, but the old, mean, arbitrary enactments which the last century devised to shackle commerce remain unchanged in the United States alone of all the nations, and, what is most singular of all, it is claimed to be the part of wisdom and the evidence of patriotism to uphold and defend them.— Those who oppose the repeal of the present navigation laws of the United States, on the ground (as they generally do) that it is necessary to maintain them in order to perfect American ship building, encourage commerce, promote national independence, and educate a large body of skillful seamen ready for any emergency, find themselves confronted with the disagreeable and undisputed facts, that under the influence of these very laws, our ship yards have become deserted, our ocean carrying trade has dwindled to insignificance, while an American sailor has come to be regarded almost in the light of a curiosity. In short, every end for which the navigation laws were originally instituted has been frustrated; and no result following their repeal could be any worse than what exists, or is certain to follow their continuance. Another result of the present state of things, which, if it has not already happened in a degree, is certainly to be apprehended, is the destruction, through the shutting out of free competition with foreign ship builders, of the inventive faculty of the nautical engineers and mechanics of the United States. American genius in days past has led the way in many great improvements in marine architecture; but with the decline of our ocean marine, the shutting up of our yards, and the continuance of antiquated, obstructive laws, we seem to offer no longer any incentive to either genius or enterprise in this direction. Bring back the ships, even by buying them abroad, and the repairs of a large merchant marine on this side of the Atlantic, which can not be avoided, will afford more employment to labor, and require the use of more capital, than ship building in the United States now does or ever can under the existing system. The United States must be a large ship-using, before it can be a large ship-building, nation.

DAVID A. WELLS.

NAVY. Although the word navy is applied indifferently so as to include not only vessels of war but also vessels of commerce, the merchant navy, in this article its meaning will be confined to the means of defense by sea, or vessels of war. A nation that possesses an extensive and flourishing commerce must possess a naval force that shall be adequate to protect it in case of war against the depredations of hostile nations. Again, colonies, as a rule, possess no extensive means of defense against the depredations of other nations, but depend for protection upon the mother country, and this entails the necessity of maintaining a navy upon the latter. And this necessity becomes stronger in proportion as the nation may be contiguous to other nations with which questions of state policy and the entanglements of diplomacy, of alliances and agreements, are liable to arise. Thus, England and France are, from their geographical positions, which bring them into close and opposing relations with one another, compelled to keep up naval forces, and forces that shall be as nearly as possible equal in strength and efficiency. Moreover, their commercial interests often clash, and they have from time to time entered into alliances with one another, which, depending upon the condition of the people of third countries over which they exercise a sort of joint protectorate, are liable to be broken, and to become a cause of war. Thus, the European nations, or at least such of them as have seacoasts, are, from their geographical positions, their political relations, and the identity of their commercial interests, forced to maintain a navy of sufficient strength to protect their rights and enforce an observance of them from other nations. The maintenance of the navy among these nations is one of the most important items of expenditure, and presents in this respect a curious contrast with the policy pursued in the United States. This country is in the neighborhood of no nation that could muster a sufficient naval force to do her great damage without being speedily crushed; and the expense attending the transfer of an extensive armament from European to American waters, together with the immense odds that would in a short time be brought against such a force if actually transferred, are securities against the making of such an attempt. That it has been done, is not to say that it will again be

done, for within the last twenty years naval warfare has undergone such a change as to make the methods used up to the rebellion as much out of date as the naval methods employed by the English against the Dutch in the seventeenth century. It is true that the many islands near our coast could be made centres of action, from which a predatory warfare could be carried on against the shipping of this country, and even descents could be made upon the coast. But this event is too remote to be seriously considered. Another advantage that this nation possesses, in addition to being the most powerful nation on the continent, is the fact that there are no alliances with European nations which could draw her into war should such a war be precipitated among European nations. The policy of not entering into alliances that could bring about such a result has become a recognized principle of our foreign policy, and experience has shown that a great part of the peace and general prosperity which has been enjoyed by this nation is due to a consistent adherence to this policy, and that while Europe may be convulsed by war, this country may, through her commerce even, gain by a policy of strict neutrality, only such measures being taken as are necessary to insure the safety of the merchant marine. Moreover, it has no colonies to protect, and, at present, not an extensive commerce with semi-barbarous people to maintain, and, if necessary, defend. It would appear as if this policy of non-interference with the affairs of other nations can not be longer maintained, but circumstances will compel the United States to enter into such political relations with weaker nations, in order to protect her own interests, as will prove fruitful sources of complication and even war. The rise of many nations of South America, with which in the near future an extensive and valuable commerce must be maintained, and such questions as are involved in the construction of a canal across the isthmus, affecting, as they do, the interests not of one but of many nations, must in time give rise to questions of public policy and of international commercial relations which this country can not afford to ignore. And when such conditions do come to pass, a navy will become as essential to the United States as it is to England, France or Italy. Nor is it pretended that a navy depends for its existence upon political reasons. If in the past the freedom from such complications has lulled the country into a sense of security, and but little attention has been paid to the formation and maintenance of a navy, that is no reason for a continuance of such a policy, or a defense of the former lack of such a weapon of defense, a deficiency that has been a source of much humiliation. At the time of writing [1882] this nation stands alone among great nations in having no naval force that could for one moment contend against the modern systems of constructing and arming war vessels.— But a navy is not the product of a day. It is a matter of slow growth, and in times of peace such a naval establishment must be maintained as will form a nucleus for a naval force in actual war. Nor need such a force remain idle. It carries and displays the nation's flag in foreign waters, and lends a moral, or, when necessary, an active, support to its ministers stationed at foreign courts, and its merchants in foreign countries; it may be usefully engaged in expeditions for scientific purposes, as the Japan expedition, the explorations in the Pacific ocean, and the Arctic expedition It maintains and keeps in active service a body of trained men who may form an efficient force when called into active service The navy has thus its uses in peace as well as in war, and the main question to be determined is, what force is sufficient for a peace establishment? The answer to this question must depend greatly upon the situation of the country, as has been noted above, and upon the condition of the people. A navy presupposes an advanced state of material prosperity, for it is a costly instrument. Moreover, a navy will be of greater vitality in proportion to the extent and value of a nation's commerce; and, other things being equal, those nations possessing the largest commerce will also have the most powerful fleets. But it does not follow that a navy should be proportioned in size to the merchant marine. Thus, at the outbreak of the rebellion the United States navy had in commission but forty-two vessels—a very inadequate force when the extent of its commerce is considered, and when its merchant vessels had engrossed a large share of the carrying trade of the world, which was much more liable to interference than at present. The value of an extensive merchant marine in furnishing the materials for a navy was clearly shown in the war of 1812 and the rebellion. The material strength of a navy consists in ships, engines and guns; but these would be useless without that which will give to them vitality, viz., a flourishing mercantile marine. But while a navy is a matter of government concern, a merchant marine depends upon the people, upon the general economic condition of the nation, and to place restrictions on the growth and extension of commerce, or to seek to foster it by bounties and subventions, does not assist in the formation of a navy, but is a costly and clumsy attempt to produce by artificial means what should be brought about by natural causes, and what would reach a high stage of development were there no interference with natural conditions. To favor large expenditures on the navy and yet prevent the development of a merchant marine, which must be depended on for the raw material of the navy, is to do exactly what should not be done, and any attempt to force into existence and maintain a navy under such conditions, would in the end prove a futile and costly experiment. Nor is it a sufficient reply to this, to urge that with the great changes in the methods of a navy, it has become less a matter of seamanship than of engineering, and that the merchant marine affords very little opportunity for acquiring such training as is re-

quired. However true this may be within certain limits, yet the most advanced navy can not afford to dispense with a certain class of vessels, fleet cruisers, for which a merchant marine can furnish not only men but vessels. — Moreover, the navy is in a state of transition, of perpetual change and advance, not only as respects the form of the vessel and material used in its construction, but also in the manner of protecting and arming it. It is difficult to fully realize how rapid have been the changes in this particular within a very short time. The old wooden ships of the line, which were propelled wholly by sail, and armed by guns of the most insignificant power and range when compared with the ordnance of to-day, have almost disappeared under the advances that have been made in engineering science. Yet these vessels were used up to 1861, the year of the rebellion, in this country, and they were employed to some extent in the operations of that war. The introduction of steam as a means of propulsion prepared the way for great changes in construction, although in itself it modified but slightly the form of the vessel. But however fitted for merchant vessels, it was at first seriously questioned whether steam could be used in war vessels, first, on account of the expense and the great amount of coal that must needs be carried for long voyages, and secondly, on account of the ease with which boiler and machinery could be injured by the shots of the enemy. Instead of decreasing the risk and danger of naval warfare, it was claimed that they were increased and the vessel was more vulnerable than before. But when put to the test all doubts were removed, and it was seen that a new and immense power was gained, which no longer compelled a vessel to depend upon such uncertain agents as wind and current, but by which it could be easily and successfully manœuvred under any conditions. So rapidly did steam make its way that in 1858 the sail vessel, for purposes of war, was regarded as obsolete, and the last sailing vessel built for the American navy was the Constitution, which was commenced in 1853 and completed in 1855. Moreover, this change in the means of propulsion was succeeded by a revolution in the manner of constructing war vessels, although a number of years elapsed before such a revolution became a settled fact. To protect the vitals of a ship it was coated with iron armor, and this idea of protection by iron or steel plates has been extended and developed, and vessels of that description, however different in the details of construction from the originals, now constitute a very important element in every navy that is worthy of the name. — It has justly been said that during the rebellion the United States reformed the whole system of naval warfare twice; first, in respect to the construction of ships, and secondly, in respect to the construction of ordnance. The greatest advance in naval construction was made in the monitor class of vessels, in which it was sought to expose as small a surface as possible to the guns of the enemy, to concentrate the armor on certain parts of the vessel where it is most exposed to injury, and to reduce the armament to a small number of guns, or even a single gun, whose great power and efficiency enables it to do more damage than could be accomplished by a broadside of the old vessels. These guns, instead of being placed on the sides of the vessel, which would be impracticable on account of the height of the vessel and weight of the metal, are placed so as to be parallel with the keel, and are therefore supported by the whole buoyant force of the vessel. The monitor class of vessels is an American invention, although it has reached its highest development among European nations; and although ridiculed and opposed when first proposed, yet its merits were quickly recognized when its powers were first tested in the contest between the Monitor and the Merrimac. — Every advance in armor has developed a corresponding advance in the form and force of attack, and the contest is still going on. The armor of the "Warrior" class of vessels, the most powerful vessel afloat in 1860, was composed of iron of four and one-half inches in thickness. To resist the most powerful guns of the present day armor of at least two feet in thickness is required, and some vessels in the present navy of Italy bear armor thirty inches in thickness, and they carry the heaviest guns yet manufactured. In order to reconcile the constantly increasing thickness of armor with the weight which the vessel is capable of bearing, it has become necessary to restrict the area of armor surface to ever narrowing limits. The object is to protect rather than to armor, and to expose such parts of the vessel as are not of vital importance, in order to gain in speed and protect certain parts, a process which involves the massing of the thickest armor in vital points. Thus, in the large iron vessels which the Italians are now building, the armor is withdrawn from every part except the battery, and even there the armor will be confined to a narrow belt of great thickness. Everything of importance that can be injured by projectiles will be kept below the water level, and the ships will be secured from sinking by means of an under-water deck and ample division into compartments. The active duties of a powerful ironclad are extremely limited, and the effective strength of a navy will doubtless hereafter lie in its fleet cruisers for offensive, and in its ironclads for defensive, purposes. Moreover, a most dangerous weapon for use against these ironclads lies in the torpedo, for it is from under the water that an ironclad can be attacked with greatest effect. Yet steps are being taken to render almost harmless such attacks. Thus, the vessel is divided into a large number of compartments, so that the injury may be localized; and a still further advantage is gained by filling such compartments with cork, which will add to the buoyancy of the vessel, or with coal, so that when the water rushes in it will find the space

already occupied by what already forms a part of the weight of the vessel. These changes have also tended to equalize the naval power of the more powerful nations. Sir William Armstrong, one of the best authorities on this subject, says: "So long as naval superiority depended upon seamanship and an unlimited supply of sailors, no nation or combination of nations could compete with us; but as soon as it became established that fighting ships could be manœuvred with more certainty and precision by the power of steam than by the power of wind, a revolution began which has gradually made naval warfare a matter of engineering rather than of seamanship. The introduction of rifled ordnance and percussion was the second step in this revolution, and had the effect of condemning as useless the whole fleet of wooden ships with which all our victories had been won, and which were the pride of the nation. Then commenced that contest between armor and guns which has gone on to this day, and has not yet been decided." — In vessels intended for long cruises on the ocean, the tendency is to strip off the heavy armor, and to go back to the old conditions, but with this important modification, that the vital parts of the fighting machine are well protected, so that they can not be disabled by a single shot or shell. The most vulnerable point to a great nation lies in its mercantile marine, and it is here that the greatest damage to its interests can be done in the shortest space of time. Moreover, the physical nature of the sea tends to render it easy to strike a blow by the capture or destruction of merchant vessels The wind and current charts explain what is now sufficiently well known, that the merchant ships follow very definite routes across the ocean, and that these routes converge on certain limited areas which have been called "crossings." "Thus every sailing vessel from Europe to the West Indies or to the United States, every ship from the United States or Canada bound to the eastward round the cape of Good Hope, or to the westward round Cape Horn, and every ship homeward bound from these distant stations either to Europe or to the states, necessarily passes through a position in the North Atlantic, approximately fixed by latitude 23° N., longitude 40° W. Or again every European or American ship, whether outward or homeward bound, that crosses the equator, does so in about longitude 26° W." It must stand to reason that in any future war these "crossings" will form most important strategic points. But in order to pursue with any success these merchant vessels, armed vessels of equal speed must be used, and a vessel loaded with armor can not accomplish this. So that a navy should contain a certain number of vessels of high speed, carrying as little unnecessary weight as is essential to its effective action. The same object may be attained by other means. Thus, in England certain advantages are offered to ship owners building their steamers subject to definite conditions in respect to strength and subdivision by which they may be better adapted for war. It was recently stated that the British admiralty has a list of upward of 200 ships, all of which had complied with the conditions of the department so far as construction is concerned. The value of this force, as auxiliary to the regular navy, can hardly be over-estimated. In 1861 this country occupied the same relative position, having an immense mercantile navy from which to obtain such vessels as were needed, and it was due to this fact alone that the blockade of the southern coast was so promptly begun, and so effectively maintained. — The policy of maintaining a navy is no longer a matter of doubt A powerful navy exerts a great moral power, and a nation without one is more open to attack from its neighbors, and particularly if advanced in material welfare, because it becomes an object worth plundering. It is ill-advised economy to stint appropriations for a navy, because in a very short space of time great loss could be inflicted upon commerce, which might have been averted had it been known that a naval force could be at once sent out to protect the national interests. Still, immense sums have been wasted in experiments in construction and armaments, which are no sooner proved of value than they are superseded by new and improved processes In existing circumstances it would be difficult to say what policy should be adopted with regard to a navy, for the changes are succeeding one another with great rapidity, and the end does not as yet appear. It may, however, be said that for some time ironclad fighting vessels or rams, and torpedoes, will be used for coast defense, and the latter particularly on coasts with shallow inlets, as on the eastern coast of the United States; and a number of fleet cruisers for offensive purposes. A navy, even of such a character, is a costly instrument; but, if efficient, will prove a profitable investment. Moreover, it is true economy to construct such a navy in time of peace when conditions are favorable. Such a policy also tends to keep in active employment skilled labor, which is becoming more and more essential as the character of the navy changes. To be ready for war is to be secure in peace, and the main object to be attained is to prepare a force that may be called into service without having to maintain a large and expensive establishment. — The history of the navy of the United States is at once curious and instructive. So long as the colonies remained loyal to the mother country no navy was formed or maintained, because they naturally looked to England for the protection of their commercial interests, and the prestige of the British navy was at that time such as to secure the colonies from the depredations of a hostile nation. So that at the outbreak of the revolution this country possessed no navy, and but little experience in the requirements of such a means of defense During the war no serious attempt was made to build a navy that could cope with English vessels, and resistance on the sea was con-

fined to spasmodic efforts called forth when the circumstances were pressing. Yet by the articles of confederation the power to build and equip a navy was vested in the United States in congress assembled, and the states were prohibited to keep war vessels in time of peace, except such number only as shall be deemed necessary, by the United States in congress assembled, for the defense of such states and their trade. This grant of power was not confined to a time of war, for, as Hamilton pointed out, were the means of defense to be given to the Union only in time of war, and to the states in time of peace, the Union "would be obliged to create, at the moment it would have occasion to employ, a fleet." But so powerless was the confederacy that little was done, as will be shown, under this liberal grant of power, and the contest against the British navy was chiefly carried on by private vessels, manned with patriot volunteers, and armed as circumstances would allow. In the fall of 1775 the attention of congress was called to this subject, but before any action was taken on its part, Washington had fitted out five or six armed vessels at Boston, and these were cruising on the New England coast as privateers. The states also took action, and in November of that year the government of Massachusetts established a board of admiralty, an example that was followed by other states. Congress had, however, already appointed a committee of three to direct naval affairs, consisting of Silas Deane, John Langdon and Christopher Gadsden, and resolved that "a swift-sailing vessel, to carry ten carriage guns, and a proportionate number of swivels, with eighty men," and another of fourteen guns and a proportionate number of swivels and men, should be fitted out and sent out to intercept British transports carrying munitions of war to Canada and Boston. On the 30th of October two more vessels were ordered, and the naval committee was increased to six members, a number that was still further increased to thirteen, and consisted of one member from each colony, to be appointed by ballot. The powers of this "marine committee" were not, however, such as to insure an efficient naval administration. It possessed little executive power, and, like a committee of congress, only examined naval subjects and reported thereon to congress. The committee appointed all officers below the rank of third lieutenant, and had the general control, under the immediate sanction of congress, of all naval operations. So little satisfaction did their work give, that congress, in November, 1786, selected three persons well skilled in maritime affairs to execute the business of the navy, under the direction of the "marine committee," to be known as the "continental navy board, or board of assistants to the marine committee." This remained in active operation until 1799, when a "board of admiralty," consisting of three commissioners not members of congress, and two members of congress, was established, the action of which was to be subject, in all cases, to the control of congress. Two years later a general "agent of marine" was appointed, with authority to "direct, fit out, equip and employ the ships and vessels of war of the United States, under such instructions as he should from time to time receive from congress," and Robert Morris was the first agent. During the war, congress authorized the purchase, construction or fitting out of between thirty and forty vessels; but the largest naval force at the command of congress was in 1776, and was composed of five frigates of thirty-two guns, twelve vessels of from twenty-four to twenty-eight guns, and eight mounting from ten to sixteen guns. Of the vessels authorized to be constructed, three were of seventy-four guns. This force, however, was not engaged in open warfare with the British fleet, but, in connection with privateers, was engaged in intercepting the supplies of the enemy, and great damage was thus done. It has been estimated that the number of captures made during the war, apart from those retaken or lost, was 650, the value of which was about $11,000,000. Almon's "Remembrancer" states that in 1776, 342 British vessels fell into the hands of the Americans; of which forty-four were recaptured and four were burned. In the following year the British lost 467 merchant vessels, although a force of seventy war vessels had been maintained on the American coast to protect the merchant marine of England. In 1777 congress directed that the building of ships of war should be suspended, in consequence of the high prices of all materials of construction, and from that time the navy rapidly decreased. The alliance with France in 1778 rendered less necessary a marine, and that country furnished a naval force which rendered material assistance to the land forces in the contest. In August, 1780, a committee of congress reported that only four vessels of war could be equipped that season, and in the following year, by the capture of the Trumbull, the American naval force was reduced to two frigates, the Alliance and the Deane; when the war was terminated, the United States had no navy, and the very few armed vessels they then had were ordered to be sold, and the same was done in the case of the Alliance. As showing how small must have been the naval force in 1784, there were appropriated in that year for the marine department but $30,000.— Peace, however, did not bring freedom from the fear of war. Florida was in hostile hands, and the navigation of the Mississippi had already become a matter of controversy. The provisions of the treaty with England remained unfulfilled and were likely to create new complications that might involve another war. The clear mind of Hamilton saw the necessity of making preparations for any emergency that might occur, and he recognized the fact that a navy must be formed in time of peace, but the strongest pressure came from the Barbary powers, which commenced hostilities against the United States by depredations on their commerce, and openly declared war. The commerce of this na-

tion in the Mediterranean was interrupted, and there was no naval force of sufficient strength to protect it from insult and depredations, a fact that only increased the daring of the Algerine pirates. But not until 1794, after the Portuguese government had concluded a truce with the regency of Algiers and withdrawn its fleets, thus removing the little protection it afforded, were measures taken by congress to create a navy, and then it was no policy for a permanent but for a temporary navy. In January, 1794, the house of representatives resolved "that a naval force, adequate to the protection of the commerce of the United States against the Algerine corsairs, ought to be provided," and six frigates were authorized to be built; but the act provided that in the event of peace no further proceedings should be taken by virtue of said act. In 1796 peace was made and the house authorized the completion of three of the frigates, and the sale of all materials not necessary to their completion. — In his speech to congress in 1796, referring to the depredations of the English and French on the merchant vessels of this country, President Washington gave the first distinct recommendation by the executive of a permanent naval policy. "To an active external commerce the protection of a naval force is indispensable. This is manifest of wars to which a state itself is a party. But besides this, it is in our own experience, that the most sincere neutrality is not a sufficient guard against the depredations of nations at war. To secure respect to a neutral flag, requires a naval force organized and ready to vindicate it from insult or aggression. This may even prevent the necessity of going to war, by discouraging belligerents from committing such violations of the rights of the neutral party as may, first or last, leave no other option. From the best information I have been able to obtain, it would seem as if our trade to the Mediterranean, without a protecting force, will always be insecure, and our citizens exposed to the calamities from which numbers of them have just been relieved. These considerations invite the United States to look to the means, and to set about the gradual creation of a navy. Will it not then be advisable to begin without delay to provide and lay up the materials for building and equipping of ships of war, and to proceed in the work by degrees, in proportion as our resources shall render it practicable without inconvenience, so that a future war of Europe may not find our commerce in the same unprotected state in which it was found by the present?" — President Adams, in his message of 1797, insisted upon the necessity of creating some naval force; and in the following year additions to the navy, by purchase, hire or construction, were authorized, and a further change was made in the organization of the marine department. An additional branch of the executive was formed, to be under the management of a secretary of the navy, who executed the orders of the president concerning the procurement of naval stores and materials, and the construction, armament and employment of vessels of war. This organization continued for seventeen years, when it was interrupted by the appointment of a board of commissioners composed of captains. This latter board was abolished in 1842, when the organization of the navy department into five bureaus was created, and on the outbreak of the rebellion its powers and duties were increased, and the number of bureaus increased to eight, as it remains to-day. — It would be unnecessary as well as tedious to trace step by step the number of measures adopted for creating a navy between the close of the revolution and the war of 1812 The threatening attitude of France gave a stimulus to naval construction, but with peace all materials and vessels were sold, with the exception of some of the larger ships of war. Docks for the repair of public vessels were built, and growing timber suitable for the navy was purchased in large quantities. Yet it was an accepted policy of the republican party not to prepare for war in time of peace, and the expenditures upon the navy were not of such amount as was justified by the relations then existing between this country and European nations, and the appropriations that were made were spent in building a large number of useless vessels called gunboats. The Barbary powers were forced to respect the American flag, but against the impressment of American sailors by British vessels of war only diplomatic representations were made. The active preparations for meeting the French came to naught, as only two actions worthy of note were fought. It was not until 1812 that the question of maintaining a permanent naval force was seriously considered, and from that year may be dated the beginning of a naval establishment in this country. Yet the measure met with great opposition. It was maintained that agriculture was the great interest of the country, and that the commerce of the Union was not of such importance as to justify large expenditures for its protection. The protection of commerce would, it was said, cost more than the object was worth, and therefore should not be granted. But Mr. Cheves, the chairman of the committee of naval affairs in the twelfth congress, carried through the necessary legislation, and the careful report of the committee marks an important point in the history of the navy At that time the navy had but three frigates of the first class, viz., the President, the United States, and the Constitution; and seven of the second class, two of which were in such condition as to be condemned, and the remaining five in need of extensive repairs. In March, 1812, three other frigates were put into actual service, and the sum of $200,000 annually was for three years appropriated toward the purchase of timber for ship-building and other naval purposes. In July, 1812, when war against Great Britain was declared, the United States had but one vessel on Lake Erie, and that one was not launched until the following month, nor was there a larger force on Lake Ontario. Active preparations were made to sup-

ply the deficiency of vessels both on the ocean and on the lakes, and the force that was so created was efficient as against the British navy, thus showing that this country possessed in a high degree the elements of a navy. In 1815 all construction was stopped, and all vessels on the lakes, save such as were necessary to enforce the revenue laws, were ordered to be dismantled and sold. A navy had now become a part of the settled policy of the country, and a measure to maintain it found an earnest support. In 1816 one million of dollars, annually for eight years, were appropriated for the gradual increase of the navy, a sum that proved to be more than sufficient for the intended objects, and was not entirely expended before 1827; and in 1817, in order to insure a sufficient supply of ship timber in future, the secretary of the navy was directed to cause the vacant lands to be explored, and to select and survey such tracts as should be found to produce live oak and red cedar, which were to be reserved from future sales, and appropriated for the sole purpose of supplying timber for the navy. Soon after, the vessels that were as yet uncompleted and on the stocks were boarded over to protect them from the elements, and the navy was reduced to a peace footing. No occasion for a naval force occurred between the war of 1812 and the rebellion. A small force was in the meantime maintained, and was used for protecting the persons and property of American citizens in foreign countries, in suppressing the slave trade, and in scientific expeditions. In the war with Mexico the navy was employed merely as a blockading force, and there was no naval force to contend with. — The rebellion found the navy in a very decrepit state. The whole number of vessels in commission was forty-two, of which only twenty-six employed steam as an auxiliary motive power; of the remaining sixteen all were sailing vessels and three were store ships. March 4, 1861, the home squadron, so called, consisted of twelve vessels, of which only four, carrying in all twenty-five guns and 280 men, were in northern ports. The difficulties that beset the government were such as to create grave doubts on its ability successfully to overcome them. Not only were the vessels at hand few in number and weak in armament, but the navy lost large numbers of its trained men and skilled officers when they were most needed. During the first four months of the rebellion upward of 250 officers resigned their commissions or were dismissed from the service, and a good number of these carried their knowledge and experience of naval matters to the opposing force. From an ill-advised economy on the part of the government, which had been especially marked since the financial panic of 1857, there was little material at the navy yards with which new vessels could be constructed and equipped; and the southern navy yards, together with whatever vessels and stores were in them, were seized by the insurgents. The loss of the Norfolk yard, which was the best equipped yard in the country, was a severe blow to the government. And turning from an examination of this poverty of resources to a consideration of what was expected of the navy, only serves to illustrate with greater clearness the great activity displayed in forming the navy with which the war was carried on. An effective blockade, that is, one that would prevent access to the blockaded country, was to be maintained from Alexandria in Virginia to the Rio Grande, a distance of 3,549 statute miles, with 189 harbor or river openings or indentations, much of the coast presenting a double shore to be guarded. In addition to this task an effective force of vessels must be maintained on the rivers, notably the Mississippi, cutting off supplies and co-operating with the army. Later on, there was great need of fleet cruisers to patrol the ocean in search of rebel ships which were preying on the commercial marine of the country. Measures were at once taken to meet the crisis, and the results prove how readily a mercantile marine could be used for naval purposes under the methods then in vogue. Before the close of November, 1861, 136 vessels had been added to the navy, of which seventy-nine were steamers; fifty-two vessels were ordered to be constructed, all to be propelled by steam; eighteen vessels of the old navy were repaired and put in commission; and twenty vessels returned from foreign stations. So that, while at the beginning of 1861 the government had at its command and within reach of its orders but four vessels of the navy, at the close of November, 1861, it counted in its possession upward of 226 vessels. Congress also authorized the appointment of a board of three skilled naval officers to investigate the plans and specifications that may be submitted for the construction of ironclad steamships or floating steam batteries. There had up to this time been no experience in the construction of such armored vessels, and there was little knowledge on the subject. The most efficient vessels of this class belonged at that time to the British navy and were protected by an armor four and one-half inches in thickness, backed up with wood, and this was assumed by the committee to be the heaviest armor that a sea-going vessel could safely carry. Among the plans submitted to the committee was one for a novel floating battery from J. Ericsson, of New York, which was destined to work a revolution in the construction of armored vessels. The committee recommended that one battery of the description be built, and early in March the Monitor left New York, and, sailing to Hampton Roads, soon proved that a new and powerful naval engine was created, for it defeated what was one of the most formidable vessels afloat, the Merrimac. The entire class of monitor or turreted vessels was brought into existence during the war, and in three years after the outbreak of the war the navy had become exclusively a steam navy. The change from wood to iron as the material of construction, and from sail to steam as a means of

propulsion, rendered almost useless the existing machinery in the government yards which were intended for the construction and repair of wooden sailing vessels, and there was neither the machinery nor the acquired skill and experience among the laborers that was essential to the construction of iron vessels. The government was compelled to rely mainly upon private ship-builders not only for the ships but for machinery. The secretary of the navy repeatedly urged upon congress the necessity of establishing a yard for constructing iron vessels and machinery, and this necessity became more pressing as the armor-plating became heavier and the machinery more generally employed in vessels by which repairs were essential to keeping them in perfect order. "Our country," wrote Mr. Welles in his report for 1864, "whose strength and power must ever be identified with and maintained by its navy, and which possesses in such abundance the means of creating and sustaining one, has not, in all the navy yards combined, the appliances possessed by single establishments in England and France. Were there outside of our navy yards establishments to perform promptly the requisite work in time of war, I should not at this time again press the subject of a navy yard for iron work for the construction of iron vessels upon the consideration of our authorities But although the department has generally been ably and zealously seconded in its efforts by private contractors, yet the fact that there is no customer but the government for much of this heavy class of iron work, forbids us to expect that individual enterprise will be prepared to execute it without full remuneration for all the outlay for shops, tools and machinery which may be required in preparation. The government has not even at this time an establishment where a shaft can be made for our steamers or a plate for our ironclads." — The rapidity with which a navy was formed, notwithstanding the many difficulties to be overcome, was beyond parallel in the history of any nation. Starting in the beginning of 1861, as has been shown, with but forty-two vessels in commission, at the close of the year the navy counted 226 vessels. In 1862 163 vessels were added, exclusive of all that were lost, making the full navy consist of 427 vessels, carring 3,268 guns, and having a total tonnage of 340,036. In 1863 the navy was still further increased by 161 vessels, over and above all that had been lost by capture, shipwreck or fire, making a total navy of 588 vessels, carrying 4,443 guns, and possessing a tonnage of 467,967. As showing the nature of the vessels in the navy, attention may be called to the following table:

Ironclad steamers, coast service	46
Ironclad steamers, inland service	29
Side-wheel steamers	203
Screw steamers	198
Sailing vessels	112
Total	588

In 1854, 109 vessels were added, and the navy consisted of 671 vessels in all, of a tonnage of 510,396, and carrying 4,610 guns. As the war was ended early in 1865, the further increase was not marked. Nor was the growth confined to vessels. "From 7,600 men in service at the commencement of the rebellion, the number was increased to 51,500 at its close. In addition to these, the aggregate of artisans and laborers employed in the navy yards was 16,880, instead of 3,844 previously in the pay of the government. This is exclusive of those employed in the private ship yards and establishments, under contracts, constituting an almost equal number." Between March 4, 1861, and the beginning of 1865, 418 vessels were purchased, of which 313 were steamers, at a cost of $18,366,681, and of these there were sold 340 vessels, for which the government received $5,621,800. These figures clearly show the wonderful success that was experienced in creating a navy in a very short space of time. — Another circumstance should be noted. As has been said, in 1816 certain tracts of timber were set apart for the purposes of the navy, and these lands were scattered through the states of Florida, Georgia, Mississippi and Louisiana. They were under the care of agents, who were to protect them from depredations. These agencies were continued at considerable expense, until the beginning of the rebellion, when they were discontinued, and were not revived on the advent of peace. "It is not known that any timber has ever been procured from these lands for the government, but so far as ascertained, every stick of live oak which has been used by the navy has been purchased, and there is little doubt that much of it was cut and taken from the timber reservations which had for years been protected by government agents, at great annual expense. Since the restoration of peace, ineffectual search has been made for the maps and papers relating to these lands, but they have not yet been found. Whether they have been misplaced or were abstracted by those who had access to and charge of them, but who fled south at the commencement of the rebellion, can not be stated. Some difficulty may be experienced in ascertaining the quantity and precise locality of these reservations; but, from what has taken place, it is evident that the policy of timber reservations with salaried agents to protect them is a costly failure, and should be abandoned. The government has experienced no inconvenience in procuring ship timber from private parties, nor is it apprehended that any embarrassment will occur from that source in the immediate future." — With the close of the war, measures were at once taken to reduce the navy; the squadrons were diminished in size, and the long line of block ading vessels were withdrawn, a large number being sold. So far as was practicable further work on vessels in process of construction was stopped, and every effort was made to contract the naval force within the limits of a peace establishment. In December, 1866, the total number

of vessels in the navy was 278, of which but 115 were in commission and on active duty on the foreign squadrons which were re-established. From this point the history of the navy presents but few points of interest. Large sums were annually spent on it, but it was so spent as to preserve what vessels already existed, and no attempt was made to keep up with the great improvements that have been made in the construction and armaments of vessels of war. Still the navy, such as it is, has been employed in cruising on foreign stations, affording aid and protection to American interests whenever required, in various expeditions of scientific inquiry, such as sounding and mapping the ocean, studying the currents, attending astronomical parties, etc., etc. — In 1881 it was recognized that if this country was to rank among the great maritime powers of the world, it would be necessary to increase the number and efficiency of the vessels of the navy, which had by that time become wholly inadequate either for offense or defense. Thus, on Jan. 1, 1882, the navy comprised 140 vessels, the nature of which may be judged of from the following table:

Steam vessels—		
First rates		13
Second rates		20
Third rates		27
Fourth rates, including two torpedo boats		8—68
Sailing vessels—		
Second rates	4	
Third rates, first class	6	
Third rates, second class	8	
Fourth rates	5	—23
Ironclads		24
Tugs		25
Total		140

But of this total of 140 vessels forty-two represented no naval power whatever, and could be employed for no purpose whatever, and fifteen were navy yard tugs, which are not serviceable for war purposes, and should be regarded as tools, part of the plant of the navy. This reduced the number of vessels capable of service to eighty-three. But further reductions must be made before the full force of the navy can be reached. Of these eighty-three vessels, fourteen are old sailing vessels, constructed on patterns long obsolete and armed on a system long since abandoned, and five are on the stocks in private yards, with the question of their fate still undecided; eleven steam vessels are of very doubtful use to the service, and could be of little value in the event of war, and fourteen are of the single turreted monitor class, which are not suited for cruising purposes but might be available for harbor defense, although they are defective as regards armament, all being armed with smooth-bore guns of large calibre, but of short range and small power. This reduces the number to thirty-nine vessels, from which, however, the ill-fated Rodgers must be deducted, leaving a grand total of but thirty-eight vessels. The secretary of the navy, in his report for 1881, sounded the note of alarm as follows: "The condition of the navy imperatively demands the prompt and earnest attention of congress. Unless some action be had in its behalf it must soon dwindle into insignificance." In July, 1881, an advisory board was constituted to report upon the best method of reconstructing the navy, upon the number and description of vessels that would be requisite to place the navy in a position to defend the commerce and ports of the country in case of war. The recommendations of the committee are worth giving in full, because they show the radical changes in the class of vessels needed, and in the great cost as compared with the cost of the vessels purchased during the rebellion: "Two first-rate steel, double-decked, unarmored cruisers, having a displacement of about 5,873 tons, an average sea speed of fifteen knots, and a battery of four eight-inch and twenty-one six-inch guns. Six first-rate steel, double-decked, unarmored cruisers, having a displacement of about 4,560 tons, an average sea speed of fourteen knots, and a battery of four eight-inch and fifteen six-inch guns. Ten second-rate steel, single-decked, unarmored cruisers, having a displacement of about 3,043 tons, an average sea speed of thirteen knots, and a battery of twelve six-inch guns. Twenty fourth-rate wooden cruisers, having a displacement of about 793 tons, an average sea speed of ten knots, and a battery of one six inch and two sixty-pounders. Five steel rams, of about 2,000 tons displacement, and an average sea speed of thirteen knots. Five torpedo gunboats, of about 450 tons displacement, a maximum sea speed of not less than thirteen knots, and one heavy-powered rifled gun. Ten cruising torpedo-boats, about 100 feet long, and having a maximum speed of not less than twenty-one knots per hour. Ten harbor torpedo-boats, about seventy feet long, and having a maximum speed of not less than seventeen knots." The total cost of these vessels is estimated to be $29,607,000. There is every reason for believing that these recommendations, or others of like nature, will be adopted, and that in time this nation will have a navy that will be sufficient for whatever demands are made upon it. — By the constitution the power of providing and maintaining a navy is vested exclusively in the federal government. The president is the commander-in-chief of the army and navy, and he commissions all officers of the United States. The direct management of naval affairs is under the control of a secretary of the navy, who is a cabinet minister, and acts under the directions of the president. The navy department comprises eight bureaus, to each of which are assigned certain definite duties, and over each is placed a chief who is responsible to the secretary for his acts. These eight bureaus, the duties of which are sufficiently indicated by the titles, are: 1, bureau of yards and docks; 2, of navigation; 3, of ordnance; 4, of provisions and clothing; 5, of medicine and surgery; 6, of construction and repair; 7, of equipment and recruiting; and 8, a bureau

presided over by an engineer-in-chief. Congress, alone, can make rules for the government and regulation of the naval forces. There is a naval pension fund. — The navy yards of the government are situate at the following places:

	Acres.		Acres.
Portsmouth, N. H.	164	Washington	42
Boston	83	Norfolk	109
New London	71	Pensacola	83
Brooklyn	193	Mare Island	900
League Island	923		

— A naval school under the management of the government is located at Annapolis, Md. In 1874, to encourage the establishment of public marine schools, the secretary of the navy was authorized to furnish on certain conditions, upon the application of the state, a suitable vessel, with all her apparel, charts, books and instruments of navigation, provided the same could be spared without detriment to the naval service, to be used for the benefit of any nautical school, or college having a nautical branch, established in certain designated cities. This provision, however, never came to anything, but two vessels being given under the necessary conditions. — *Authorities.* The *Reports* of the *Navy Department*, and of the *Congressional Committees;* the *Debates of Congress*, and *Naval Register*. There is no good history of the American navy. Sir Thomas Brassey on *The British Navy*, 1881–2; Sir N. H. Nicolas' *History of the Royal Navy.* WORTHINGTON C. FORD.

NAVY, Department of the. This constitutes one of the seven executive departments at Washington, and was created in the tenth year of the existence of the government of the United States. The brief act of congress, approved April 30, 1789, (1 Stat. at Large, 553), embodies the outline of this department, since largely extended and reorganized under subsequent legislation. — The head of the department of the navy, known as the secretary of the navy, is by law to execute such orders as he shall receive from the president relative to the procurement of naval materials, and the construction, armament, equipment and employment of vessels of war, and all other matters connected with the naval establishment. The secretary of the navy is by custom, not by law, a member of the cabinet, with a salary of $8,000. He is required to distribute the business of the department as he shall judge to be expedient and proper among the following bureaus: 1, a bureau of yards and docks; 2, a bureau of equipment and recruiting; 3, a bureau of navigation; 4, a bureau of ordnance; 5, a bureau of construction and repair; 6, a bureau of steam engineering; 7, a bureau of provisions and clothing; 8, a bureau of medicine and surgery. The chief of the bureau of yards and docks has charge of the navy yards and naval stations, their construction and repair; he purchases timber and other materials. The chief of the bureau of equipment and recruiting has charge of the equipment of all vessels of war, and the supply to their sails, rigging, anchors and fuel; also of the recruiting of sailors of the various grades. The chief of the bureau of navigation supplies vessels of war with maps, charts, chronometers, barometers, flags, signal lights, glasses and stationery; he has charge of the publication of charts, the Nautical Almanac, and surveys; and the naval observatory and hydrographic office are under the direction of this bureau. The chief of the bureau of ordnance has charge of the manufacture of naval ordnance and ammunition, the armament of vessels of war; the arsenals and magazines; the trials and tests of ordnance, small arms and ammunition; also of the torpedo service, and torpedo station at Newport, and experimental battery at Annapolis. The chief of the bureau of construction and repair has charge of dry docks and of all vessels undergoing repairs; the designing, building and fitting out of vessels, and the armor of ironclads. The chief of the bureau of steam engineering directs the designing, fitting out, running and repairing of the steam marine engines, boilers and appurtenances used on vessels of war, and the workshops in the navy yards where they are made and repaired. The chief of the bureau of provisions and clothing has charge of all contracts and purchases for the supply of provisions, water for cooking and drinking purposes, clothing and small stores for the use of the navy. The chief of the bureau of medicine and surgery superintends everything relating to medicines, medical stores, surgical instruments and hospital supplies required for the treatment of the sick and wounded of the navy and the marine corps. The judge advocate general receives, revises and records the proceedings of courts martial, courts of inquiry, boards for the examination of officers for retirement and promotion in the naval service; and furnishes reports and opinions on such questions of law and other matters as may be referred to him by the secretary of the navy. The chiefs of these bureaus are appointed by the president and senate from among the navy officers not below the grade of captain, and hold their offices for the term of four years. Their salaries are $5,000 per annum. While these chiefs of the important bureaus into which the business organization of the navy department is divided, are thus selected from among the experts in their profession, the secretary of the navy is commonly chosen on other grounds, and without naval experience. He is required to make an annual report to congress, embodying, 1, an account of receipts and expenditures for the year under each head of appropriation, 2, a statement of all naval contracts, 3, a statement of cost of all supplies and services furnished, and of stores and materials on hand in the navy yards, etc.; 4, a statement of all sales of vessels or materials. Besides the eight bureaus before named, the act of July 5, 1862, created a hydrographic office, attached to the bureau of navigation, with the function of providing nautical charts, sailing directions, etc., for the use of all vessels of the United States and of navigators generally. The

maps, charts and nautical books thus published are sold at cost to the public, and are of inestimable practical value (in connection with the charts of the coast survey) to navigators in American and other waters. — The official and clerical force of the navy department embraced, in 1882, 135 employés, with aggregate annual salaries amounting to $148,220; and the contingent and miscellaneous expenses of the department amounted to a further sum of about $234,000 in 1882. This is for the current official expenditure of the department and its bureaus, exclusive of the cost of supplies and expenditures for the naval service proper, and the eight navy yards of the United States established at Washington, Brooklyn, N. Y., Charlestown, Mass., Kittery, Me., League Island, Pa., Norfolk, Va., Pensacola, Fla., and Mare Island, Cal. — The naval observatory of the United States, located at Washington, is under the supervision of the secretary of the navy, with a superintendent usually having the rank of rear admiral (salary $5,000), and five professors of astronomy and mathematics, with salaries of from $2,400 to $3,500 each, according to length of service. The Nautical Almanac, issued annually for about three years in advance, is also distributed by the navy department. — The following is a list of the secretaries of the navy, with their various terms of office:

1.	Benjamin Stoddert	May 21, 1798
2.	Robert Smith	July 15, 1801
3.	J. Crowninshield	March 3, 1805
4.	Paul Hamilton	March 7, 1809
5.	William Jones	Jan. 12, 1813
6.	B. W. Crowninshield	Dec. 19, 1814
7.	Smith Thompson	Nov. 9, 1818
8.	Samuel L. Southard	Sept. 16, 1823
9.	John Branch	March 9, 1829
10.	Levi Woodbury	May 23, 1831
11.	Mahlon Dickerson	June 30, 1834
12.	James K. Paulding	June 25, 1838
13.	George E. Badger	March 5, 1841
14.	Abel P. Upshur	Sept. 13, 1841
15.	David Henshaw	July 24, 1843
16.	Thomas W. Gilmer	Feb. 15, 1844
17.	John Y. Mason	March 14, 1844
18.	George Bancroft	March 10, 1845
	John Y. Mason	Sept. 9, 1845
19.	William B. Preston	March 8, 1849
20.	William A. Graham	July 22, 1850
21.	John P. Kennedy	July 22, 1852
22.	James C. Dobbin	March 7, 1853
23.	Isaac Toucey	March 6, 1857
24.	Gideon Welles	March 5, 1861
25.	Adolph E. Borie	March 5, 1869
26.	George M. Robeson	June 25, 1869
27.	Richard W. Thompson	March 12, 1877
28.	Nathan Goff, Jr.	Jan. 6, 1881
29.	William H. Hunt	March 5, 1881
30.	William E. Chandler	April 1, 1882

A. R. SPOFFORD.

NEBRASKA, a state of the American Union, formed from territory ceded by France. (See ANNEXATIONS, I.) The territory of Nebraska was organized May 30, 1854 (see KANSAS-NEBRASKA BILL); it included territory now in the state of Colorado, and the territories of Montana, Dakota and Wyoming. An enabling act was passed April 19, 1864, and the state was admitted by act of Feb. 9, 1867, on the fundamental condition that the new state should never deny the elective franchise, or any other right, to any person, by reason of race or color, excepting Indians not taxed. The condition was accepted by the state legislature, Feb. 20, 1867, and the state was declared admitted by the president's proclamation of March 1, 1867. — BOUNDARIES. The boundaries of the state are as follows: Beginning at the intersection of north latitude 40° with the western boundary of Missouri; thence due west to longitude 25° west from Washington; thence due north to north latitude 41°; thence due west to longitude 27° west; thence due north to north latitude 43°; thence due east to the Reya Paha river, down that river to the Niobrara river, down that river to the Missouri river, and down the Missouri to the place of beginning. — CONSTITUTIONS. The first constitution was framed by the territorial legislature, Feb. 9, 1866, and was ratified, June 21, 1866, by a popular vote of 3,938 to 3,838. It forbade slavery, the contraction of a state debt of more than $50,000, and the creation of corporations by special laws; it fixed the terms of the governor, senators and representatives at two years; and it made Omaha the capital. It also confined the elective franchise to white citizens, but this was abrogated, as above stated, before the admission of the state. — A new constitution was framed by a convention at Lincoln, June 12, 1875, and ratified by popular vote Oct. 12. Its principal changes were restrictions upon special legislation and upon the power of corporations, and an apportionment of members of the legislature. — GOVERNORS David Butler, 1868–71; Wm. H. James, *ex officio*, 1871–3; Robert W. Furnas, 1873–5; Silas Garber, 1875–9; Albinus Nance, 1879–83. — POLITICAL HISTORY. Since its organization as a state, Nebraska has been republican in every election, national or state. All the governors, senators and representatives in congress have been republicans. The republican majority has been constantly increasing (with the exception hereafter noted); the republican vote for governor in 1870 was 2,851 to 278, and, in 1880, 52,337 to 28,167. In 1872, for governor, the democrats polled their largest proportional vote, 11,227 to 16,548. The legislature has always been very strongly republican; in 1882 but twelve of the 114 members were democrats. — Among the political leaders who have been made prominent by their state are the following: Lorenzo Crounse, representative 1783–7; Phineas W. Hitchcock, United States senator 1871–7; A. S. Paddock, United States senator 1875–81; Alvin Saunders, United States senator 1877–83; John Taffe, representative 1867–73; John M. Thayer, United States senator 1867–71; T. W. Tipton, United States senator 1867–75, and democratic candidate for governor in 1880; Edward K. Valentine, representative 1879–83; and Charles H. Van Wyck, United States senator 1881–7. — See 14 *Stat. at Large*, 391, *App.* iv., No. 9, for act of Feb. 9, 1867, and proclamation of March 1; 2 Poore's *Federal and State Constitutions;* Appleton's *Annual Cyclopædia*, 1867–80; Porter's *West in* 1880, 346.

ALEXANDER JOHNSTON.

NEGOTIATIONS. Diplomatic negotiations are generally conducted *viva voce*. It is only when all points are agreed upon, that any documents are exchanged. The negotiator, therefore, has room to exhibit talent of an order which it is somewhat difficult to define. In general, the ambassador or the ordinary minister plenipotentiary has charge of the negotiations; sometimes a special negotiator acts with him; in exceptional circumstances, an envoy extraordinary is intrusted with the mission of drawing up the treaty. — When, in the course of the negotiations, the tenor of a dispatch is of major importance, the foreign negotiator submits it to the minister of foreign affairs of the sovereign to whom he is accredited. This minister rectifies, if necessary, the wording of it, makes the expression of his opinion exact, and while he is considered to write nothing, renders relatively authentic the reproduction of its words. For the negotiator will never fail to make known to his own minister, that his dispatch has been examined. This examination does not prevent the negotiator from adding a special confidential letter. M. B.

NETHERLANDS, The. The Netherlands is bounded on the east by Germany, on the south by Belgium, and on the west and the north by the North sea. Its area is 8,123,378 acres, or 9,435,635 acres, if the more or less submerged territory of the Zuyder Zee and of Dollard be included. The tides have in all times exercised a great influence upon the configuration of the country. In the eleventh and twelfth centuries the Zuyder Zee, the old lake of Flevo and Dollard, and in the fifteenth century, the Bies-Bosch, came into existence. The loss of land sustained by the Netherlands during the last seven centuries is estimated at 1,574,027 acres, although there has been conquered from the sea a surface of 877,205 acres, and 113,270 acres of this since 1815. The provinces of Zealand and Holland have increased their areas 649,873 acres by means of dikes, of which 444,780 acres of very fertile clayey lands produce cereals and madder. — The population of the Netherlands according to each of the six decennial censuses, the first of which was taken Nov. 16, 1829, and the last Dec. 31, 1879, was 2,613,491, 2,860,450, 3,056,879, 3,293,577, 3,579,529 and 4,012,693, being an increase of 1,399,202, or over 53 per cent., in half a century. — The constitution of Oct. 25, 1848, gives the following personal guarantees: all persons within the territory of the kingdom, be they natives or foreigners, have an equal right to the protection of person and property. The law of Aug. 18, 1849, regulates the conditions of the admission and expulsion of foreigners, and of the extradition of criminals. The children born of Netherland parents, and persons born in the Netherlands, even those of alien parents, if they have their domicile in the kingdom, are Netherland citizens. (Civil Code of 1886.) A person may become a Netherlander by naturalization by virtue of the law of July 28, 1850. Natives only can be appointed to public office; they alone are electors and are eligible to the representative chambers and to the provincial and communal councils. Other fundamental principles of the constitution are the following: freedom of the press, with responsibility for criminal abuse of the same; inviolability of the secrecy of letters, which can not be opened except by judicial order and in cases provided by law; every citizen has the right of petition; petitions bearing a joint signature are not received, unless they come from a legally recognized corporation, and unless they have to do with matters within the province of such corporation; liberty of assembly and association, regulated and restricted by the law of April 22, 1855, "in the interest of public order." The acceptance of foreign naturalization, of military or civil offices, of titles of nobility, in a foreign country, without the permission of the king, and a residence of five consecutive years in a foreign land, without intention of returning, causes a forfeiture of political rights and the name of Netherlander. — The king exercises the legislative power jointly with two chambers of the states-general. The executive power is lodged solely in the king. The members of the first chamber, numbering thirty-nine, are elected by provincial councils from among the persons who pay the largest amount of direct taxes; they are taken from a list of names for each province, in which at most one inhabitant out of 3,000 can have a place. The members of the second chamber, one out of every 45,000 inhabitants, the actual number of whom is eighty-six, are elected in the forty-one electoral districts (law of May 6, 1869) by all domiciled Netherlanders who have attained their majority (twenty-three years), and who exercise all their civil and political rights, and pay, according to the locality, from twenty to sixty florins direct taxes (law of July 4, 1850). The number of electors in 1872 was 105,452, or one out of thirty-four inhabitants. Any Netherlander, who has attained the age of thirty years, and who is in the enjoyment of all his civil and political rights, may be elected a member of the second chamber. The term of office is nine years for members of the first and four years for those of the second chamber. One-third of the first go out of office every three years, and one-half of the second every two years. The sessions of the chambers are public. The king can dissolve the chambers jointly or separately. The second chamber has the right of appointing commissions of inquiry and of proposing amendments to bills. It can, besides, introduce bills, which, however, before being submitted to the king for his sanction, must be approved by the first chamber. The members of the chambers can not be called to account for the opinions expressed by them in the exercise of their functions. The fundamental law and the other laws have, unless it be decided to the contrary, the force of law only in the European limits of the kingdom. The king is in-

violable and irresponsible. Ministerial responsibility is fixed by the law of April 22, 1855. The budget is presented annually. No person can be tried outside of the jurisdiction in which he lives without his consent; no person can be arrested, except by virtue of a judicial warrant; no person can be deprived of his property, except by a decision of the tribunals in cases of public utility, compensation being made him therefor. The liberty and equality of religions is guaranteed; the liberty of correspondence with the heads of the church is limited by responsibility before the law for the publication of bulls and episcopal pastorals. The law of Sept. 10, 1853, upon the surveillance of the different religious creeds, repealed the law of the 18 Germinal, year 10 (April 8, 1802).— The eldest son of the king or his male descendants succeed to the throne by right of primogeniture. In default of descendants the right of succession passes to the brother of the king and his descendants. In default of male descendants of the house of Orange-Nassau, the succession passes to the daughter of the last king, and if there is no daughter, it passes through the oldest female member of the oldest male descending line of the king to the house to which she belongs. The male line is always preferred to the female line. With the exception of that of Luxemburg, the king can wear no foreign crown. The annual revenue of the king consists partly of domanial property (law of August, 1849), and partly of a sum fixed on his accession to the throne, and which is now 1,000,000 florins. For the support of the palaces, a sum of 50,000 florins is voted annually. The king and the prince heir are exempt from all personal taxes. The latter receives, upon reaching his majority, which is fixed at eighteen years of age, an annual sum of 100,000 florins, which sum is doubled at the time of his marriage. He bears the title of "Prince of Orange." The queen dowager receives an annual dotation of 150,000 florins. — The guardians of the king, in case of his minority, are certain members of the royal family and a few distinguished Netherlanders. In case of the incapacity of the king, the heir apparent, if he is of age, becomes regent by law. The regency is regulated by the law of July 28, 1850. The installation of the king or of the regent takes place at Amsterdam, the two chambers being assembled, by the taking of an oath to maintain the constitution, the independence of the country, the liberty and rights of the citizens, and to enforce obedience to the laws of the land.— The king has the superior direction of foreign affairs, the right to declare war, subject to an early notification of the two chambers of his intention. He concludes treaties of peace and of commerce with foreign nations. The sanction of the two chambers is necessary, when there is a question of the cession of the exchange of territory, even in the transatlantic colonies of the Netherlands, or of stipulations which concern rights established by law. The king is commander-in chief of the army and of the navy; he has the superior direction of the colonies and possessions in other parts of the world. The king presents annually to the states-general a detailed report of the administration and condition of the colonies, and the law regulates the administration of their finances. The king has the general administration of the finances in the mother country. He settles the salaries of public functionaries, with the exception of those of judges, which are fixed by the law relating to the judicial organization, promulgated Oct. 10, 1838. The laws of May 9, 1846, and May 3, 1851, regulate the pensions of officials. The king exercises the right of pardon. Amnesty can not be accorded except by law. The king can not grant exemptions except in the cases provided by law. He decides the administrative differences between two or more provinces. He presents bills and other propositions to the chambers, and sanctions or rejects those of the chambers. He presides over the council of state, and appoints and discharges the fifteen members of it. The law of Dec. 21, 1861, regulates the competency and composition of this council. The council of state is heard on all bills and all rules of general administration in the mother country and in the colonies. The prince heir apparent, when he reaches his majority, has a legal seat in the council, in which he has a consultative voice. All royal decisions and orders must be countersigned by a minister. — The titles of nobility are count, baron, chevalier and gentleman (*jonkheer*). Since 1814 a council, composed of four members and a secretary, has the administration of everything concerning the nobility. Previous to 1848 the nobility was one of the three estates represented in the second chamber; since the royal sanction of the new constitution, it has lost its political character. — The council of ministers is composed of the heads of the seven ministries. Bills and the general rules of administration are submitted to the deliberation of the council of ministers before and after their presentation to the council of state, as are also treaties with foreign powers, the most important instructions to be given to ministers plenipotentiary, and propositions made to the king for the appointment or dismissal of high officials. (Royal decree of March 31, 1842.) The seven ministries are as follows: 1, Foreign affairs; 2, Justice; 3, Interior; 4, Navy; 5, Finance; 6, War; 7, Colonies. The king can accord to high officials the title of minister of state, or of councilors in extraordinary service; there are, besides, honorary councilors. The latter can be associated by the king in the work of the council of state. The ministers have each a salary of 12,000 florins. — *Administration.* Each of the eleven provinces of the kingdom is governed by a commissioner of the king, with a salary of from 6,000 to 8,000 florins. The members of the provincial assemblies are elected for six years by electors, whose number in 1871 was 104,194. The provincial assemblies hold their sessions regularly at the beginning of July and of November, and

choose from their own body from four to six members to form a committee for the conduct of affairs and the execution of the laws and regulations. The secretary and the employés of this committee are appointed by itself. (Provincial law of July 6, 1850.) — The communal law dates from July 29, 1851. It destroyed the distinction between city and village. The number of districts in 1873 was 1,134, of which there were 834 with less than 3,000 and thirty-eight with more than 10,000 inhabitants. The number of communal councilors depends upon the population, according to the returns of each decennial census. There were in 1873 seven of them in communes with less than 3,000 and thirty-nine in communes with less than 10,000 inhabitants. The councilors are elected for six years. The electors are all persons who pay direct taxes; the amount of taxes qualifying them to vote is fixed at one-half the amount necessary to render one eligible to take part in the election of members of the second chamber. The burgomaster is appointed by the king for six years; he is assisted by one alder man in districts of less, and by three or four aldermen in districts of more, than 20,000 inhabitants. Each district has also its secretary and its receiver, elected by the council from a list of two persons, presented by the burgomaster and alderman. In the smaller districts these two offices are held by one person; in others the burgomaster discharges the duties of secretary as well as his own. — *Finance.* The improvement in the financial state of affairs, which had suffered greatly by the separation from Belgium and the extraordinary armaments of 1830 to 1839, dates from 1850 The nominal principal of the public debt at that time was estimated at a total of 1,239,592 646 florins, and the annual interest amounted to 36,194,879 florins. The principal of the public debt increased during eleven years, from Jan. 1, 1829, to Dec. 31, 1839, 376,622,406 florins, and the interest 19,342,187 florins. From 1850 to the month of July, 1872, a principal of 290,159,613 florins was liquidated, and the interest reduced 8,958,037 florins. The following table of the national debt in 1850 and 1873 shows the nature of each debt, and allows a calculation to be made of the power of liquidation:

DEBT IN 1850.

ITEMS.	Nominal Capital.	Interest.
	Florins.	Florins.
National debt, 3 per cent.	816,508,000	20,412,700
National debt, 2½ per cent.	120,856,861	3,625,726
Obligations of the syndicate of liquidation, 3½ per cent.	22,708,000	794,780
National debt, 4 per cent.	237,640,500	9,505,620
Colonial obligations, 4 per cent.	14,748,500	589,940
Treasury bonds, 4 and 4½ per ct.	17,799,950	571,998
Loan for the drainage of the Haarlem lake, 4 and 4½ per ct.	8,000,000	385,000
Loan for bridges and roads, 3 and 3½ per cent.	1,330,835	58,551
Interest and tontines	----------	139,100
Bail bonds of responsible employés	----------	20,000
Various items of interest	----------	91,484
Total	1,239,592,646	36,194,899

DEBT IN 1873.

ITEMS.	Nominal Capital.	Interest.
	Florins	Florins.
National debt, 3 per cent.	646,602,902	16,165,073
National debt, 2½ per cent	93,612,724	2,808,382
Obligations of the syndicate of liquidation, 3½ per cent.	12,301,000	437,535
National debt, 4 per cent	188,127,200	7,525,088
Colonial obligations 4 per cent	Liquidated.	----------
Treasury bonds, 4 and 4½ per ct.	----------	----------
Loan for the drainage of the Haarlem lake, 4 and 4½ per ct.	Liquidated.	----------
Loan for bridges and roads, 3 and 3½ per cent	3,976	119
Interest and tontines	----------	18,000
Bail bonds of responsible employés	----------	15 337
Various items of interest	----------	84,600
Total	940,847,802	27,054,133

At the commencement of the year 1879 the national funded debt was as follows:

ITEMS	Nominal Capital.	Annual Interest.
	Florins.	Florins.
2½ per cent. debt	632,099,402	15,802,485
3 per cent debt	91,322,950	2,739,688
3½ per cent. redeemable debt	11,250,000	391,125
Old 4 per cent debt	176,899,500	7,075,980
4 per cent. debt of 1878	43,000,000	2,426,642
Total	954,571,852	28,135,920

In the session of 1873 the states-general passed an act to increase the annual sum set aside as a sinking fund for the redemption of the debt, namely, 1,900,000 florins by 7,000,000 florins, and thus redeem a total amount of 8,900,000 florins. Another act of the session of 1875 increased the sum to 10,000,000 florins, to be set aside for the redemption of the national debt. — Below we give a table of the budget estimates of 1850, 1862 and 1873. Excise duties are paid upon the following articles: sugar, wine, native and foreign alcoholic liquors, salt, soap, beer, vinegar, beef and veal, the term indirect taxes applies to stamps, registration, and the taxes paid on mortgages and inheritances, the whole charged with thirty eight centimes additional.

SOURCES OF REVENUE.	1850	1862	1873.
	Florins	Florins.	Florins.
Direct taxes — Real estate	9,997,529	10,396,120	10,246,985
Direct taxes — Personal	6,186,355	7,250,210	8,262,000
Direct taxes — Patents	2,779,744	2,966,032	3,340,800
Excise duties	20,381,695	18,359,246	28,380,000
Indirect taxes	9,251,859	12,247,449	14,968,800
Customs duties and accessories.	5,014,108	5,088,822	5,061,868
Guaranteed gold and silver ware.	166,438	254,833	281,200
State domains, etc.	1,257,704	1,245,860	1,450.000
Postoffice	1,294,121	2,074 055	2,550,000
Telegraph service	----------	321,673	700,000
State lottery	425,633	540,487	410,000
Hunting and fishing licenses	96.058	111,950	115,000
Pilot dues	----------	762,371	880,000
Dues on mines	----------	1,523	2,611
State railways	----------	2,004	1,027,000
Interest and various revenues.	1,568,113	1,443,023	2,369,701
Interest charged to Belgium (treaty of Nov. 5, 1842 law of Feb 4, 1843)	400,000	400,000	400,000
Ordinary sources of revenue	58,819,398	63,472,725	80,446,025

Table of Budget Estimates—continued.

SOURCES OF REVENUE.	1850.	1862.	1873.
	Florins.	Florins.	Florins.
Ordinary sources of revenue	58,819,398	63,472,725	80,446,025
Interest of the colonial debt. (Laws of 1836 and 1844.)	9,800,000	9,800,000	---- ----
Colonial taxes	7,200,000	10,126,812	10,427,695
Relics of former accounts	----	3,216,580	----
Subsidy for the construction of state railways.	----	----	500,000
Extraordinary sources of revenue.	17,000,000	29,142,842	10,927,695
General total	75,819,398	92,615,567	91,373,720

— The following is a list of the expenditures of 1862 and 1873:

ITEMS.	1862.	1873.
	Florins	Florins.
Civil list	900,000	750,000
Dotations	544,181	585,112
Ministry of foreign affairs	467,553	532,340
Administration of the Catholic and Jansenist religions.	660,714	----
Ministry of justice	2,958,892	3,165,102
Administration of the Protestant and Jewish religions.	1,731,656	----
Ministry of the interior	17,160,749	18,896,314
Ministry of the navy	9,224,587	9,345,280
Debt and liquidation	38,171,364	27,493,133
Ministry of finance	6,639,903	18,700,220
Ministry of war	12,619,690	17,100,520
Ministry of the colonies	1,574,447	1,371,306
Miscellaneous expenditures	49,240	50,000
Total	92,702,726	97,979,277

The expenditures in 1871 amounted to 94,573,752 florins. The revenue and expenditure in the years 1873–7 were as follows:

YEARS.	Revenue.	Expenditure.
	Florins.	Florins.
1873	109,507,189	108,033,523
1874	105,269,687	99,352,355
1875	119,837,573	118,911,247
1876	109,680,253	113,396,805
1877	106,392,823	117,927,685

The budget estimates of revenue and expenditure for the two years 1878 and 1879 were as follows:

REVENUE.

ITEMS.	1878.	1879.
	Florins.	Florins.
Direct taxes	23,712,023	24,306,057
Excise duties	37,931,000	38,595,000
Indirect taxes, including stamps	20,355,000	21,884,000
Customs duties on imports	4,611,040	4,611,040
Guarantee of gold and silver ware	366,200	366,200
State domains	1,740,000	1,695,000
Postoffice	3,400,000	3,600,000
Telegraph service	800,000	800,000
State lottery	430,000	430,000
Hunting and fishing licenses	140,000	143,000
Pilot dues	900,000	900,000
Dues on mines	3,565	2,265
State railways	1,622,000	1,626,000
Miscellaneous receipts	6,463,535	16,914,135
Total revenue	102,474,363	115,822,697

EXPENDITURE.

ITEMS.	1878.	1879.
	Florins.	Florins.
Civil list	950,000	750,000
Legislative body and council of state	615,772	615,389
Department for foreign affairs	639,290	635,990
Department of justice	4,410,473	4,488,578
Department of the interior	6,869,536	6,837,701
Department of marine	13,768,384	13,139 863
Public debt	27,178,018	28,435,920
Department of finance	17,336,922	17,880,659
Department of war	22,560,000	18,867,000
Department for the colonies	1,701,465	1,589.359
Public works and commerce	22,669,436	22,571,892
Total expenditure	118,199,296	115,811,801

In the budget estimates for the year 1880 the revenue was calculated at 108,000,000 florins and the expenditure at 114,000,000 florins. In the budget estimates for the year 1881 the revenue was calculated at 105,000,000 florins and the expenditure at 126,333,000 florins. —*Justice.* The superior court sits at the Hague. It has original jurisdiction in matters concerning the state and the royal family, and prizes, and in the case of the impeachment of ministers, as well as of misdemeanors committed in the exercise of their duties by high officials; and an appeal lies to it from the provincial courts and the courts in the colonies. (Articles 159 and 160 of the Constitution.) There are eleven provincial courts, thirty-four district courts, and 150 cantonal judges (justices of the peace). The fundamental principles of the administration of justice are: publicity of the arguments; a public prosecutor; no jury, but conviction by proofs and witnesses; defense by advocates and attorneys. Judges are irremovable except in case of misconduct. The judges of the cantons are appointed for five years by the king, but their appointment may be renewed. Notaries are appointed for life by the king, one for every 4,000 inhabitants (law of July 9, 1842). Military justice is exercised by seven military *hearings*. Besides this, the navy has three *hearings*. The high court of military justice is at Utrecht. The merchant marine has its council of discipline at Amsterdam, composed of four members and of a secretary (law of May 7, 1856). The judicial police is exercised by the minister of justice as chief director, and by the attorneys general of the eleven provincial courts as directors. The subordinates are the commissioners-in-chief, the commissioners of police, the officers in charge of the ports, the burgomasters, and the 618 sergeants of police.—The French penal code of 1810, modified by the two laws of June, 1854, is in force in the Netherlands. During the year 1869, 47,856 persons were prosecuted, of which number 644 were accused of crimes, 12,753 charged with misdemeanors, and 34,459 with offenses against police regulations. Crimes and misdemeanors against the state numbered respectively 112 and 4,394, against persons, fifty-nine and 4,809; against property, 473 and 3,550. Of those accused of crimes, 529 were males and 115 females; of those charged

with misdemeanors, 10,394 were males and 2,359 females; and of those charged with offenses against the regulations of the police, 29,469 were males and 4,990 females; in all, 40,392 males and 7,464 females. The average of the acquittals was 7 per cent. of those accused of crimes, and 14 per cent. of those charged with misdemeanors. Since Dec. 11, 1813, confinement in prison extending to twenty years has been substituted for forced labor. — *Religion and Education.* The Reformed church and the Evangelical Lutheran church in 1873 had each a synod; the Reformed had 1,357 parishes and 1,627 pastors; the Lutheran, fifty parishes and sixty-two pastors; the old Lutherans, presided over by a commission, eight parishes with eleven pastors; the Mennonites, 126 parishes with 126 pastors; the Remonstrants, represented by a commission, had twenty-one parishes with twenty-one ministers; the Moravian brothers, two parishes with two ministers; the German Evangelical church had one parish with one minister at the Hague. The Reformed Christians (who separated from the Reformed church) had 330 parishes with 230 pastors. The Jansenists have an archbishop at Utrecht, and two bishops, at Haarlem and Deventer, and are divided into twenty-five parishes and twenty-five curacies. The Roman Catholics, since 1853, have five dioceses, one archbishopric at Utrecht, and bishoprics at Haarlem, Hertogenbosch, Breda and Roermond, divided into 936 parishes, thirty-four rectorates and 896 curacies. The Catholic clergy numbered, in 1873, about 1,989 ecclesiastics, of whom 1,866 have charge of souls. The greater part of the convents are in North Brabant and Limburg. The Netherland or German Jews had, in 1873, a commission, 166 parishes and seventy-two auxiliary temples; the number of rabbis was fifteen, of whom one is at Curaçoa and one at Surinam. The Portuguese Jews had two parishes, at Amsterdam and the Hague, under the administration of a central commission. The population was divided in the following manner among the different religions, Dec. 31, 1859 and 1869:

	1859.	1869.
Reformed (Calvinists)	1,828,365	1,967,611
Reformed Christians	65,728	107,123
Evangelical Lutherans	54,606	57,545
Old Lutherans	9,931	10,522
Mennonites or Anabaptists	42,162	44,227
Remonstrants	5,326	5,486
Moravian Brothers	331	311
English Episcopalians	575	456
Jansenists	5,394	5,287
Roman Catholics	1,229,092	1,307,765
Greek Church	32	32
Jews	63,709	68,093
Religion unknown	3,794	5,161

— Elementary education (law of Aug 13, 1857) is very general in the Netherlands. According to the constitution education is free. The instructors in the elementary and intermediate schools are submitted to an examination, and are required to produce a certificate of good moral character. The supervision of the primary schools is confided to eleven inspectors, and that of the intermediate to three inspectors. The kingdom is divided into ninety four school districts, each with a supervisor. In each district of more than 3,000 souls, there is a school commission. Dec. 31, 1870, there were 3,727 primary schools, part public (2,608), and part private (1,119); there were 8,870 male teachers, and 2,042 female teachers. These schools contained, in January, 1870, 466,779 pupils, of which number 249,926 were boys and 216,853 girls. There were 832 infant schools attended by 29,662 boys and 34,659 girls; 212 private schools (adult classes) and schools open on Sunday only. The evening schools or classes were attended by 57,936 men and 23,675 women. The expenses for elementary instruction amounted to 4,984,534 florins. The normal schools for instructors are situated at Hertogenbosch, Groningen and Haarlem. The Latin schools (colleges) and the gymnasiums (lyceums) number (1870) fifty-five, with 212 professors and 1,128 pupils. Intermediate educational institutions (law of May 3, 1863) include the schools for artisans, and in general all practical schools for arts and trades, the polytechnic school, and the schools of agriculture, navigation, commerce and design. At the end of 1870 there were forty-four so-called higher middle class schools, with 519 professors, attended by 3,559 pupils; the polytechnic school at Delft, with nineteen professors, was attended, in 1870–71, by 164 students; the school of agriculture at Warffum had seven pupils, and the school of horticulture at Watergraafsmeer had twenty-nine; there were nine schools of navigation, with twenty professors and 208 pupils; besides many intermediate schools for young girls, the majority of which are private institutions. Higher instruction is given in the three state universities of Leyden, Utrecht and Groningen, and in the public athenæums of Amsterdam and Deventer, attended, in 1870, by 1,339 students. The theological students of the Reformed church follow the course of studies in the universities and athenæums, those of other religious creeds study in the seminaries: the Remonstrants, Mennonites, Lutherans and Jews at Amsterdam, the Reformed Christians at Kampen, the Jansenists at Amersfoort, the Roman Catholics at Driebergen, Warmond, Culemborg, Haaren, Hoeven and Roermond, with branches at Voorhout, Saint-Michielsgestel, Oudenbosch and Kerkrad. There are two preparatory institutions for future employés in the East Indies, one a state institution at Leyden, and one, district, at Delft, with nine professors and fourteen students. There are, besides, at Amsterdam a preparatory school for army and navy physicians, a polytechnic school, and a school for the instruction of midwives; there are military schools at Breda and Kampen, a naval school at Medemblik, a veterinary school at Utrecht, three institutions of deaf mutes, three for the blind, and one for idiot children, the last at the Hague. Besides there are many schools of swimming, gymnastics,

vocal and instrumental music, drawing, etc.— *Public Charity* is regulated by the law of June 28, 1854, which fixes the place of his relief at the place of birth of the person relieved. The institutions of charity are: 1st, those of the state, of the provinces and of the districts; 2d, of religious corporations; 3d, special; 4th, general. The first do not give aid except in case of the insufficiency of the others. These institutions, in 1869, numbered 5,194, of which 3.950 afforded home aid, 716 were almshouses for old people, children, etc., sixty-four hospitals, eleven asylums for the insane, and ninety workhouses. In 1869 aid was given to 148,951 housekeepers and 81,089 single persons; the cost of charity was 10,812,303 florins. The population of the state colonies for paupers at Ommerschans and Veenhuizen (in Overissel and Drenthe) on Dec. 1, 1869, was 5,508; the population of the colonies of the benevolent society, in Drenthe, Overissel and Frisia, was 2,276. The insane asylums, numbering twelve, are regulated by the law of May 29, 1841. The number of the insane in these establishments, Dec. 31, 1848, was 557 men and 609 women; Dec. 31, 1858, it was 961 men and 1,065 women, and Dec. 31, 1868, 1,557 men and 1,703 women. — *Army and Navy.* The composition of the army in 1872 was as follows: 1. Infantry—1,046 officers and 42,034 soldiers, one regiment of grenadiers and chasseurs, eight regiments of the line, one battalion of instruction of four companies, one dépôt of discipline of two companies, hospital corps forming two companies; 2. Cavalry—four regiments, 177 officers, 3,386 soldiers, and 2,679 horses; 3. Artillery—five regiments and a corps of pontonniers, in all, 387 officers, 10,014 soldiers, and 1,800 horses; 4. A corps of engineers, whose staff consisted of seventy officers and thirty-six inspectors of fortifications. This corps embraced besides a battalion of sappers and miners of five companies, with twenty-two officers and 922 men. The entire army was composed of 1,945 officers and 59,482 soldiers, and besides, in the provinces of North Brabant, Zealand and Limburg, of a gendamerie corps of ten officers, 362 men and 202 horses. The effective force of the army, July 1, 1872, was 1,872 officers and 57,992 soldiers, of which 29,189 were on leave. There were 4,707 horses. The army in the eastern and western colonies comprised, Jan. 1, 1871, 1,318 officers and 28,351 soldiers. Military service is obligatory, but substitution is allowed. — The law concerning the national militia dates from Aug. 19, 1861. Maximum of the annual contingent, 11,000 men (contingent for the year 1873, of which 600 were for naval service). Maximum of the number of militiamen is 55,000 men. Registration for recruitment takes place at the age of nineteen years, and the lot is drawn a year later. The contingent is regulated by the number of names inscribed the preceding year. Duration of service, five years. Service in the national guard is obligatory from twenty-five to thirty-five years (law of April 11, 1827). The proportion is two men out of every 100 inhabitants. Of these ten years, five years of active service are required; in the last five years the men form part of the reserve. — The navy is composed of: 1, ships for home service and a manœuvring corps, not embarked, (July 1, 1873, 53 officers and 1,741 men); 2, transport vessels for the colonies; 3 and 4, squadrons in the East and West Indies; 5, ships in other waters, including vessels in process of construction or of repair. The navy included, Aug. 1, 1872, 117 ships, of which seventy-four were steamers, with a power of 14,377 horses. These ships were able to carry 1,060 cannon. In active service there were forty-nine ships, thirty-eight of which were steamers, with a power of 6,269 horses, and armed with 378 cannon. The crews consisted of 5,598 men. The corps of officers of the fleet comprise one admiral, one lieutenant admiral, two vice-admirals, four rear admirals, twenty captains, 100 lieutenant captains, 120 first lieutenants, 220 second lieutenants, and seventy-six cadets of the first class; the administration comprises three inspectors, eighty-four administrative officers in three classes, and thirty-six midshipmen. — *Resources.* Although rural economy is very far advanced, the products of the soil are not sufficient for the support of the inhabitants. The most productive provinces are Zealand and Groningen. Wheat is cultivated chiefly in Zealand, South Holland and Limburg; rye in Groningen, Zealand, North Brabant, Guelderland and Limburg; potatoes in Zealand and the dunes; oats in Groningen, Frisia, Guelderland and Zealand; colza in Groningen and South Holland; tobacco in Guelderland and the province of Utrecht; flax and hemp in South Holland, and chiccory in Frisia The area of arable land is estimated at 2,128,766 acres. Value of the products varied, during the ten years 1861–70, from 156 to 198 millions of florins; the average is 173 millions. The area of the meadows and of the land devoted to the growth of fodder for animals is about 3,212,300 acres, or one-third of the surface of the country. The finest pastures are found in the two Hollands and in Frisia. Gardening and the cultivation of vegetables are brought to great perfection in the two Hollands and in the province of Utrecht. A large commerce is carried on with England in vegetables, fruit, butter and live stock. Toward the end of 1870 the live stock comprised 252,054 horses, 1,410,822 horned cattle, 900,187 sheep, 136,980 goats, 329,058 hogs, and 3,193 asses and mules. — The country is more commercial than industrial. The principal industrial centres are the great cities of the two Hollands, such as Amsterdam, Haarlem, Rotterdam, Leyden, Dordrecht, the Hague, the city of Utrecht, a part of North Brabant, especially Tilburg and its suburbs, the country of Drenthe, in Overissel, some parts of Guelderland, and the cities of Maestrecht and Roermond in Limburg. Toward the end of 1870, 708 manufactories used steam for a motive power, and made use of 794 engines and 1,043 boilers, with a force of 13,346 horses. Commerce and trans-

portation were effected at that time by means of 100 steamships, with 168 engines and 118 boilers, with a force of 12,118 horses. The patent law dates from May 21, 1819. The law of July 15, 1869, abolished patents for invention and introduction. The principal industries are connected with the building of ships, and with commerce with the colonies. There are 600 to 700 dock yards, of which 150 are devoted to the building of sea-going ships. The principal dock yards are found in the two Hollands, at Groningen and Frisia. Saw mills (113 in number) are found chiefly in the two Hollands in the region of Zaan, and about Dordrecht; manufactories of ropes in South Holland, and manufactories of sails at Crommenie, in North Holland. Then there are 500 to 600 brick yards, tile works and manufactories of pottery, chiefly in Guelderland, Overissel and South Holland; 400 millions of bricks are made annually; there are 400 to 500 gin distilleries, of which 221 are at Schiedam; the manufactories of tobacco and cigars number more than 300, principally at Amsterdam, Utrecht and Eindhoven; there are also manufactories of madder in Brabant and South Holland, and especially in Zealand; 300 to 400 oil mills, chiefly in North Holland; paper manufactories, chiefly in the region of Zaan, Guelderland, and at Maestricht and Rotterdam; sugar refineries at Amsterdam and Rotterdam, (producing 175 million to 220 million pounds, principally exported to Italy and Russia); rice mills at Amsterdam and Rotterdam; mills for polishing diamonds at Amsterdam, which have a European reputation; goldsmiths' establishments at Amsterdam, in South Holland and Frisia; linen and cotton manufactories, chiefly in Drenthe, Overissel, Guelderland and South Brabant; manufactories of woolen cloths at Leyden and Tilburg, and many other places. —The Netherland fisheries, above all the salting of herring, have always been renowned. The principal fisheries are those of the herring, large and small, which yielded, in 1871, two millions of florins, (322 ships); fishing with nets, (208 ships), half a million; cod, whiting fishing, etc., (87 ships). The exportation in 1871 was: cod, 4,030 tons; stockfish, 2,585,000 pounds. The products of the fishery of the Zuyder Zee, herrings, anchovies, shrimps, eels, etc., (650 ships), are exported principally to Belgium and Germany. —The following is a summary of the international commerce, in millions of florins. (The total amount of the special commerce can be found by subtracting the transit of the general commerce.)

YEARS.	General Imports.	General Exports	Transit.
1846	256	210	92
Average of 1846-50	286	212	85
Average of 1851-5	329	282	109
Average of 1856-60	419	351	115
Average of 1861-5	466	405	105
Average of 1866-70	578	482	114
1871	785	649	189

The following is the movement of commerce, in millions of florins, between the Netherlands and the six following groups of countries. In the second group are included Germany, Sweden, Norway, and a part of Russia; in the third, Belgium, France, Spain and Portugal; in the fourth, Italy, Austria, part of Russia, Turkey, Greece, the Danubian Principalities, Egypt, and the Barbary States.

GENERAL IMPORTS.

FROM	1846 to 1850	1851 to 1855.	1856 to 1860.	1861 to 1865.	1866 to 1870.	1871.
Great Britain	67	89	106	123	167	247
Baltic and North seas and central Europe.	79	92	123	154	190	240
Western Europe	29	45	62	64	78	118
Mediterranean and Black seas	6	77	83	8	9	18
America	18	20	21	21	32	44
Asia, Africa, Australia	68	77	95	96	110	117

GENERAL EXPORTS.

TO	1846 to 1850.	1851 to 1855.	1856 to 1860.	1861 to 1865	1866 to 1870.	1871.
Great Britain	46	67	77	100	131	162
Baltic and North seas and central Europe	104	126	156	165	196	305
Western Europe	31	42	53	64	74	96
Mediterranean and Black seas	12	17	16	15	18	28
America	7	9	13	10	11	12
Asia, Africa, Australia	12	23	36	51	52	42

The following table shows the chief articles of import and export, for the years named:

ARTICLES	General Imports.		General Exports.	
	1846	1871	1846	1871.
Manufactures	41	73	17	62
Corn, flour, beans, etc	31	81	18	32
Thread	22	58	15	42
Sugar	33	56	31	63
Coffee	20	46	17	37
Cotton	6	42	7	34

Two-thirds of the foreign commerce of the Netherlands is carried on by sea. The merchant marine in 1846 numbered 1,936 ships, with 379,548 tonnage, and in 1871, 1,902 ships, with 521,098 tonnage. The following is a table of movement of navigation for the years 1831–71:

ENTRY.

YEARS.	National Ships.		Foreign Ships.	
	Ships.	1,000 Tons	Ships.	1,000 Tons.
1831	1,995	229	2,545	315
1831-40	2,321	274	3,058	427
1841-50	2,883	405	3,387	564
1851-60	3,429	565	4,095	775
1861-70	3,269	626	4,747	1,222
1871	3,051	715	6,516	2,012

DEPARTURE.

YEARS.	National Ships.		Foreign Ships.	
	Ships.	1,000 Tons.	Ships.	1,000 Tons.
1831	1,091	140	1,769	193
1831–40	1,451	200	1,902	244
1841–50	2,055	300	1,931	319
1851–60	2,351	420	2,214	174
1861–70	2,197	478	2,822	788
1871	1,967	491	2,935	1,010

YEARS.	Entry.		Departure.	
	National Ships.	Foreign Ships.	National Ships.	Foreign Ships.
1831	165	238	1,042	1,067
1831–40	169	212	1,088	1,361
1841–50	223	219	1,123	1,667
1851–60	206	250	1,395	2,172
1861–70	207	313	1,365	2,357
1871*	204	276	1,342	3,843

* We here give some later statistics of the Netherlands. — The following table shows the actual revenue and expenditure for the years 1874–7, and the estimated revenue and expenditure for 1878–9, in florins:

YEARS.	Revenue.	Expenditure.
1874	105,269,687	99,352,355
1875	119,837,573	116,911,247
1876	109,680,253	113,396,805
1877	106,392,323	117,927,685
1878	102,474,363	118,119,296
1879	115,822,697	115,811,801

— The budget estimates for 1881 were as follows:

Sources of Revenue.	Florins.
Direct taxes	24,755,185
Excise duties	38,925,000
Indirect taxes, including stamps	23,460,000
Customs duties on imports	4,611,040
Guarantee of gold and silver ware	301,100
State domains	1,550,000
Postoffice	4,000,000
Telegraph service	935,800
State lottery	430,000
Hunting and fishing licenses	149,000
Pilot dues	924,000
Dues on mines	2,875
State railways	2,200,000
Miscellaneous receipts	2,866,605
Total revenue	105,110,605

Branches of Expenditure.	Florins.
Civil list	750 000
Legislative body and council of state	618,518
Department for foreign affairs	660,399
Department of justice	4,591,879
Department of the interior	10,180,735
Department of marine	12,124,440
Public debt	23,167,812
Department of finance	18,687 620
Department of war	20,167,812
Department for the colonies	1,871,736
Public works and commerce	20,271,296
Contingencies	50,000
Total expenditure	112,642,247

— The regular army of the Netherlands, Jan. 1, 1879, was composed as follows:

CLASS OF SERVICE.	Officers.	Rank and File.
General staff and military administration.	172	
Infantry—		
Staff	38	
One regiment of guards	108	4,232
Eight regiments of the line	848	38,504
One battalion of instruction	31	625
Dépôt of dicipline	12	44
Hospital corps	2	240
Cavalry —		
Staff	7	
Four regiments of hussars	94	4,318
Engineers —		
Staff	77	40
One battalion of sappers and miners	26	1,013
Artillery—		
Staff	63	54
One regiment of field artillery, with train	58	2,030
Three regiments of heavy (fortress) artillery	221	6,378
One regiment of light horse infantry	32	636
Two companies of pontonniers	12	317
Total	1,801	58,431

The colonial army of the Netherlands, Jan. 1, 1879, numbered 1,432 officers and 37,931 rank and file. — According to the law of April 1, 1881, reorganizing the army, on a war footing, it is to consist hereafter of a total of 61,400 men, the yearly contingent of militia to amount to 12,000 and that of the recruits to 11,000 men. 3,040,400 florins were appropriated in 1881, for the building of fortifications. 20,000,000 florins for the same purpose were called for in 1882. The system of fortifications is to be completed in 1883. — At the end of 1881 the navy of the kingdom was composed of 103 steamers, (including seventeen ironclads), and seventeen sailing vessels. The officers of the navy were: one admiral, one admiral lieutenant, three vice-admirals, three rear admirals, twenty captains, forty commanders, 300 first and second lieutenants, forty-three midshipmen, seventy-six administrative and fifty-one medical officers. The marine infantry consisted of forty-five officers and 2,140 non-commissioned officers and privates. — The estimates of the total imports and exports of the Netherlands for the years 1876 to 1878, in florins, are as follows: Imports, 1876, 713,440,549; 1877, 750,984,425; 1878, 713,440,549. Exports, 1876, 533,084,813; 1877, 541,887,066; 1878, 538,084,813.

— BIBLIOGRAPHY. Wagenaar, *Vaderlandsche historie*, 21 vols., Amsterdam, 1749; Stijl, *Opkomst en Bloei der vereenigde Nederlanden*, 5 vols., Amsterdam, 1802–5; Bilderdijk, *Geschiedenis des vaderlands*, 12 vols., Leyden, 1832–9; Kampen, *Verkorte geschiedenis der Nederlanden*, 3d ed., 2 vols., Haarlem, 1837–9; Prinsterer, *Handboek der geschiedenis van het vaderland*, 4th ed., 4 vols., Amsterdam, 1874; Juste, *Histoire de la révolution des Pays-Bas sous Philipp II.*, 4 vols., Brussels, 1855–63; Arend, *Algemeene geschiedenis des vaderlands*, Leyden, 1849–77; Vloten, *Vaderlands Opstand tegen Spanje*, 3 vols., Amsterdam, 1855–66; Wicquefort, *Histoire des Provinces Unies des Pays-Bas*, 4 vols., Amsterdam, 1861–74; Kemper, *Geschiedenis van Nederland na* 1830, Amsterdam, 1873–6; Wijnne, *Geschiedenis van het vaderland*, 2 vols., 1865–6; Kampen, *Geschichte der Niederlande*, 2 vols., Hamburg, 1831–3; Leo, *Zwölf Bücher niederländ. Geschichte*, 2 vols., Halle, 1832–5; Wenzelburger, *Geschichte der Niederlande*, 4 vols., Gotha, 1878; Motley, *The Rise of the Dutch Republic*, 3 vols., London and New York, 1856, *The History of the United Neth-*

erlands from the Death of William the Silent to the Twelve Years' Truce, 1609, 4 vols., 1860–67, and *The Life and Death of John of Barneveld, etc.*, 2 vols., 1874; Beerstecher, *De staatsinrigting in Nederland*, Kampen, 1871; Heusden, *Handboek der aardrykskunde, staatsinrigting, staatshuishouding en statistiek van het koningrijk der Nederlanden*, Haarlem, 1877; *Staatkundig en staathuishoudkundig en statistiek in Nederland*, Amsterdam, 1881; *Verslag van den handel, scheepvaart en nijverheid van Amsterdam, over het jaar* 1880, Amsterdam, 1880; Wood, *Through Holland*, London, 1877.

M. M. DE BAUMHAUER.

NEUTRALITY may be considered in its principle, in its history, in the rights which it gives, or rather preserves, and in the duties which it imposes. — I. *History of Neutrality.* Neutrality flows from the mutual independence of nations. If the right to declare and wage war is one of the rights belonging to sovereign power, is not the right to remain at peace when other nations engage in war a still stronger proof of independence, and a far more precious prerogative of that condition in which a people belong to themselves and are absolute masters of their decisions and acts? From this point of view, the history of the progress of neutrality is also that of the progress of the independence of peoples. If neutrality was, among the nations of antiquity, scarcely anything more than an idle word, and in the middle ages but an object of disdain and hatred; if, even after the formation of modern Europe, it was for a long time weak and precarious, imperfectly defined and insecure, it was because it had not passed through all its social phases and arrived, by means of Christian civilization, at that equal balancing of power among the different states which secures to each a real and important independence. When Rome labored to inclose all the nations of the world in the meshes of her net, there were to be found but *tributaries* conquered by her arms; *dediticii*, who had submitted to her yoke; *allies*, who were in a state of dependence upon her, and were obliged to aid her in pursuing the course of her conquests; or, finally, *enemies*, who were bound to submit, sooner or later, to her victorious legions: but she recognized no *neutrals*. Nor could ancient Greece boast any superiority over Rome in this respect; for, within her limited boundaries, her numerous rival and jealous petty republics were leagued in turn one against another; and if neutrality was in a manner acknowledged, it was merely to protect, by means of the amphictyonic treaty, Delphi and its temple: a memorable example given by Paganism to Christianity, and one which serves to show how states can agree among themselves to mutually protect a holy city. But beyond this line of religious neutrality, what do we find in the world of antiquity? It was not as *neutral* states, but as the vassals of the powerful kingdoms of the east, that the maritime cities on the coast of Asia Minor and Syria, or those of the Mediterranean, obtained privileges and franchises for their commerce. Their ships of war composed the fleets of the king of Persia and served him as instruments wherewith to attempt the subjugation of Greece itself; as, later on, they formed the strength of the Roman fleets, when, after the fall of Carthage, Rome undertook the conquest of the world. — Nor were the centuries which saw the dissolution of the Roman empire centuries of neutrality, but rather of general and incessant strife. What nation would have pretended to remain neutral between the legions of Rome and the barbarians? There was then without doubt a principle in the spirit of Christianity which was destined to transform the world, and to produce modern civilization by mingling the ruins of ancient civilization with the new spirit of the gospel. But before it was able to enjoy peace, modern Europe had to found its independence by war. During the crusades all christendom was under arms. Abroad, the struggle against the infidels was not merely a war of state against state. The question was as to which should rule, Christian Europe or Mussulman Asia. To remain neutral in such a contest it would have been necessary to abandon one's faith. In Europe itself the feudal organization of the several states was no less exclusive of the principle of neutrality. With the requirements of military dependence, which obliged every vassal to sustain, with arms, the cause of his suzerain, the neutral would have been nothing but a felon. It was by means of maritime commerce that the principle of neutrality made its way into the law of nations. But the commercial cities of Italy were too much divided by malicious rivalries to appreciate the advantages of peace. Their very commerce lived by war and increased by the aid of monopoly and arms. The Hanseatic league, founded upon the union of interests, seemed better disposed to the practice of neutrality, but commercial ambition too often led it to deviate from this way. Not content with having obtained its own franchises, it would make a privilege of them, and this great confederation, which should have given peace and freedom to the north of Europe, was the cause of war throughout its whole extent. It was at the time of the decline of the great feudal system, when Europe began to be divided between three or four monarchies, which were about equally possessed of the different elements of wealth and strength, that neutrality became, like the leagues of states, a political means of counterpoise and balance. But at first this means could be used more by small states than by great empires. Commercial cities made use of it to protect their isolated condition; others employed it as a means of developing their power. The neutrality of Switzerland was established not only for the benefit of the Swiss people, but also for the reciprocal advantage of her powerful neighbors, and as an expedient to protect their respective frontiers against sudden invasions. The neutrality of the kingdom of Belgium has been established under similar conditions in our own day. But all neutrality imposed by treaties has

in it something of weakness. To be complete, the idea of neutrality implies the liberty to choose between peace and war; it supposes, in the neutral nation, strength sufficient to defend, in case of need, the position it has freely chosen. If the state which wishes to remain neutral, has not itself sufficient resisting force, it can ally itself with other nations who have the same interests. Hence, the armed leagues by which neutrality began to cause its rights to be recognized as against the unjust claims of belligerents. Leagues of this kind can be more easily formed in maritime wars than in wars on land, for on land neutral forces, unless belonging to states bordering on one another, could not combine without crossing the belligerent states, while, as the ocean ways always remain free, the naval forces of the neutral powers there find a vast field whereon to rally and to aid each other. Therefore the most important part of the history of neutrality is that which concerns maritime nations, and it was especially in the states bordering on the North sea that permanent interests were first found which made maritime neutrality the basis of their politics. Holland occupies the first rank among these nations. — In the new order of things created by the discovery of America, maritime commerce, which increased with the increase in extent of the known world, was divided into two parts. The transatlantic commerce remained for a long time in the hands of the Spaniards and Portuguese: but once they reached Europe, the products of America and India were loaded upon Dutch vessels to be distributed from port to port. Thus, as soon as the Dutch achieved their independence, they needed the freedom of the seas to preserve it. England, more ambitious, desired to establish her maritime domination everywhere by monopoly and privilege. She at the same time disputed with Spain the commerce with America, and with Holland the trade of the European seas. She did not then hesitate to proclaim distinctly, for her own benefit, the thesis of the subjugation of the seas. Her colonial system on the one hand, and the navigation act on the other, were the instruments she employed to draw to herself and to concentrate, if it were possible, in her own powerful hands the two branches of the maritime commerce of the world. To resist these pretensions of England the other northern nations felt the need of devising measures of defense and of uniting their forces. The old Hanseatic cities of Holland found for allies those Scandinavian kingdoms over which they had formerly wished to rule. Sweden and Denmark more particularly, as champions of the rights of neutrals, gave proof of an energy which powerfully aided this holy cause. But to insure its success, it was necessary that some of the great maritime powers should put themselves at the head of these leagues, formed not only for the defense of a people, but for the defense of a principle too. France, under Louis XVI., took this generous initiative by the declaration of 1778, and it alone of all the great states did not cease for one instant to lend the support of its influence or its arms to the cause of neutrality, in war as well as in peace, until it had achieved its complete triumph. Russia under Catharine and under Paul I. nobly concurred in this work of justice, by boldly urging the neutral powers of the north, in its manifestoes of 1780 and 1800, to league themselves together against England; this alliance, however, but interruptedly observed, indicated the end desired, without obtaining it. The great event, for which France prepared the way, which was to give the neutral powers a new attitude in the world, was the establishment beyond the seas of a great maritime state, which took neutrality as the basis of its political system, and as the grand starting point of the development of its power. It may be that the United States of America have not always defended with sufficient determination all the principles of the right of neutrality; but the very fact of the existence of this permanent neutrality of a great state during the entire period of the European wars of the French revolution and of the first empire, almost without deviating from its waiting and pacific policy, has very naturally given to the position of the neutral powers in the world a strength which they did not have before. In the face of the antiquated maxims of maritime tyranny which *Old England* persistently upheld in Europe, there arose the maxims of free navigation which the emancipated colonies of *New England* professed in America. These maxims France had constantly proclaimed: it was in their name that she had established the continental blockade, which, however, went so far as to violate and destroy all rights. But it was not by such unlawful use of force that the opposition of England was to be overcome. It was by the salutary influence of peace that France obtained, in 1856, of her old rival, now become her ally, the tardy recognition of the principles which formed the basis of the rights of neutrals. — II. *General Principles.* This brief historical résumé shows, better perhaps than any amount of philosophical reasoning could have done, how intimately the cause of neutrality is allied to the principle of national independence and maritime equilibrium It has been the subject of much discussion whether or not, from a scientific point of view, there is to be found a satisfactory and complete definition of *neutrality.* Viewed from the standpoint of reason, we find this simple truth, that neutrality is "peace established in the midst of war and respecting its rights." The difficulty which perpetually arises between belligerents and neutrals, therefore, is to know how to reconcile the rights of war with the rights of peace. It would become impossible to solve this difficulty, if the respective definitions of each of these opposite rights were pushed to the extreme: if it were true, on the one hand, that "anything that can serve to injure an enemy is permitted to belligerents"; and if, on the

other hand, it could be rightly maintained that "the neutral power, which wished to remain at peace can take no account whatever of the war, which should be for it as though it were not going on at all." In this absolute antagonism of contradictory principles, no reconciliation would be possible, and the neutral powers would only have to arm themselves to defend their rights by force, if need be. The systems based upon exclusive theories must inevitably lead to this conclusion Some, under pretense that necessity justifies all things in war, are led to recognize in neutrals no right which does not depend more or less on the caprice of the belligerents. Others, rightly seeing in the cause of neutrals that of commerce and of all the peaceful interests which constitute the life of human society and the wealth of states, would not accord to belligerents any rights except those from which neutrals would not have to suffer in any event. Truth is not to be found in either of these principles. Nor can we find it either in the odd system proposed by Lampredi, which consists in leaving the rights of belligerents and the rights of neutrals to be exercised *parallely* to the full length that they can extend, as if it were not folly to abandon to chance or force the care of finding the limit which reason should seek for and which should be determined by the law of nations. To make proper allowance for the rights of belligerents, and to establish likewise just limits to the rights of neutrals, is evidently the end which we must strive to accomplish. This was the way taken by the publicists who, in the very midst of maritime wars, began to build upon solid foundations the science of the rights of neutrality, by Bynkershoeck, Hübner, Galiani, Gérard de Rayneval, Azuni, and by Hautefeuille, Massé and Ortolan, who, at a more recent date, have resumed and developed these studies in time of peace. Each of these publicists has, according to his personal tendencies, enlarged or restricted the application of one principle or another; but all recognized the fact that war, as well as peace, has its just rights, and that they must limit each other without any one of them being suppressed, unless it be those which have nothing but the name of right, and which are manifest inventions of violence and arbitrary power. — Side by side with this labor of science there was another labor going on in morals, which was destined, without doubt, to prepare and facilitate the recognition of the rights of neutrals. It would be an interesting and profitable study to note how many injustices disappear of themselves according as individuals and nations gradually correct false theories founded upon ignorance and error. The moral result we here refer to was aided even by the material revolution operated in our day in the art of war, and, above all, in naval warfare. — In the conflict between the two principles represented by belligerents and by neutrals, the principle of peace and the principle of war, every inch of ground is disputed, and the right of peace naturally profits by every surrender made by the right of war, either spontaneously or by force, in the name of strict justice, or in the name of humanity. Thus, in 1856, the spontaneous resolution of the maritime powers to abolish the right of privateering effected the realization of a progress most favorable to the interests of neutrality, although neutrals had in principle no right to claim such a softening of the severities of war. This last consideration was absolutely indispensable in order to show the true character of the recent progress of the law of nations. We would have a very imperfect idea of this progress if we were to study each fact in it apart from the others. They are connected one with another, and can not be exactly appreciated except when considered as a whole. Neutrals did not obtain justice for their most sacred rights in time of war until commerce had obtained the recognition of the grand principle of the freedom of the seas in time of peace. — III. *Duties of Neutrals.* Neutrality being, as its very name indicates, nothing more than an abstention from war, the fundamental duty of neutral nations consists in abstaining from all participation in hostilities. *Neutrarum partium esse; neutri parti, belli causa, favere*, as Wolff expresses it. But beside this duty, which constitutes, so to speak, *passive* neutrality, there is another, the fulfillment of which requires neutrality to become *active*, that is, *impartiality* in the performance of the good offices which the neutral powers ought to render to each of the belligerents.—The first principle is self evident, and the second is the result of reasoning and theory. If a neutral power loses all claim to this title when it directly aids either party in the war, is it any more in keeping with its character to refuse to one of the belligerents the indirect assistance which its partial friendship lends to the other? But let us proceed. From this impartiality of neutral powers, which has been made a duty, it has been concluded that such powers should so act as not merely to offer the same friendly relations to both the belligerents, but also to prevent either one of them from assailing with impunity the rights and privileges of neutrality, by violating by hostile acts, for instance, the territory or territorial seas of a neutral state. — There are, above all, two very weighty matters connected with the duty of abstention imposed upon neutral powers, the *law of contraband* and the *law of blockade*. The two things are intimately connected with each other. In fact, when we say that neutral powers ought to "abstain from all participation in hostilities," we do not say enough; and this duty, by a natural consequence, requires that a neutral power should do nothing the direct result of which would be to prevent between two enemies the warlike operations allowed by the law of nations. Hence it follows, that neutral powers are obliged not only not to carry contraband of war to belligerents, but also to respect a blockade established under regular

conditions. In general, "anything for use in war" furnished the enemy by a neutral power, is called *contraband of war*. But if we take this word in its broadest acceptation, it is evident that all commerce between belligerents and neutral powers should be forbidden. In fact, war, and especially naval warfare, is waged, on the one hand, by means of arms of different kinds which must be manufactured and supplied with ammunition; on the other hand, by means of soldiers and sailors, who must be enrolled, paid, clothed, equipped and fed; finally, by means of ships, which must be built and, if necessary, clad in iron, armed with powerful machines, and provisioned. What then would remain, if we were to reckon as contraband everything that might serve, either proximately or remotely, the many and varied requirements of war? A distinction had, therefore, to be made between articles which might be freely traded in and articles of contraband: but to whom should belong the establishment of this distinction? To give it to belligerents would be to destroy the rights of neutrals. To give it to neutrals would be to compromise the rights of war. States finally agreed, by international treaties, what kinds of merchandise, what persons and what acts should be considered contraband. They acknowledged the fact that the manufacture or sale of all articles, even those to be used in war, can not in general be prohibited upon neutral territory; that in accordance with this principle, and saving all proper exceptions, the only kind of commerce which is absolutely forbidden to neutrals is the transportation of contraband goods to the enemy's country, whether these goods have been already sold upon neutral territory or whether the object of their transportation is, that they should be sold to one of the belligerents in its own ports. Among the rare exceptions to this rule there are two deserving of special notice: the one has reference to the enlistment of soldiers, and the other to the building or arming of ships of war in a neutral country for the service of belligerents.* It is perfectly clear that in these two cases it is not a question of things that merely may be used in war, but rather of things that constitute the body and substance of war itself, for no naval war can be carried on, or even imagined, without ships of war, nor can a war of any kind be waged without soldiers. Thus not only the transportation but even a sale made to a belligerent is, for a neutral, a hostile and forbidden act. As to other articles of commerce, the secondary law seems to have adopted as its rule that only those articles should be included in the contraband list which, in the state in which they are delivered to the enemy, can be of immediate service in carrying on the war, whether they consist of arms and implements of war or of materials that are of themselves directly fitted for use in war. To do away with all doubts, many of the great international treaties contain, together with the list of things prohibited in time of war, a counter-list of those that are not forbidden. Nevertheless, no matter what trouble may be taken to regulate these details of the secondary law, the changes which are constantly occurring in the art of navigation and in the form of engines of war, give rise to new questions in every epoch. To cite but one: the question has arisen in our own day, whether coal should not, by reason of its indispensable necessity in steam fleets, come under the prohibition which most of the great European treaties have placed upon sulphur and saltpetre; but public opinion would protest against this classification; for, of all the mineral substances which the earth conceals within its bowels, what one is there more inoffensive in its nature, and what one is there that owes less to the labor of man than coal, which passes, in its natural state, from our mines to the furnaces of our steamships? Within these limits the interdiction of the carrying of contraband of war to the enemy is surely the most reasonable and just of all the burdens imposed upon neutrals by the law of nations. It would even be difficult to understand how this prohibition could disappear without profoundly affecting the natural notions of peace and war. Is it not already a great deal for neutral nations to be allowed to take advantage of the immunity of their territory to manufacture and sell to belligerents munitions and arms, which are the instruments wherewith they fight? To transport these arms in their own vessels to the very theatre of the war would be, in the eyes of morality, to overstep the limit which separates peaceable commerce from active participation in hostilities. Does not the merchant, who, for a consideration, puts the gun into the hands of the soldier, perform an act of war as much as the soldier himself, who, by pulling the trigger, inflicts death directly?—It must, however, be admitted, that even a limited interdiction of contraband of war produces a lamentable consequence for neutrals—that neutral vessels are obliged to submit, even on the high seas, to be searched by belligerents. There is, perhaps, no arbitrary and violent measure which has, in practice, been the cause of more dissatisfaction and hatred than the abuse of *the right of search*. Nothing irritates a proud and generous people so much as the vexations to which their fellow-countrymen are daily exposed. But are the abuses of the right of search of such a char-

* The treaty of Washington, May 8, 1871, between the United States and Great Britain (Alabama claims) lays down the following principles: A neutral government is bound, 1, to use all diligence to prevent the arming of any vessel which it has reason to believe is intended for service as a privateer, or to take part in hostile operations against a power with which it is at peace, and also to use the same diligence to prevent even the departure from its jurisdiction of any vessel destined for privateering, or to take part in hostile operations, such vessel having been in whole or in part adapted for purposes of war within said jurisdiction; 2, not to allow any of the belligerent nations to make its ports or its waters a basis of operations, nor to make use of them to increase or replenish their military supplies or arms, or to recruit troops; 3, to exercise all necessary diligence in its own ports and waters, and over all persons under its jurisdiction, to prevent any violation of the obligations and duties above mentioned.

acter that they can not be corrected? Would it not be, not only possible, but easy, by reducing the thing to what the name expresses, by submitting the verification of the ship's papers to certain rules, without authorizing the annoying search of the interior of the vessel, to have the inspection accompanied with so much politeness and consideration that it would lose its character of a police measure and become little more than a mere formality? The only inconvenience it would then cause an unoffending vessel would be a slight delay. — There is not, on the contrary, in the entire law of nations a principle whose application produces graver, more irreparable and apparently more unreasonable consequences to the neutral than *the right of blockade*. In everything else it is upon belligerents, and justly so, that the evils of war press heaviest; for the belligerent, who suffers by the war, always has a means of putting an end to his sufferings by offering or accepting peace. But what means of putting an end to the war has the neutral who suffers from the blockade, if his offers of mediation are rejected? He may, therefore, see himself ruined by a state of things which he has done all in his power to prevent. — IV. *Rights of Neutrals*. Whatever may be the fatal necessity of war, whatever may be its justice, dignity and glory under certain circumstances, it is but an exceptional and abnormal state in the life of civilized nations. What are called *the rights of belligerents* are means of force and violence, which, in order to secure satisfaction for a just grievance, disturb all the ordinary relations of nations. With *the rights of neutrals* it is entirely different. Neutrality, as we have said already, represents commerce, civilization and peace. Its noble mission is to continue this peace in the very midst of the barbarities of war. Its rights are nothing else than the common rights of mankind, and we have no need of subtle definitions to explain them. According to Hübner's idea, whatever is not forbidden to neutrals by a formal restriction of the law of nations, is allowed them. First of all, they have a right, an absolute right, to respect for their persons and their goods. — *Respect of territory* is the first condition of the independence of neutral nations: it is also the easiest to observe, for here the line of demarcation between peace and war is traced with mathematical accuracy. The opinion was, however, held in former times that the belligerent had the right to convey his troops over neutral territory, provided it were done in an inoffensive manner. This is what Grotius and his school call *transitus innoxius*. Vattel even went so far as to pretend that a belligerent could, in case of extreme necessity, place a garrison for a time in a fortress situated in a neutral country. But all now agree that to take neutral territory by force in order to use it for warlike operations would be a flagrant violation of the rights of neutrality. — By neutral territory is meant not only the continental or insular possessions of a neutral state, but even those parts of the sea near the shore which the law of nations considers as part of the territory of a country. We will presently consider the question whether a neutral vessel should not also be considered as a detached portion of the territory. — The immunity of neutral territory naturally protects everything that is found in it, both the goods and persons of neutrals themselves and the goods and persons of belligerents. This is what constitutes *the right of asylum*. But, in order thus to share the privilege of neutrality, it is necessary that the belligerent who resides or takes refuge on neutral territory should continue, while he enjoys this asylum, in a situation analogous to that of neutrals themselves, that is to say, he should abstain from all acts of hostility — The lives of the enemy's troops, when closely pressed in a hard pursuit, are spared, if they succeed in reaching the frontier of the neutral state; but they must at once lay down their arms. Ships of war of belligerents may find a similar refuge in a neutral port, or in the waters of a neutral country near such a port. Once received into this port, the crew of a ship of war may revictual the ship there, and repair the injuries she has received from storms or in battle, but upon condition of there living at peace with any of the enemy's ships that chance, tempest or war may have driven, like herself, into this place of asylum. Further: if this armed vessel desire to put to sea again, the law of nations, in its foresight, will not allow her to leave a neutral port until one day after the departure of the enemy's ship which had preceded her has elapsed. The sacred rights of hospitality have imposed this salutary restriction upon the rights of war, which is known as the *twenty-four hour rule*. — If the law of nations protects even the persons and goods of the enemy upon neutral territory, it has still greater reason to protect the goods and person of a neutral upon the territory of belligerents. But, by a just reciprocity, the citizens of a neutral state, residing in the theatre of war, can avail themselves of this right of immunity only so long as they remain neutral in their acts as well as by their nationality. If they take a personal part in the war, they must submit to the laws of war. But so long as they abstain from all mingling in hostilities, their privilege as neutrals follows them everywhere: however isolated they may be in a strange land, their cause must not be confounded with that of the people with whom they are accidentally intermingled. How, then, shall we qualify, from the point of view of justice, the measures by which a belligerent, the moment a war is declared, lays hand on neutral ships moored in his ports, either arbitrarily to detain them under form of an *embargo*, or to press them into service for the transportation of troops or munitions of war in virtue of a pretended right of *angaria*? These measures are evidently contrary to the rights of neutrals, and can find no pretext for their practice but in the iniquitous theory, that everything *necessity* requires, even though it act as an injury to neu-

trals, is excusable or lawful. — We have reserved for the last the consideration of the gravest and most debated series of questions, those which concern commerce by sea between belligerents and neutrals. On land the separation of peace from war is naturally made by the distinction of natural territory. On the high seas this separation is altogether a moral one, and can only exist and be enforced according to the rules laid down in the law of nations. The vast expanse of the ocean is no one's domain; it belongs in common to all nations, and serves equally for the uses of peace and of war. It is the grandest commercial route for the peaceful intercourse of nations and the largest battle-field for the settlement of their quarrels. The law of nations established the separation between belligerents and neutrals at sea by the use of the flag, which is the conventional sign of the nationality of vessels. As to ships of war, as they represent the national force of the state whose flag they carry, and are armed for its defense, the right of a neutral flag to the absolute respect of belligerents has never been called in question. But in regard to inoffensive and unarmed merchantmen, it seems to us almost incredible how variable and confused the rules of maritime law were for a long time. The enjoyment of the rights of neutrality certainly could not be denied to a ship when the vessel and the cargo both were the property of neutrals. What was denied to neutrals was the right to transport upon their vessels even goods not contraband belonging to the enemy. There was a time when it was considered not only just but indulgent toward neutrals for a belligerent power to confine itself to confiscating an enemy's goods found on board of a neutral vessel, provided the vessel itself was allowed to continue its journey, and the captain was paid for the freight he would have earned on the intercepted merchandise. This was the provision of the *consulat de la mer*, and became almost the common law of the middle ages. In some maritime states the domestic laws concerning prizes went much farther: they condemned to confiscation not only an enemy's goods, but also the neutral ship which carried them. An ordinance issued in 1681 by Louis XIV., who was so wise upon other points, sanctioned the unjust maxim: "*robe ennemie confisque navire ami.*" — Some laws and treaties, carrying their violation of the rights of neutrals to the utmost limit, laid down the principle that "*navire ennemi confisque robe amie.*" Thus the nationality of the belligerent vessel seemed to communicate its character to neutral merchandise and cause its loss, while the nationality of a neutral vessel was effaced by contact with an enemy's goods. In order to understand such a deviation from the rules of justice, it must be borne in mind that privateering was then the chief means of carrying on a maritime war, and that "to encourage privateers" they believed themselves obliged, by reasons of state, to deliver over to them not only the enemy's goods, but those of neutrals also. Only the abolition of this kind of war could dry up the source of the evil. Progress had been at first slow and imperfect. Down to the middle of the eighteenth century it was believed that the suppression of the two most odious cases of confiscation, by declaring neutral vessels exempt from confiscation for carrying goods belonging to the enemy, and by declaring the goods of a neutral not liable to seizure when found on board an enemy's ship, would be sufficient justice. It was quite a different thing to declare that an enemy's goods carried by a neutral vessel should be everywhere respected. The principle of free transportation of an enemy's goods by neutral vessels was, it is true, admitted by a great number of European treaties; but the internal public law of England and even of France obstinately retained the contrary principle; and the same disagreement which existed in practice between the internal laws and the treaties existed, in science, between the different opinions of publicists. At the very time that it was to Holland's best political interest to cause the exemption of the neutral flag to be recognized, the celebrated Dutch publicist, Bynkershoeck, declared that, viewed from the standpoint of natural law, he saw no reason to exempt from seizure by belligerents an enemy's goods when carried upon neutral vessels. — There are two ways of looking at a neutral vessel freighted with an enemy's cargo. We may, on the one hand, look at such a vessel from a totally material point of view, and see in it "only a sea vehicle," which serves to transport goods, but without changing the laws which govern them. Or, on the other hand, we may ascend to a higher plane and consider a merchant vessel as a detached parcel of the neutral territory, which, upon an element essentially neutral, preserves the privilege of covering with territorial inviolability all that it carries with it. This beautiful and generous theory, which Hübner was the first to proclaim and Hautefeuille defended in an able and complete argument, could belong only to an age of civilization and progress. It impresses the mind by the noble simplicity of its formula (*the ship is territory*), and attracts it by the greatness of the interests which it protects; but does it possess, in an equal degree, that decisive authority which compels acceptance in virtue of a principle of natural and absolute justice? I should regret to enfeeble the reasons so confidently and so earnestly advanced in favor of a cause to which all the sympathies of my soul incline. Nevertheless, now that this great cause has won, we may explain to ourselves the resistance and delays its triumph met with by admitting that there was question here not so much of accomplishing an act of strict justice, as of taking another step upon the road of the progress of mankind; not so much of recognizing a right of neutrals, as of tempering and softening a right of war. What was the right which the belligerent denied the neutral flag? The right to take from its pursuit

commercial and private property of the enemy. The fixed territory of the neutral power protects such property only on condition that it remain motionless in the neutral state. The ship, which the law of nations made neutral territory, though floating and traveling territory, transports the enemy's goods to all points of the globe, puts them within the reach of all nations, and in fact restores, through the intermediation of neutrals, the possibility of maritime commerce by the enemy which the belligerents claimed to have the right to destroy.— This pretended right of suppressing all the commerce of an enemy was too long claimed by England. It was claimed by her when she wished to forbid neutrals the power to substitute during war their own vessels for those of belligerents between a mother country and a colony beyond the seas, and again when she denied to the commanders of ships of war of a neutral state, serving as escort to merchant vessels, the right to exempt the latter from search, by asserting their neutrality and declaring that they carried no contraband. The trouble and wars which this question of the search of convoyed vessels occasioned in the maritime world at the close of the last century, are well known. All these consequences of the old principle naturally fell with it, and the new principle "that the neutral flag absolutely covers the merchandise, even though belonging to an enemy, provided it is not contraband," thus became the keystone of modern maritime law.— V. *Conclusion.* To sum up in a few words the principles and facts in the foregoing, we may distinguish three periods or three degrees in the progress of international law in what concerns neutrals and especially maritime neutrals. — Down to the declaration of Louis XVI., in 1778, the rights of neutrality were in some measure left to the mercy of the domestic laws and particular treaties entered into between different states. Not but that we find written in the most important of these treaties respect for the neutral flag with a more or less exact definition of contraband of war, and certain provisions limiting the right of maritime blackade; but, as no general agreement had been concluded upon this subject, the true principles were sometimes admitted and sometimes disregarded, according to changing circumstances and the caprice of governments.— In the second period, which extends from 1778 to 1856, the neutral nations endeavored, in different ways, to concert together more exactly to define their rights and secure their recognition, either by diplomatic means, or even, if necessary, by force of arms. France, Russia, and the United States, in turn, took the lead in this progressive movement, which, begun in time of war, is followed up and extended in time of peace. The cause of neutrality became little by little the cause of all maritime nations, except England; for this last named nation, trusting in her strength and always regarding her commercial empire as indissolubly connected with the maintenance of her old maxims touching her rights on the sea, could not bring herself definitively to renounce any of them. — The cessation of England's opposition marks the third period. Yielding to the force of circumstances which led her toward a system of commercial liberty, she consented to recognize the fundamental principle that "the neutral flag covers an enemy's goods." Men now began to perceive at last that the recognition of the rights of neutrals was most intimately connected with the lessening of the hardships of war and the free development of international commerce. They therefore resolved upon the *abolition of privateering* as the principle from which was to flow the freedom of the seas, such as it is understood in the nineteenth century. — Under this two-fold aspect, the second article of the declaration of principles of April 16, 1856, is in our eyes the culmination of the progress ending; and its first article the point of departure of a new progress. *Text of the declaration:* "1. Privateering is now and forever abolished; 2. A neutral flag covers enemy's goods, excepting contraband of war; 3 Neutral goods, excepting contraband of war, shall not be seized under the enemy's flag; 4. A blockade, to be obligatory, must be effective, that is to say, it must be maintained by a force sufficient to prevent access to the enemy's coasts."

E. CAUCHY.

NEVADA, a state of the American Union, formed from territory acquired from Mexico. (See ANNEXATIONS, IV.) The territory of Nevada was organized out of the territory of Utah, by act of March 2, 1861. An enabling act was passed March 21, 1864, and the state was declared a member of the Union, in accordance with the enabling act, by President Lincoln's proclamation of Oct. 31, 1864. — BOUNDARIES. The boundaries of the state, as defined in the enabling act and accepted in the state constitution, were as follows: Beginning at the intersection of longitude 38° west from Washington with 37° north latitude; thence due west to the eastern boundary of California; thence northwest and north, along the eastern boundary line of California, to 42° north latitude; thence due east to longitude 38° west from Washington; and thence due south to the place of beginning. The act of May 5, 1866, took from the territory of Utah and added to the state of Nevada the territory between 37° and 38° west longitude and 37° and 42° north latitude, so that the eastern boundary of the state is now longitude 37° west from Washington. — CONSTITUTION. The first constitutional convention met at Carson City July 4–28, 1864, and formed a constitution, which was ratified by popular vote, Oct. 11. It prohibited slavery; gave the right of suffrage to white male citizens over twenty-one, on residence of six months in the state, providing they had not borne arms against the United States; fixed the term of the governor at four years, of senators at four years, and of representatives at two years; prohibited special legislation on a number of

specified subjects; and fixed the seat of government at Carson City. — GOVERNORS. James W. Nye, 1864–9; Henry G. Blaisdell, 1869–71; L. R. Bradley, 1871–9; John H. Kinkead, 1879–83. — POLITICAL HISTORY. From the admission of the state until 1870 it was steadily republican, the democratic representation in the legislature being only nominal. In 1870 the democrats carried the state and elected their candidate for governor, Bradley. The senate stood twelve republicans to eleven democrats, and the house twenty-six democrats to twenty republicans. The democratic proportion of the legislature immediately began to decrease again, and remained only nominal until 1880, though a democratic congressman was chosen in 1872 and the democratic governor was re-elected in 1874. In 1880 the democrats elected their candidates for congressman and (for the first time in the state's history) for presidential electors. The senate then stood fourteen republicans to ten democrats, and the house forty-three democrats to seven republicans. — Among the state's political leaders are Delos R. Ashley, republican representative 1865–9; Jas. T. Fair, democratic United States senator 1881–7; John P. Jones, republican United States senator 1873–85; Jas. W. Nye, governor of the territory 1861–4, and republican United States senator 1865–73; William Sharon, republican United States senator 1875–81; Wm M. Stewart, republican United States senator 1865–75. — See 12 *Stat. at Large*, 209, and 13:30, *app.* ii., No. 21, (for the acts of March 2, 1861, March 21, 1864, and the proclamation of Oct. 31, 1864, respectively); 15 *Stat. at Large*, 43, (for the act of May 5, 1866); 2 Poore's *Federal and State Constitutions;* Porter's *West in* 1880, 470.

ALEXANDER JOHNSTON.

NEW ENGLAND UNION (IN U. S. HISTORY). In 1643 the section now known as New England consisted of the following colonies: Connecticut and New Haven (now included under Connecticut); Massachusetts Bay and Plymouth (now included under Massachusetts); New Hampshire (claimed by Massachusetts and by Mason); and Maine (claimed by Massachusetts and the Gorges family). The church connection between the first four colonies was intimate, and at one of the annual synods, held at Boston in 1637, a civil alliance was proposed. Connecticut at first refused her consent, unless a veto power should be reserved to each colony; but an increasing pressure from the Dutch forced her to withdraw her opposition, and in 1643 the union was perfected, under the name of "The United Colonies of New England." — The union was confined to the first four colonies named above. Rhode Island applied for membership in 1648, but was refused, on the ground that her territory was properly a part of the patent of the Plymouth colony. The affairs of the union were administered by two commissioners from each colony, the votes of six of the eight commissioners being necessary for valid action. Its action was to be confined to such matters as were "proper concomitants or consequents of a confederation," such as peace, war, and Indian affairs; the control of local affairs was reserved to each colony; and expenses were to be assessed according to population. The commissioners, all of whom were to be church members, were to hold sessions annually at Boston, Hartford, New Haven and Plymouth, Boston being given a double share of sessions. Provision was made for the extradition of criminals and runaway servants. (See FUGITIVE SLAVE LAW, I.) — The union endured nominally for half a century, but its period of real life was about twenty years. At first its authority, or rather its advisory power, was actively exercised: it undertook the formation of a system of internal improvements, by laying out roads; exercised the treaty power with its Dutch and French neighbors; declared and waged a war against the Indians; and decided territorial disputes between the colonies. But the union had not been in existence ten years before signs of disintegration appeared, arising mainly from the unwillingness of the strongest colony, Massachusetts, to submit to the general authority. In 1650, the union having upheld the right of Connecticut, under an ancient grant, to levy tolls on commerce at the mouth of the Connecticut river for the support of a fort there, Massachusetts retaliated by levying tolls on Boston commerce belonging to other colonies, nominally for the support of the forts at Boston; and this proceeding almost broke up the union. In 1653 the union determined to declare war against the Dutch in New Netherland; but Massachusetts denied the right of the union to declare "offensive war" without unanimous consent. The general court, therefore, refused to levy its quota of men, and the war fell through. At the restoration of the Stuarts no formal condemnation of the union was made, but its functions were practically resumed by the crown. After 1663 the meetings of its commissioners became triennial, and soon ceased altogether. (See FLAG.) — See 1 Bancroft's *United States*, 420, and authorities there cited; 1 Hildreth's *United States*, 285, 326, 386, 463; 1 Spencer's *United States*, 94; 1 Pitkin's *United States*, 51; Chalmers' *Political Annals*, 178, 1 Chalmers' *Revolt of the American Colonies*, 86: 9 *Mass. Hist. Soc. Coll.*, 3d ser., (J. Q. Adams' article on the confederacy of 1643).

ALEXANDER JOHNSTON.

NEW GRANADA. This was the name of the country now known as Colombia, or the United States of Colombia. Colombia is a federative republic in the northwestern part of South America. The United States of Colombia consists of nine states: Antioquia, Bolivia, Boyáca, Cáuca, Cundinamarca, Magdalena, Panamá, Santander and Tolima; besides which there are two territories. The area of the states and territories is 830,000 square kilometres, but a great part of this area is uninhabited. In 1877 the states had a

population of 2,999,000 and the territories of 53,466, to which numbers must be added about 100,000 of yet uncivilized Indians. The federal capital is Bogota, with 40,883 inhabitants. The states of Colombia were, previous to 1810, under Spanish rule. After they had declared their independence they entered into political connection with other states. Thus, in 1819, together with Venezuela and Quito, they formed the republic of Colombia. Venezuela and Quito, however, dropped out of this union in 1830, and the remaining group of states assumed the name of the republic of New Granada, which gave place in 1861 to the present federative republic of the United States of Colombia. The constitution of Colombia dates from May 8, 1863. According to that constitution the government of the country has three branches: the executive, the legislative and the judicial powers. The executive power is lodged in a president, who is elected for two years. He is assisted by four secretaries. These are the secretary of home and foreign affairs, the secretary of finance and public works, the secretary of the treasury and of credit, and the secretary of war and of the navy. The legislative power is exercised by a congress, consisting of a house of representatives and of a senate. The senate consists of twenty-seven members, three from each state. The number of representatives is at present sixty-one. There is a supreme federal court at Bogota. The constitutions of the several states are similar to that of the Colombian union of states. At the head of each state there is a president or governor, assisted by a secretary general. The term of office of the governors is, in Antioquia four years, in the other states two. The federal army, in times of peace, consists of 3,000 men. In case of war, each of the states is required to furnish 1 per cent. of its population as a military contingent. The finances, according to the budget of 1878–9, show receipts amounting to $6,059,115. The expenditures amounted, in 1877–8, to $7,271,933. The national debt amounted, Feb. 1, 1875, to $15,999,304. The preponderant portion of the population are whites and mestizoes. A part are *zambos*, or the children of negroes and Indians. There are also some *ladenos*, or the descendants of whites and Indians, but with a greater proportion of Indian than of white blood. The religion of the country is the Roman Catholic, but other religions are tolerated. — BIBLIOGRAPHY. Restrepo, *Historia de la revolucion de Colombia*, 10 vols., Paris, 1827; Karsten, *Ueber die geognöst. Verhältnisse des westlichen Colombia*, Vienna, 1856; Samper, *Ensayo sobre las revoluciones politicas y la condicion de las republicas Columbianas*, Paris, 1861; Powles, *New Granada, its Internal Resources*, London, 1863; Mosquera, *Memoria sobre la geografia fisica y politica de la Nueva Granada*, New York, 1852, and *Compendio de geografia general politica, fisica y special de los Statos unidos de Colombia*, London, 1866; Hall, *Columbia, its Present State in respect of Climate, Soil, etc.*, Philadelphia, 1871; Hassaurek, *Four Years among Spanish Americans*, New York, 1867; Marr, *Reise nach Centralamerika*, 2 vols., Hamburg, 1863; Zeltner, *La ville et le port de Panama*, Paris, 1868.

NEW HAMPSHIRE, one of the original states of the American Union. Its territory, with the boundaries described below, was granted by Charles I. to John Mason, by charter dated Nov. 7, 1629, modified and confirmed by another charter of April 22, 1635. During the commonwealth period in England the New Hampshire settlers, like those of Maine, came under the jurisdiction of Massachusetts, and so remained for nearly forty years, 1641–79. In 1675 one of Mason's grandsons applied to the king for restitution of the territory, and, after a hearing, a royal decree was issued Sept. 18, 1679, reciting that Massachusetts had usurped authority over the territory, and that the territory "hath not yet been granted unto any person or persons whatsoever," and ordered that it should become a royal province. It remained a royal province until the revolution, but had no charter, its existence as a separate colony depending on the king's will. The relation of the colony to Massachusetts bore some resemblance to the connection between Delaware and Pennsylvania (see DELAWARE): the same governor was often sent out for the two colonies together, but the assemblies were separate. — BOUNDARIES. The grant of 1629 was of "all that part of New England between 40° and 48° north latitude," between Maryland and the St Lawrence. The grant of 1635 was more circumspect in its assignment of boundaries, as follows: from the middle part of "Naumkeck river," eastward along the seacoast to Cape Ann, and "round about the same to Pischataway harbour"; thence to the head of "the river of Newgewanacke" [Salmon Falls]; thence "northwestwards till sixty miles be finished"; and from the Naumkeck "up into the land west sixty miles, from which period to cross over land to the sixty miles end aforesaid." These words seem to designate a territory whose northern boundary was a line northwest from the Salmon Falls to the Connecticut river, while the southern boundary was considerably south of that which is now the southern boundary of New Hampshire. In the final settlement (see MAINE) New Hampshire gained the whole northern part of her present area, but took as a southern boundary a line three miles north of the Merrimac river to its most southwestern bend, and thence directly west. — CONSTITUTIONS. In the opening of the revolution New Hampshire applied to congress for directions as to civil government, and congress, by resolution of Nov. 3, 1775, recommended the formation of a temporary state government. In accordance with this recommendation, a convention at Exeter, Dec. 21, 1775–Jan. 5, 1776, adopted the state's first constitution, without submitting it to popular vote. It was very brief, and practically left both the legislative and execu-

tive powers of government in the hands of a house of representatives or assembly, chosen by towns, and a council chosen by counties. A convention at Concord, June 10, 1778 – June 5, 1779, framed a new constitution, which was rejected by the towns. A new convention at Exeter, June 12, 1781 – Oct. 31, 1783, framed a new constitution which, having been variously amended in the town meetings during the two years of the convention's existence, was ratified by popular vote, and went into force June 2, 1784. It declared New Hampshire a "free, sovereign and independent state"; gave "towns, parishes, bodies corporate, and religious societies" the power to provide for the support of Protestant ministers, but without establishing any state church; gave the legislative power to a "general court" (see BURGESSES), composed of a senate of twelve, chosen annually by districts, and a house of representatives, chosen annually by the towns according to population; imposed a property qualification of £200 on senators and £100 on representatives; provided that state officers should be "of the Protestant religion"; gave the right of suffrage to "male inhabitants over twenty-one, paying a poll tax"; gave the executive power to a "president," chosen annually by popular vote, or by the legislature in default of a popular majority, with the title of "his excellency," and having a property qualification of £500, together with an advisory council of five, chosen by the legislature. A new constitution was framed by a convention at Concord, Sept. 7, 1791 – Sept. 5, 1792, and during the continuance of the convention was ratified by the town meetings. Its principal changes were the alteration of the title of the executive to "governor," and a provision for the periodical submission of the constitution to the people for decision on the necessity of revision. It has been thus submitted a great number of times, but only twice amended. In 1852 all property qualifications for state officers were abolished. In 1877 the term of the governor and legislature was extended to two years; state elections were changed from March to November; the religious qualification was abolished; and the senate was enlarged to twenty-four members. — GOVERNORS. John Langdon, 1784–6; John Sullivan, 1786–8; John Langdon, 1788–90; Josiah Bartlett, 1790–94; John T. Gilman, 1794–1805; John Langdon, 1805–9; Jeremiah Smith, 1809–10; John Langdon, 1810–12; William Plumer, 1812–13; John T. Gilman, 1813–16; William Plumer, 1816–19; Samuel Bell, 1819–23; Levi Woodbury, 1823–4; David L. Morrill, 1824–7; Benjamin Pierce, 1827–9; John Bell, 1829–30; Matthew Harvey, 1830–31; Joseph M Harper, 1831; Samuel Dinsmoor, 1831–4; William Badger, 1834–6; Isaac Hill, 1836–9; John Page, 1839–42; Henry Hubbard, 1842–4; John H. Steele, 1844–6; Anthony Colby, 1846–7; Jared W. Williams, 1847–9; Samuel Dinsmoor, 1849–52; Noah Martin, 1852–4; Nathaniel B. Baker, 1854–5; Ralph Metcalf, 1855–7; William Haile, 1857–9; Ichabod Goodwin, 1859–61; Nathaniel S. Berry, 1861–3; Joseph A. Gilmore, 1863–5; Frederic Smyth, 1865–7; Walter Harriman, 1867–9; Onslow Stearns, 1869–71; James A. Weston, 1871–2; Ezekiel Straw, 1872–4; James A. Weston, 1874–5; Person C. Cheney, 1875–7; Benjamin F. Prescott, 1877–9; Nathaniel Head, 1879–81; Charles H. Bell, 1881–3. — POLITICAL HISTORY. The ratification of the constitution in New Hamphire was accomplished with difficulty (see CONSTITUTION), but when the ratification was accomplished, the state became reliably federalist. The leader of the democratic party of the state was John Langdon; but, though his personal popularity made him United States senator until 1801, he never succeeded until 1805 in making his state democratic. John T. Gilman, the federalist leader, was regularly re-elected governor for eleven years, and the legislatures were of the same political complexion. The strongest indications of a change were visible in 1804. In the elections of that year the democrats secured the electoral vote of the state, the legislature, and through it the United States senator; and Gilman had a majority of but forty votes for governor. In the following year Langdon was elected governor, and the state remained democratic until 1813, with the exception of the years 1809 and 1810. In 1812 the federalists again elected Gilman governor, and a majority of the legislature. Following a precedent which the democrats had recently set in Massachusetts (see that state), they proceeded to reconstruct all the courts of the state, substituting a series of courts with new names and federalist judges. Both sets of judges held their appointed sessions; the court officers in some places supported one set, and in others their opponents; and law and justice were suspended until the new court triumphed. In 1816 the democrats in turn carried the state, secured its electoral vote and the legislature, removed the federalist judges, and appointed democrats in their places. They went further and attacked the charter of Dartmouth college, whose trustees were federalists and had the power to fill vacancies in their number. An act was passed changing the name of the college to Dartmouth university, modifying the charter, and enlarging the number of trustees. Two college organizations appeared. The new one, backed by the legislature, secured the buildings and records; but the old one, after prolonged litigation, carried the case to the United States supreme court, and there secured a verdict, on the general ground that the charter, though granted originally by the king, was a contract which the federal constitution forbade the state to violate. — Thereafter the state remained democratic until 1856; though the single electoral vote cast against Monroe in 1820 came from New Hampshire, it was cast rather on personal than on party grounds. In 1824 and 1828 the state's electoral vote was cast for John Quincy Adams, while he was still one of the republican (democratic) candidates; but when parties were fairly

reformed, the state, under the leadership of Isaac Hill and Levi Woodbury, was as strongly democratic as ever. The whig vote in the state was seldom over 40 per cent. of the whole, and was more usually about 30 per cent.; even in the general whig success of 1840, the democratic majority in the state was 6,386 out of a total vote of 58,954 for electors, and for state officers the majority was about 2,000 larger. It was not until 1847 that any break was made in the democratic supremacy in the state; in that year one of the four congressmen was a whig, and another a free-soiler. In these two congressional districts, comprising the four southern counties of the state, the democrats were beaten, until the redistricting, after the census of 1850, made all the districts again democratic; but the democratic majority in the rest of the state was always large enough to control all the general state elections, and the governors and legislatures were still steadily democratic.— In 1855 the democrats lost control of the state. At the previous election their opponents, under the common name of Americans, or "know-nothings" (see AMERICAN PARTY), had carried the lower house of the legislature; and in the spring of 1855 they elected the governor, Metcalfe, all the three congressmen, and a heavy majority of the legislature. In March, 1856, the democrats succeeded in electing Wells governor by a majority of eighty-eight votes out of 66,510, but they were still in a minority in the legislature. During the summer the republican party was organized in the state, and carried it in November. From that time until after 1870 New Hampshire was republican in all elections, state, congressional and presidential, with the exception of a single democratic congressman in 1863. The popular majorities were never large, but they were sufficiently persistent to result regularly in the election of a republican governor, and the maintenance of a republican majority in the legislature.— In 1871 the democrats succeeded in making a tie in the state senate, and in securing one majority (165 to 164) in the lower house; and, as the scattering vote prevented their candidate for governor from having a clear majority on the popular vote, he was elected by the legislature. The same thing happened in 1874, the democrats having a larger majority in both houses of the legislature. During the same period (1871–82) the congressional representation was republican, except 1871–3, when all three congressmen were democrats; 1873–7, when two were democrats; and 1877–9, when one was a democrat. With these exceptions the state has been republican by very small but very steady majorities. In 1880 the vote for governor was as follows: Bell (republican), 44,434; Frank Jones (democrat), 40,815; W. S. Brown (greenback), 503. The legislature in 1881–2 stands as follows: senate, sixteen republicans, eight democrats; house, 179 republicans, 114 democrats.— Among the political leaders in the state's history have been John P. Hale, Franklin Pierce, Daniel Webster (see their names), and the following: Chas. G. Atherton, democratic congressman 1837–43, and United States senator 1843–9 and 1853 (see PETITION); Henry W. Blair, republican congressman 1875–9, and United States senator 1879–85; Wm. E. Chandler, secretary of the navy under Arthur; John Taylor Gilman, governor (federalist) 1794–1805 and 1813–16; Nicholas Gilman (brother of the preceding), democratic congressman 1789–97, and United States senator 1805–14; Isaac Hill, democratic United States senator 1831–6, and governor 1836–9 (see BANK CONTROVERSIES, III.); John Langdon, democratic United States senator 1789–1801, and governor 1805–9 and 1810–11; Samuel Livermore, federalist congressman 1789–93, and United States senator 1793–1801; James W. Patterson, republican congressman 1863–7, and United States senator 1867–73; William Plumer, federalist United States senator 1802–7, and democratic governor 1812–13 and 1816–19; George Sullivan, democratic congressman 1811–13, and state attorney general 1816–35; and Levi Woodbury, governor 1823–4, democratic United States senator 1825–31, secretary of the navy and treasury under Jackson and Van Buren (see ADMINISTRATIONS XI.–XIII.), United States senator 1841–5, and justice of the supreme court 1846–51. (See JUDICIARY.)— See Bouton's *Provincial Papers of New Hampshire;* Chase's *Early History of New Hampshire* (1856); 1 Coolidge and Mansfield's *History of New England;* Belknap's *History of New Hampshire* (to 1790); Barstow's *History of New Hampshire* (to 1819); Sanborn's *History of New Hampshire* (to 1830); Whiton's *Sketches of the History of New Hampshire* (1833); *Dartmouth College* vs. *Woodward*, 4 Wheaton's *Reports*, 518; Fogg's *Statistics of New Hampshire* (1874); 2 Daniel Webster's *Private Correspondence*, 575 (index of letters from Ezekiel Webster, 1802–29); Woodbury's *Writings*.

ALEXANDER JOHNSTON.

NEW JERSEY, a state of the American Union. The conflicting claims to its territory are elsewhere noticed. (See NEW YORK.) June 23, 1664, the duke of York transferred it for ten shillings to Sir George Carteret and Lord John Berkeley, under the name of Nova Cæsarea, or New Jersey, the name being given in compliment to Carteret, who, as governor of the channel island of Jersey, had been the last to surrender to the commonwealth's forces in the civil war. March 18, 1674, Berkeley sold his share to two Quaker proprietors for £1,000, and in 1676 the province was divided by a line from Little Egg Harbor to the northwest corner of its territory, Carteret taking East Jersey, and the Quakers West Jersey. In 1682 Carteret's heirs sold East Jersey to a company of proprietors, and in 1702 all the proprietors ceded their rights of jurisdiction to the crown, reserving their rights of property. Their successors still maintain a formal organization, though their property rights have long since passed away.— BOUNDARIES. The boundaries assigned by the duke of York's grant were as follows: "Bounded

on the east part by the main sea, and part by Hudson's river, and hath upon the west Delaware Bay or river, and extendeth southward to the main ocean as far as cape May at the mouth of Delaware Bay, and to the northward as far as the northermost branch of said Bay or River of Delaware, which is forty-one degrees and forty minutes of latitude, and worketh over thence in a straight line to Hudson's river." None of the boundaries gave any difficulty except the northern, the location of which was long disputed between New York and New Jersey. It was finally settled by a board of joint commissioners, whose decision was confirmed by the two legislatures in February, 1834, and by act of congress of June 28 of the same year. — CONSTITUTIONS. A grant of political privileges, known as "the concessions," was made by Berkeley and Carteret in 1664–5. It became the organic law of the province, and under it the people had a popular assembly until the revolution. The first provincial congress of New Jersey met at New Brunswick, July 21, 1774, and during the next two years it gradually assumed nearly all the powers of the assembly. July 2, 1776, the provincial congress declared all civil authority under the king to be at an end, and adopted a state constitution, which went into effect without ratification by popular vote. The instrument was to be null and void in case of reconciliation between the colonies and Great Britain. It provided for a governor, legislative council and general assembly, one councilor and three assemblymen to be chosen yearly by each county. Members of council were to be worth £1,000, members of assembly £500, and voters £50. The two former provisions soon ceased to be regarded, and the last was evaded by an act passed in 1820, providing that county tax payers should be "taken and deemed to be worth £50." The governor was to be chosen annually by the legislature, and was also to be president of the council and chancellor of the state. He was thus the chief executive, legislative and judicial officer, but in practice his judicial functions entirely outweighed the others in importance, and the governor was really an elective chancellor. The only title claimed by the new state was that of "The Colony of New Jersey," but the provincial congress, July 18, having formally approved the declaration of independence, assumed "the style and title of the Convention of the State of New Jersey." No further changes were made in the organic law, except that, by act of Nov. 25, 1790, the permanent capital was fixed at Trenton, and that many of the clumsier features of the constitution became gradually obsolete. — Early in 1844 the popular demand for a revision of the constitution forced the legislature to call a state convention, which met at Trenton, May 14–June 29, 1844, and framed a constitution, which was ratified by popular vote. It abolished imprisonment for debt, except for fraud; made a residence of one year in the state and five months in the county the only restrictions upon white manhood suffrage; continued the court of chancery, with a chancellor of its own; and vested the government in a senate composed of one senator from each county chosen for three years, in a general assembly chosen annually by the counties in proportion to their population, and in a governor chosen by popular vote for three years. In 1875 a number of amendments were ratified, the principal ones providing, 1, that the word "white" be struck out of the suffrage clause; 2, that the soldiers of the state in federal service in time of war should not therefore lose their votes; 3, that the legislature should not pass special laws on a number of specified subjects; and 4, that the governor should be allowed to veto parts of laws passed by the legislature. A constitutional commission has (1882) proposed further amendments, which have not yet been acted upon by the people. — GOVERNORS. William Livingston, 1776–90; William Paterson, 1790–93; Richard Howell, 1793–1801; Joseph Bloomfield, 1801–12; Aaron Ogden, 1812–13; William S. Pennington, 1813–15; Mahlon Dickerson, 1815–17; Isaac H. Williamson, 1817–29; Peter D. Vroom, 1829–32; Saml. L. Southard, 1832–3; Elias P. Seely, 1833; Peter D. Vroom, 1833–6; Philemon Dickerson, 1836–7; William Pennington, 1837–43; Daniel Haines, 1843–5; Charles C. Stratton, 1845–8; Daniel Haines, 1848–51; George F. Fort, 1851–4; Rodman M. Price, 1854–7; Wm A. Newell, 1857–60; Charles S. Olden, 1860–63; Joel Parker, 1863–6, Marcus L. Ward, 1866–9; Theo. F. Randolph, 1869–72; Joel Parker, 1872–5; Jos. D. Bedle, 1875–8: George B. McClellan, 1878–81; Geo. C. Ludlow, 1881–4. — POLITICAL HISTORY. New Jersey, until 1801, was a federalist state, and her governors, senators and congressmen were federalists, though one democratic congressman, Kitchell, was almost continually re-elected during this period. In 1800 the federalists, having control of the legislature, and desiring to secure all the congressmen of the state, passed a bill for the election of all the state's representatives by general ticket instead of by districts. The election took place early in 1801, and was carried by the democrats. In the following autumn the democrats also elected a majority of the legislature and the governor, and from that time until 1812 the state remained democratic in all general elections. During the war of 1812 the federalists recovered the state, and in 1812 the electoral vote of New Jersey was cast for DeWitt Clinton. From that time until 1832 the state was continuously democratic; but the division between the two parties was not as virulent as in other states, and some of the nominal democrats of New Jersey were really moderate federalists. The refusal of ex-Gov. Aaron Ogden, in 1814, to accept a major general's commission in the federal army, on the ground that he had already been commander-in-chief of the army and navy of New Jersey, is an instance of the strong state feeling which then was characteristic of New Jersey politics and politicians, and which gradually led to the jocular assertion

that New Jersey was not one of the United States. The electoral vote of the state was cast for Jackson in 1824, and for Adams in 1828, but after that year the two parties in the state were so nearly equal, and the margin between them was so often governed by personal or local questions, that a complete record would take altogether too much space. In 1832, for example, the electoral vote of the state was cast for Jackson by a majority of 463 in a total popular vote of 47,249; but the legislature and governor chosen were whig. In 1836, 1840, 1844 and 1848 the electoral vote of the state was given to whig candidates. During all this period the legislatures were generally whig, though by a very small majority, but the governors, with the exceptions of Pennington and Stratton, were democrats. In so constantly close a vote the election of congressmen by general ticket was certain to lead to a disputed election, and in 1838 the state was thrown into a ferment by an attempt of the whig governor and council to "count out" the successful democratic candidates. (See BROAD SEAL WAR.) — One of the characteristics of the state's voting population is its persistence; the majority in each county changes very little each year, except from the increase of population, greater or less excitement at elections, immigration, or the creation of new counties. Thus, the strong republican counties in 1880, Essex, Camden, Passaic, Cumberland, Gloucester, Morris, Mercer and Burlington, were the counties in which the whigs were accustomed to "roll up" about the same proportional majorities; the strong democratic counties, Monmouth, Hunterdon, Warren, Sussex and Cape May, were proportionally as democratic then as now; and Salem and Somerset were about as doubtful The exceptions are Hudson, Bergen and Middlesex, all of which were formerly whig or doubtful, but are now democratic. — For this reason the vote of the state reconciled itself with great difficulty to the revolution in politics which the slavery question introduced after 1850. The whig voters were very unwilling to accept the republican organization, with a new issue, to which they were entirely unaccustomed, and many of them preferred to join their former opponents. On the other hand, political opposition to foreigners, a feeling which is not uncommon in agricultural communities, had been familiar for many years in the state, though never as yet successful (see AMERICAN PARTY), and was attractive to many democrats, as well as whigs. It was therefore easier for the Americans, or "know-nothings," than for the republicans, to find footing in the state. In New Jersey the vote for Fremont and Fillmore in 1856 was nearly equal, and Fremont's vote was a great decrease from Scott's vote in 1852, while in all other northern states (except Pennsylvania) the reverse was the case. In 1856 and 1859 the republicans and Americans united their forces and elected the governor by a narrow popular majority; but the legislature remained democratic. In 1860 all the parties opposed to the republicans united on a fusion electoral ticket; but the Douglas voters also ran a complete ticket of their own, including their three electors on the fusion ticket. The result was, that the three Douglas electors received a majority of 4,000 on the total vote, while four of the Lincoln electors, having a plurality over the rest of the separate Douglas and fusion tickets, were elected. At the same election the republicans elected two of the five congressmen, and a majority of the senate, but the assembly was still democratic. — Throughout the war of the rebellion the state was democratic by a heavy majority. Gov. Parker's majority in 1862 was 14,597 in a total vote of 108,017; and there was a democratic majority of thirty-five out of eighty-one members of the legislature. The majority decreased gradually, however, until in 1865 the republicans elected the governor and a majority of both houses of the legislature; three of the five congressmen were republican also. Since that time (with the exception of the election of 1872 referred to below) the democrats have elected all the governors and have carried the state at presidential elections, while the republicans have kept control of the legislature, except in 1867–9 and 1876–7, when they were democratic. At the election of 1872 the proportion of democrats who refused to vote was so large that the republicans were almost universally successful: the electoral vote was republican by the unusual popular majority of 15,200 in a total vote of 168,467; and both houses of the legislature and six of the seven congressmen were republican also The state had five congressmen from 1862 until 1872, and seven from 1872 until 1882. In the former period three of the five were democrats, except in the elections of 1866 and 1870, when the republicans obtained a majority. In the latter period four of the seven have been republican, except in 1872, when their share rose to six out of seven, and 1874 and 1876, when the democrats had five out of seven. — As a general rule it may be said that the popular vote of the state is republican in the southern part of the state, and becomes more and more strongly democratic as one goes to the north: the exceptions are the extreme northeastern part of the state, where a suburban New York population has made the vote very doubtful, and in the great manufacturing cities, Newark and Paterson, which have been made republican through a desire for protection. (See REPUBLICAN PARTY.) The democratic strongholds are Jersey City and the agricultural counties of the centre and north; the republican strongholds are Newark, Paterson, and the glass-making counties of the south. — The most prominent New Jersey names in national politics have been those of Wm. L. Dayton, Theodore Frelinghuysen, Geo. B. McClellan, Joel Parker and Winfield Scott. (See those names.) Among the more strictly state politicians are the following names: Joseph Bloomfield, the first democratic governor, representative in congress 1817–21; Lewis Condict (whig), representative 1811–17 and 1821–33; Jonathan Dayton,

one of the signers to the constitution, federalist representative 1791–9, speaker of the house 1795–9, and United States senator 1799–1805; Mahlon Dickerson, governor (democratic) 1815–17, representative 1817–33, secretary of the navy under Jackson and Van Buren; Philemon Dickerson (brother of the former), representative (democratic) 1833–6 and 1840–41, and governor in 1836; L. Q. C. Elmer, representative (democratic) 1843–5, and justice of the state supreme court 1850–52; Frederick Frelinghuysen, federalist United States senator 1793–6; Frederick T. Frelinghuysen (nephew of Theodore Frelinghuysen), republican United States senator 1866–9 and 1871–7, and secretary of state under Arthur; John Hill, republican representative 1867–73 and 1881–3; Littleton Kirkpatrick, democratic representative 1843–5; William Livingston, the state's first governor, and one of the signers to the constitution; Wm. A. Newell, whig representative 1847–51, governor 1857–60, republican representative 1865–7, candidate for governor in 1877, and governor of Washington territory 1880–84; William Pennington, whig governor 1837–43, and republican representative and speaker of the house 1859–61; Theo. F. Randolph, governor (democratic) 1869–72, and United States senator 1875–81; Geo. M. Robeson, secretary of the navy under Grant, and republican representative 1879–83; Saml. L. Southard, democratic United States senator 1821–3, secretary of the navy 1823–9, and whig United States senator 1833–42; John P. Stockton (brother of Robt. F. Stockton), minister to Rome 1858–61, democratic United States senator 1865–6 and 1869–75; Richard Stockton, federalist United States senator 1796–9, and representative 1813–15; Robert F. Stockton (son of the preceding), commodore in the navy (see ANNEXATIONS, IV.), and democratic United States senator 1851–3; Peter D. Vroom, governor (democratic) 1829–31 and 1833–6, one of the democratic representatives in the "broad seal war" in 1839–40; Garret D. Wall, United States senator (democratic) 1835–41, and judge of the court of errors 1848–50 — See 2 Poore's *Federal and State Constitutions;* Mulford's *History of New Jersey;* Whitehead's *East Jersey* (to 1703); R. S. Field's *Provincial Courts of New Jersey;* C. C. Haven's *Thirty Days in New Jersey Ninety Years Ago;* Arnold's *New Jersey Biographical Sketches* (1845); Sedgwick's *Memoir of William Livingston;* T. F. Gordon's *History of New Jersey* (to 1789); L. Q. C. Elmer's *Reminiscences of New Jersey; Journal of the Constitutional Convention of* 1844; 18 *Democratic Review*, 244; Carpenter's *History of New Jersey* (to 1853); Taylor's *Annals of the Classis of Bergen;* Foster's *New Jersey and the Rebellion;* Winfield's *History of Hudson County;* Hatfield's *History of Elizabeth and Union County;* Sypher and Apgar's *History of New Jersey* (to 1870); Raum's *History of New Jersey.*

ALEXANDER JOHNSTON.

NEW MEXICO, a territory of the United States, composed of territory acquired from Mexico (see ANNEXATIONS, III.–V.), organized by act of Sept. 9, 1850. (See COMPROMISES, V.) As originally organized it embraced all the territory of the United States south of latitude 37° north, east of California and west of Texas, and also that territory north of latitude 37° and south of the Arkansas river. To this was also added the "Gadsden purchase" (see ANNEXATIONS, VI.), the territorial organization thus covering 261,432 square miles. From this, in 1861, the northwest corner was made a part of the territory of Nevada, and the northeast corner, from parallel 37° to the Arkansas river, was added to the territory of Colorado; and in 1863 the remainder was diminished by the organization of the western half as the territory of Arizona. (See those names.) The capital is Santa Fé, and the governor in 1882 Lionel A. Sheldon. — The population of New Mexico in 1880 was 119,565, nearly double that of the state of Nevada. A state constitution was formed by the people of New Mexico in 1850 (see COMPROMISES, V.), and the territory would in all probability have been admitted as a state long ago, but for the fear that its Mexican population would practically establish a state church therein. Jan. 18, 1878, the territorial legislature passed, over the governor's veto, a bill to incorporate the Jesuit fathers, with the privilege of holding real estate to any amount without taxation, and congress annulled the act, Feb. 3, 1879. — The act of Sept. 9, 1850, is in 9 *Stat. at Large,* 446 (for New Mexico); the act of Feb. 3, 1879, is in 20 *Stat. at Large,* 280

ALEXANDER JOHNSTON.

NEW YORK, a state of the American Union. Its territory at first belonged to the Dutch, by right of its discovery in 1609 by Henry Hudson, an Englishman in the Dutch service; but it was part of the vast stretch of territory claimed by the English by right of its discovery by the Cabots in 1497–8, and in 1664 an English expedition took possession of it. With the exception of a reoccupation by the Dutch in 1673–4, it remained an English colony until the revolution. — BOUNDARIES. 1. Under the Dutch the territory, then called "New Netherlands," had no well defined boundaries. The Dutch claims included the present states of New Jersey and Delaware, in which they were enforced, Pennsylvania, in which they were only asserted, and eastward to the Connecticut river; the latter claim was maintained for a time, but was gradually abandoned. 2. Under the English the name of New Netherlands was changed to New York, it having been granted to the duke of York by Charles II. in 1664. The grant included a large part of the present state of Maine (see MAINE), some of the islands south of it, and all of the territory between the Delaware and Connecticut rivers. Even before the duke took possession of his grant, he had bargained away the present state of New Jersey to other proprietors (see NEW JERSEY), but the boundary between New York and New Jersey was

not finally settled until 1834. The boundary between Connecticut and New York was marked out by commissioners in November, 1664, but was not finally agreed upon until 1728. The New York authorities from the beginning enforced jurisdiction over the whole of Long Island, though its towns eastward of a prolongation of the Connecticut boundary line had until 1664 sent delegates to the Connecticut legislature and considered themselves a part of that state. The boundary between New York and Massachusetts was long and warmly disputed, was pretty accurately marked out in 1773, but was not finally agreed upon until 1787, after a territorial suit between the two states had been begun before the congress of the confederation. (See CONFEDERATION, ARTICLES OF, Art. IX.) Delaware was made over by the duke of York to Penn in 1682; and the boundary between Pennsylvania and New York was agreed upon and marked out by Rittenhouse in 1786. (See DELAWARE, PENNSYLVANIA.) The duke of York's grant, as made in 1664 and renewed in 1674, was imperfect in that it assigned no western boundary to the territory granted, being really only a grant of a specified part of "the mainland," but the New York authorities claimed all the territory north to the St. Lawrence and west to the great lakes by virtue of Dutch and English occupation and asserted conquest from the Indians. On the other hand, the charter of Massachusetts made "the South Sea" its western boundary, so that it claimed the right to extend its jurisdiction west to the great lakes, excepting, perhaps, the territory along the Hudson river, which New York had long ago reduced to possession. This controversy was settled in 1787, Massachusetts yielding the jurisdiction of the territory in dispute in return for the pre-emption right to a large part of it. Before 1789 the boundaries of New York had been settled as at present (but see VERMONT). — CIVIL GOVERNMENT. Under the Dutch, New York was governed successively by Peter Minuit, Walter van Twiller, William Kieft, and Peter Stuyvesant, all sent from Holland by the Dutch West India company. When the duke of York became king as James II., New York became a royal province, and so remained until the revolution, with governors appointed by the crown and a popular assembly. The last of these assemblies adjourned April 3, 1775, and a provincial congress (see REVOLUTION) took its place April 20. This body was compelled to meet at Kingston, as New York city was the headquarters of the British throughout the revolution. July 10, 1776, a popular convention met at White Plains, and finally adjourned, April 20, 1777, at Kingston, having formed the first constitution of the state of New York, which went into force without being submitted to the people. It vested the government in a governor, to be elected by popular vote for three years, a senate and an assembly (see ASSEMBLY), with a limited veto power in a council composed of the governor, the chancellor, and the judges of the supreme court; it gave the right of suffrage to freeholders, and provided "that a fair experiment be made" of voting by ballot; and it vested the right of appointment to, and removal from, state offices in a council composed of the governor and four senators, to be chosen by the assembly. A second constitution was framed by a convention at Albany, Aug. 28–Nov 10, 1821, and was ratified by popular vote. It reduced the governor's term to two years, abolished the councils of revision and appointment, and made suffrage practically universal, but it disfranchised free negroes, unless seized of a freehold of the value of $250. Instead of four senate districts, one choosing nine, two six, and one three senators, as the constitution of 1777 had provided, there were now to be eight senate districts, each choosing four senators. In 1826 manhood suffrage was formally adopted by amendment, and in 1845 property qualifications for public officers were abolished. A third constitution was adopted by a convention at Albany, June 1–Oct. 9, 1846, and ratified by popular vote. Its principal changes were the abolition of "all feudal tenures of every description" (see ANTI-RENTERS), the division of the state into thirty-two senate districts, each to choose one senator, the election of judges by popular vote, and a prohibition of special charters for banking corporations. (See Loco-Foco.) In 1869 the constitution of the state judiciary was considerably modified, the rest of a new constitution formed in 1867 being rejected. In 1874 a number of amendments were ratified by popular vote, intended mainly, 1, to prevent bribery and corruption at elections; 2, to prevent the legislature from passing special laws in a number of specified cases; and 3, to prevent the giving of money or loaning of credit by municipal corporations for anything except for their legitimate expenses; the governor's term was also lengthened to three years. — GOVERNORS (since 1776) George Clinton, 1777–95, John Jay, 1795–1801, George Clinton, 1801–4; Morgan Lewis, 1804–7; Daniel D. Tompkins, 1807–17; De Witt Clinton, 1817–23; Joseph C. Yates, 1823–5; De Witt Clinton, 1825–9; Martin Van Buren, 1829–31; Enos T. Throop, 1831–3; Wm. L. Marcy, 1833–9; Wm. H. Seward, 1839–43, Wm. C. Bouck, 1843–5, Silas Wright, 1845–7; John Young, 1847–9; Hamilton Fish, 1849–51; Washington Hunt, 1851–3; Horatio Seymour, 1853–5; Myron H. Clark, 1855–7; John A. King, 1857–9; Edwin D. Morgan, 1859–63; Horatio Seymour, 1863–5; Reuben E. Fenton, 1865–9; John T. Hoffman, 1869–73; John A. Dix, 1873–5; Samuel J. Tilden, 1875–7; Lucius Robinson, 1877–80; Alonzo B. Cornell, 1880–83; Grover Cleveland, 1883–6. — POLITICAL HISTORY. It is very difficult to abridge the political history of New York, owing mainly to the extent of the state and the diversity of the interests and feelings of its various parts. New York has always been a political world in itself. Within it every American political party of any importance has first come to notice, with the possible excep-

tions of the federal and democratic parties, and even of these the former owed its conception to Alexander Hamilton, of New York, and the latter first attained national position by its success in New York in 1800. The anti-masons, the whig, liberty, free-soil, American (know-nothing) and republican parties, all first found their local habitation or name in New York. (See the parties named.) And yet the state has shown no great constancy to any of them; its majority has been very shifting and uncertain, and has been considered the decisive, or "pivotal," factor in every presidential election, since 1793, which has been in anywise doubtful. — In a state of less comparative magnitude this uncertainty would have led to the political elevation of very many of its citizens, through the desire of the parties to conciliate the state; but every New York leader, of any party, has had to contend against factions in his own state, as well as against the compact influence of other states or combinations of states. New York has therefore furnished but one president by election to the United States, though two of its citizens have succeeded to the presidency by the death of the elected president; but each new president, on entering office, has had to deal with a New York leader of his own party, too weak to secure the presidency and yet powerful enough to maintain a quasi-independence. Three presidents, Jackson, Pierce and Lincoln, were able to solve the difficulty by placing the New York leader (Van Buren, Marcy and Seward respectively) at the head of the cabinet; in other cases, as those of Adams and Hamilton, Jefferson and Burr, Madison and George Clinton, Monroe and De Witt Clinton, Polk and Silas Wright, Fillmore and Seward, Grant and Fenton, Hayes and Conkling, and Garfield and Conkling, the efforts of the administration to create or support a faction of its own in New York have endangered or completely destroyed its party's supremacy in the state. The giving of due weight to this one difficulty, common to nearly all administrations, will go far to explain the successive political revolutions in the state. — I. : 1777–1807. The limitation of the right of suffrage to freeholders, during New York's early years of existence as a state, and the hereditary transmission of vast estates, on which many of the freeholders were tenants, gave early rise to three great clans, or families, the Livingstons, the Schuylers and the Clintons, whose struggles for supremacy make up most of the political history of the state until about 1801. The Livingstons were the ablest representatives of the mass of New York landed families, the Van Rensselaers, Van Cortlands, Morrises, Coldens, and others; the Schuylers, of the same class, though not generally so able as the Livingstons, had risen to prominence by virtue of the revolutionary services of their head, Gen. Philip Schuyler, and, above all, of the commanding genius of his son-in-law, Alexander Hamilton; and the Clintons, few in number and far poorer than their rivals, were strong in the confidence of the independent freeholders, who were not attached by interest or marriage to any of the great families. The Clintons seem to have been the most unselfish; but, with all three, political contests were intensely personal, and all interests were more or less subsidiary to those of the family. The most prominent of those who were Livingstons by birth or marriage were Chancellor Robert R. Livingston, the head of the family, Brockholst Livingston, Edward Livingston, Maturin Livingston, Smith Thompson, Morgan Lewis, and Gen. John Armstrong; the Schuylers had only Philip Schuyler and Hamilton; and the Clintons were really but three in number, George, the governor, James, his brother, and De Witt, his nephew, though Chief Justice Robert Yates and John Lansing were their firm supporters. — From the first the Clintons were anti-federalist, and opposed the adoption of the constitution (see ANTI-FEDERAL PARTY; CONSTITUTION, II.); the Livingstons and Schuylers were as warmly federalist. Hammond asserts that the federal patronage was used against Gov. George Clinton in his own state as soon as the federal government was fairly organized; nevertheless Clinton held his own until 1795, when he retired temporarily from politics, and Yates was defeated by Jay, a federalist, for the governorship. Jay had really defeated Clinton three years before, and was counted out by the improper rejection of the vote of three counties by the canvassers; but he urged his friends not to "suspend or interrupt that natural good humor which harmonizes society," and the result in 1795 justified the political wisdom of his refusal to contest by forcible means the decision of the canvassers. His election and the retirement of Gov. Clinton, whose nephew De Witt was not yet old enough to take his place, demoralized the New York republicans (see DEMOCRATIC PARTY), and gave the control of the state to the federalists for the next six years. In 1797, therefore, the electors, chosen by the legislature, were federalists, and voted for Adams and Pinckney. There must have been some untoward result, however, in the election of 1793, for, immediately after it, the whole Livingston interest abandoned the federalists, and joined the republicans; Edward Livingston became a republican congressman from New York city in 1795, and the chancellor was the republican candidate for governor in 1798. But, in the meantime, a new republican interest had been forming, apart from, and opposed to, all the landed families. Burr had begun political life as a moderate federalist, had then held aloof from both parties, but was now an ardent republican. He had considerable support throughout the state, from the class which had formerly supported the Clintons; but his stronghold was in New York city, where he first introduced "the machine" into politics. (See BURR, AARON.) Before the end of the year 1799 he had compelled his recognition as one of the republican leaders, and in 1800 his shrewd management in the composition of the republican

electoral ticket aided largely in influencing the election. He induced the Clintons to accept a part of the places on his ticket on the apparently impossible condition that the Livingstons would do the same; he repeated this process with the Livingstons; and the whole ticket, when completed by the addition of neutral names, was strong enough to carry the state in the election of April, 1800, for the legislature which was to choose the electors. Burr's apparent control of his state gained for him the nomination, as a fellow candidate with Jefferson, by the republican congressional caucus, and he was elected vice-president in 1801. (See CAUCUS, CONGRESSIONAL; DISPUTED ELECTIONS, I.) — Burr's leadership was only apparent. The year 1801 had been marked also by the re-election of George Clinton as governor, and the entrance of his nephew, De Witt Clinton, upon a share of the management of the party. The latter, in conjunction with his brother-in-law, Ambrose Spencer, at once reinvigorated the Clinton interest. Charges of treachery were freely brought against the "Burrites"; the administration, in its inevitable conflict with Burr, bestowed its patronage exclusively upon the Clintons and Livingstons; and the Burrites, after a final and desperate effort to elect their leader governor in 1804 by aid of the federalists, went down. This result came mainly through the unscrupulous and even savage introduction in 1801, by the Clintons and Livingstons, of the idea that "the spoils belong to the victors," which thereafter corrupted New York politics, and since 1829 has corrupted national politics also. (See CIVIL SERVICE REFORM; DEMOCRATIC PARTY, IV.) Hammond cites two instances under Jay's administration, Dec. 28, 1798, and March 9, 1799, as the first two instances of removal without cause by the New York council of appointment. But these two cases, even if incapable of explanation, are glaring exceptions to the otherwise invariable rule of New York politics until 1801, under both republican and federalist administrations; while, after 1801, it would be almost equally difficult to find an instance of removal for any cause except party necessity or advantage. In this manner federalists and Burrites were politically outlawed, and the Clintons and Livingstons secured control of the state. It seems difficult, upon all the evidence, to resist the conviction that the origin of the "spoils system" in American politics was really due to the rising ambition of De Witt Clinton, tempted by the opportunity afforded by an irresponsible council of appointment, to which the New York constitution had given absolute power of removal. Under Jay, a republican council, Clinton being one, had claimed a concurrent power to appoint and remove, not being content with a simple power to decide upon the governor's nominations; and a state convention, Oct. 13–27, 1801, declared this view of the council's powers to be correct. From this time the power of removal by the council of appointment, extending to almost all the local offices of the state, even to that of the mayor of New York, became for twenty years the controlling element of New York politics. — The savage character which this new departure at once gave to political contests was marked by an epidemic of dueling, in which, it was alleged, the Burrites concertedly endeavored to kill their most formidable opponents or drive them out of politics by force of bodily fear. The most vindictive of these duels was that between DeWitt Clinton and John Swartwout, a close friend of Burr, in which Swartwout insisted vainly upon having a sixth shot after being twice severely wounded; the most calamitous was that between Hamilton and Burr, in which the former was killed. — Dissension soon arose between the Clintons and the Livingstons. The latter, in spite of their extensive influence, were no match for the united abilities of De Witt Clinton and Spencer; George Clinton became vice-president in 1805 in Burr's place; and, though Morgan Lewis, a connection of the Livingstons, was chosen governor in 1804, the Livingston interest began to decline. In 1805–6 the Clintons, having gained control of the council of appointment, began an attack upon the Livingstons, or "Lewisites," which was finally successful in 1807 by the election of Governor Tompkins, a Clintonian. De Witt Clinton thus became the arbiter of New York politics for the time; the last of the great landed families had gone down in the race for power; and the first stage of New York's political history may be considered at an end. Though the dominant faction was headed by two members of the Clinton family, there was no longer any general connection by blood or marriage in its composition; it was united by common interests, and may properly be considered the republican party of the state. The federalists had been completely null since 1800, and most of their voters and leaders had seized the various opportunities of joining one or other of the contending republican factions. — II.: 1807–23. The defeated Lewisites and Burrites at once declared in favor of Madison, and against George Clinton, for the presidency in 1808, and they seem to have been recognized as the "administration wing" in the distribution of federal patronage. The coalition was usually known as "Martling men," from the name of their meeting place in New York city ("Martling's Long Room"). The Clintonians were generally unfriendly to the administration's "restrictive system." (see EMBARGO), and out of this one point of agreement was developed a tacit alliance with the federalists, which culminated in their joint support of De Witt Clinton for the presidency in 1812. During the first confusion, in 1809, the federalists, by a sudden effort, succeeded in securing the legislature and the council of appointment, and used the power of removal without pity. But their triumph was brief: the next year Tompkins was again elected governor, with a republican legislature and council. Before the presidential election of 1812 the "Martling men" had taken possession of the hall and appurtenances of the almost defunct Tammany so-

ciety, of New York city, and were commonly known as "bucktails." (See TAMMANY SOCIETY, BUCKTAILS.) They claimed to be the only veritable supporters of the administration, and the opponents of Clintonism, personal government, and disguised or open federalism. The Clintonians, however, were strong enough to elect Clinton presidential electors on joint ballot in 1812. (See FEDERAL PARTY, II.)—The election for governor in 1813 revealed a long suspected breach in the dominant party. De Witt Clinton found his influence in his party overbalanced by that of Gov. Tompkins, Ambrose Spencer, Martin Van Buren and John W. Taylor; he therefore became an opponent of Tompkins' re-election, and entirely lost control of his party. His own faction, with the aid of the federalists, held control of the offices until 1815, when an anti-Clinton council made a clean sweep of all the federalist and Clintonian officeholders. This defeat put an end to the federal party in New York, and seemed to be equally fatal to Clinton. Tompkins, Van Buren and Spencer were now the leaders of the party, but the two former were so much more influential than Spencer that he, about the year 1816, sought a reconciliation with his former ally, but late political enemy, De Witt Clinton, and brought him back into politics to restore the balance. The new coalition was immediately successful; to succeed Tompkins as governor, Clinton was nominated and elected in 1817, against Peter B. Porter, the candidate of the Tammany men, or "bucktails"; and with his entrance to office he initiated the "canal policy" of the state.—The connection between the seaboard and the interior had been one of the earliest problems in American politics. (See ANNEXATIONS, I.) Its great difficulty lay in the mountain barrier which extends from northern Alabama to Maine, parallel with the coast; and the most practicable breach in this was that which was made in the state of New York by the Hudson river. From its upper regions a level territory, excellently adapted for a canal, stretched westward to Lake Erie. The idea of such a canal seems to have been suggested by Gouverneur Morris, of New York, first in 1777 and at intervals afterward. April 8, 1811, the New York legislature passed an act appointing Morris, Clinton, R. R. Livingston, Robert Fulton, and others, "commissioners of inland navigation," but the project slept through the war, which soon after followed, until 1815, when Clinton, during his enforced retirement from politics, renewed his advocacy of it with redoubled vigor. Immediately upon his inauguration, supported by a thorough-going canal legislature and council, his public life became entirely devoted to the construction of the Erie canal, or "Clinton's ditch," as his opponents contemptuously called it.—The anti-Clinton republicans throughout the state now generally accepted the name of bucktails. Though in a popular minority for some years, they were always superior to their opponents in point of ability, for Clinton would not willingly endure a rival near the throne, and dangerously able men among his own supporters rapidly gravitated toward the bucktails. Their leaders were Van Buren, Erastus Root, Samuel Young, Roger Skinner, Peter R. Livingston, Joseph C. Yates, and Ogden Edwards, all noted names in New York politics; Tompkins was already hopelessly lost under a load of debt which he had accumulated in defense of the state during his governorship, and which was really the cause of his death in 1825. The leadership of the Clintonians was strictly confined to Clinton himself and Spencer, who had no aspirations for office. The remnant of the federalists was led by Wm. A. Duer, Peter A. Jay, W. W. Van Ness, and Abraham Van Vechten. Most of them supported Clinton; but a small division, often derisively called "high-minded federalists," from their frequent use of the phrase "high-minded men" in their addresses, supported the bucktails and opposed the Clintonians as a personal party. In 1820 the bucktails at last gained complete control of the legislature, but it is noteworthy that at the same election Clinton was re-elected governor over Tompkins. For this success he was indebted mainly to his canal policy; but his term of office was embittered by the rigorous manner in which the bucktail council exercised the power of removal. This body was abolished by the constitution of the next year, and its last year was acknowledged on all hands to have been the most extraordinarily evil year of its existence. The extent of its power for evil may be estimated from the statement that, in 1820, 8,287 military and 6,663 civil officers throughout the state were absolutely at its mercy. Clinton also complained most bitterly, in his messages to the legislature, of the manner in which the administration at Washington had placed the federal patronage at Van Buren's disposal, and of interferences in state elections by federal officeholders "as an organized and disciplined corps."—In the election of 1822 the former bucktails at last became the republican party of the state, and the Clintonians were completely overthrown. Clinton himself had discreetly declined to be a candidate for the governorship, and his opponents elected their candidate for governor without opposition, the entire senate, and almost all the assembly. The result was partly due to the Clintonian opposition to the revision of the constitution in 1820–21, but far more to the advance of the democratic idea in the state. The day of personal politics was very nearly over. The growth of the state's population, and the enlargement of the right of suffrage, had made the body of voters so large that it was no longer possible for any one man to exercise direct personal control over a controlling mass of voters. The increase may be shown by comparing the vote at intervals of nearly ten years: (1792) George Clinton 8,440, John Jay 8,332; (1801) George Clinton 24,808, Stephen Van Rensselaer 20,843; (1813) D. D. Tompkins 43,324, Stephen

Van Rensselaer 39,718; (1824) De Witt Clinton 103,452, Samuel Young 87,093. The party was now headed by a number of leaders, who were at one in their feelings, interests and methods, and who aimed rather to ascertain than to control the feelings of the people. (See ALBANY REGENCY.) — III. : 1828–50. The regency began its long and successful career with a mistake. Its members were strongly in favor of Crawford for president in 1824 (see DISPUTED ELECTIONS, II.), as were a great majority of the legislature, which then had the power to choose electors. The party at large seems to have preferred Adams, and many members of the legislature were elected under a pledge to vote for an electoral law to give the choice of electors to the people. The Clintonians, who were also for Adams, were naturally in favor of such a law, and the regency members, after postponing the bill to a date beyond the presidential election, passed a resolution to remove De Witt Clinton from the unsalaried position of canal commissioner, to which he had retired in 1822. The resolution was introduced in order to compel the recalcitrant Adams members either to become identified with the Clintonians or to break with them altogether; the result was to excite a lively indignation throughout the state. Clinton was brought back into politics again, and elected governor in 1824, and again in 1826. In the choice of electors in 1824 the legislature was much divided. The Adams and Clay members at last united on a ticket composed of twenty-six Adams and ten Clay electors. The Adams electors, on the next ballot, were all chosen, but by some legerdemain only four Clay electors were chosen, five of the remaining six being for Crawford and one for Jackson. The change of these five votes from Clay to Crawford excluded the former from the list of three candidates to which the house of representatives was confined in voting for president. — One of the most singular political manœuvres ever contrived was successfully carried out in the election for United States senator in February, 1825. By law the senate and assembly were to ballot separately for a senator, and, if they chose different persons, the decision was to be made by joint ballot. The Clintonians had a majority in the assembly and on joint ballot; the regency had a majority in the senate. The assembly nominated Ambrose Spencer; the ten Clintonians in the senate voted for him also; but the twenty-two regency senators, by voting each for a different candidate, prevented a choice by the senate and a joint ballot, so that the senatorial election went over to the next year, when a regency senator was chosen. — The failing health of Crawford during Adams' presidency compelled the regency to look elsewhere for a candidate. As between Adams and Jackson, the former seems to have been the natural preference of the regency, as the latter was of Clinton personally. Until Sept. 26, 1827, the regency preserved a profound and almost ostentatious neutrality between the two most prominent candidates remaining; on that day the first Jackson address was issued from Tammany Hall, and thereafter all the political prospects of the regency were hazarded upon the chances of Jackson's election. Before Clinton had any opportunity to define his position, his sudden death, Feb 11, 1828, left the opposition to the regency almost without a head. Nevertheless the Adams opposition was strong enough to secure sixteen of the state's electors, who were then chosen in congressional districts, though the eighteen Jackson electors, being a majority of the college, chose the two electors at large and made the state's electoral vote twenty to sixteen in favor of Jackson. Van Buren was at the same time chosen governor. Immediately afterward he passed into Jackson's cabinet, and carried with him the methods which had long been familiar in New York politics. Thereafter national democratic politics were to be marked by the use of popular conventions as nominating bodies, by absolute submission to the majority, no matter how small a portion of the party might make the decision, unsparing punishment of individual action in opposition to the majority, and the use of the civil service as an instrument of reward or punishment. The whole programme may be summed up as the *unitizing* of political action. Majorities were to be absolute in every democratic organization, national, state, county or city; minorities were simply to be ignored, and individuals were morally and politically bound to follow the majority of their organizations, even in opposition to their own party organization of higher rank. (See DEMOCRATIC-REPUBLICAN PARTY, IV ; ALBANY REGENCY ; NATIONAL CONVENTIONS ; TAMMANY SOCIETY.) But, though regency methods thus became national, the regency itself remained cautiously, judiciously and strictly a state organization; it refrained carefully from interfering in national politics, except to secure the federal patronage within the state, and, in dangerous or difficult elections, to call back some one of its former members from the federal service to serve as its candidate. — The Adams, or national republican, party in New York was seriously embarrassed not only by its lack of leaders, but by the sudden rise of an anti-masonic party, pledged to proscribe every freemason of any party. (See ANTI-MASONRY, I.) From motives of expediency the Adams conventions usually endeavored to conciliate the anti-masonic candidates in their nominations; but at the same time the Adams men, who were freemasons, preferred a regency candidate to an anti-masonic candidate, and frequently gave their votes and influence to the former. The result was that, though the two parties, voting separately, generally polled as large a vote as the Jackson men, any attempt at coalition was followed by a defeat. For eight years, therefore, New York was democratic (the "Jackson men" having taken the name of democrats); the governors were regency men; and the legislature was strongly democratic

in both branches. In 1837 the democrats were for the first time beaten in a legislative election, the whigs carrying six of the eight senatorial districts, and 101 of the 128 assembly districts; and in the following year Wm. H. Seward, who had been beaten in 1836 by Marcy, was elected governor over Marcy. In all this long struggle the western part of the state, commonly called by the democrats "the infected district," was the staying power of the opposition. It never wavered. Its opposition to the regency had begun under Clinton, was continued (since most of the regency were freemasons) in the form of anti-masonry, but when the anti-masonic fever had died out so far that the anti-masons accepted Clay, a freemason, as one of its leaders, the "infected district" was as cohesive as ever in its opposition; and the territorial location of party strongholds in the state is closely and curiously similar in 1883 to that which existed while Clinton and Spencer were fighting the bucktails in 1818–22. — Under the reign of the regency every governor and legislature were democratic until 1846, with the exception of this period, 1837–41, when the state became whig through democratic divisions. The charter of a national bank was the question which divided political parties from 1833 until 1843 (see BANK CONTROVERSIES, III., IV.; WHIG PARTY); and in New York this was further complicated with others relating to state banks (see LOCO-FOCO), so that there were there three parties: the whig party, which supported banking interests in general, the regency democratic party, which opposed a national bank but supported the state banks, and the "loco-foco" democratic party, which opposed the grant of special banking privileges to any corporation whatever. Further, the canal question had divided the democrats into hunkers, or conservatives, and barnburners, or radicals; the former desiring the extension of the canal system, and the latter its limitation to immediately profitable canals. The loco-foco division of the party ceased after 1839; the hunker and barnburner division continued even after the adoption of the constitution of 1846, which removed the original cause of division, and the barnburners then became practically the regency party, though Croswell and Marcy, of the regency, inclined toward the hunker faction. These democratic divisions gave the whigs some temporary successes. In 1839 they gained a majority in the senate, which had been steadily democratic for twenty-one years, and in 1840 they secured the electoral vote of the state for Harrison. The democratic division as to banks was then healed, and the legislature in 1841, and the governor in 1842, again became democratic. — In 1844 the regency labored with more than usual energy to carry the state, its ablest member, Silas Wright, leaving the United States senate to run for the governorship. Polk, soon after his inauguration, began to cultivate a New York faction of his own, in opposition to the regency, and the result was a wider disruption of the democratic party, and the return of the whigs to power. The regency were able to secure the nomination of Wright in their party convention, but were unable to elect him. In 1848 the struggle between the regency and the administration widened into national proportions. (See BARNBURNERS, FREE-SOIL PARTY.) The result of this election was, not so much to overthrow the remnant of the regency as to show that it was already overthrown. Out of sympathy with the national party, stigmatized with the reproach of having introduced abolitionism as a weapon by which to defeat Cass, the regency went down, and its adherents either abandoned it or retired from politics. In 1850 it formed a coalition ticket with its opponents, and in the state convention of 1852 it had but twenty delegates, under John Van Buren, who refused to "walk arm-in-arm to the funeral" by approving all the measures of the democratic national convention of 1848. The reign of the regency was over. Its sceptre had passed to a larger circle of its own party, and a similar knot of leaders in the whig party had learned its method and followed it with success. — The accession of Fillmore to the presidency in 1850 brought to light a division in the New York whig party also. The Seward whigs leaned toward abolitionism; the Fillmore, or "silver gray," whigs wished to ignore slavery in politics. This division aided the democrats in carrying the state in 1852. But the schism in the victorious party immediately broke out afresh, the former hunker party now taking the name of "hards" or "hard shells," and their younger rivals that of "softs"; the names, however, had principal reference to the slavery question, and many individuals in both factions had changed sides in the confusion. The general election of 1854 was therefore extremely complicated, four tickets being run, a fusion ticket of whigs, a hard, a soft, and a know-nothing ticket. The fusion ticket was successful, and in the following year its supporters had developed into the new republican party. The former Fillmore whigs went either into the republican party, under Seward's leadership, or into the American party, or know-nothings. The democratic party of the state, without leadership, and distracted by divisions which had their origin only in the disappointed ambitions of local leaders, remained in the minority until 1862. In 1855 the know-nothings elected the state officers inferior in rank to the governor, and there was no party majority in the legislature; in other years the state was steadily republican. — In 1862, during the depression caused by federal disasters, the democrats elected the governor and state officers, but the senate was republican and the assembly a tie. Since that time the vote of the state has been very uncertain and irregular. The legislature has usually been republican, but the state has nevertheless often been carried by the democrats on the total vote. In 1868 the democrats elected the governor and state officers, and secured the electoral vote of the state, but the legislature remained republican in both

branches. That there was fraud in the vote seems to be undeniable, for in all previous elections, even in such exciting contests as 1840, 1844, 1860, and 1864, the proportion of voters never exceeded 90 to 92 per cent. of the legal voting population, while in 1868 it reached the incredible proportion of 97.07 per cent. The enormous democratic majority in New York city (112,522 dem., 43,372 rep.), and the control of the count by the Tweed ring, seem to localize the fraud beyond question. In 1870 the democrats again carried the state, electing the governor, state officers, and a majority in both branches of the legislature. In 1872 the state was carried by the republicans, Governor Dix's majority over his opponent being over 50,000.— By this time the political condition of the state had been very considerably changed. From 1854 until about 1873–4 the democratic party was practically a minority in the state outside of New York city, and the only question was, whether the republican majority in the rest of the state would be large enough to overcome the democratic majority which it was to encounter at the Harlem river. The organization of the republican party throughout the state had long been very complete, under the leadership at first of R. E. Fenton, and, after 1868, of Roscoe Conkling, whose sympathy with the then administration was more pronounced than his predecessor's. The democratic organization, outside of New York city, had long been imperfect; its local managers were discouraged; and there was no recognized state leadership, except in the counsels of Gov. Seymour. About 1873 the leadership was suddenly assumed by Samuel J. Tilden, only known hitherto as a lawyer, the chairman of the democratic state committee, and one of the agents in the overthrow of the Tweed ring. (See TAMMANY SOCIETY.) Abandoning the absolute dependence of former years upon New York city, he pushed the reorganization of the party throughout the state, secured entire control of its machinery, and in 1874 was elected governor by over 50,000 majority over Dix. His term was distinguished by his success in breaking up a canal ring in the western part of the state, and in 1876 he was nominated for the presidency by the democratic national convention. (See TILDEN, S. J.) His retirement from state politics left the organization which he had revived under the control of a circle of his most trusted supporters. The most prominent of these was Lucius Robinson, who was nominated for the governorship in 1879. The organization of both the great parties in the state was now strikingly similar. It may best be described in the words of the "Evening Journal," a republican newspaper of Albany, which, though used with reference to the republican "machine," are just as applicable to its rival. "The choice of delegates [to the state convention] was a 'put-up job.' The plan of operations was carefully and minutely mapped out at head-quarters. Trusty and well-instructed lieutenants were assigned to each district. These had their sergeants in every county, and these their corporals in every town. Success was made the test of fidelity, and rewards were to follow in proportion to the success achieved. No man could be a tide-waiter who did not carry his ward; no man could be a harbor-master who did not carry his county; and no man could be so much as thought of for canal superintendent, or auditor, or state assessor, or bank superintendent, who did not take his district with him to the Utica convention. It was a race for the spoils on the part of the subordinates, and a race for the presidency on the part of the chiefs." The democrats of the state, outside of the city of New York, seem to have been very well satisfied with the workings and results of their "machine"; but in New York city a new Tammany, under a local leader named John Kelly, had arisen from the ashes of the old one. The Kelly organization seems to have become disaffected partly by a general dislike to the predominance of the country democracy, partly by a disinclination to submit to any authority whatever, but most of all by the apprehension that the Tilden "machine" intended to substitute some more popular nominating body or bodies in the city instead of the Tammany oligarchy. It therefore declared war upon the Tilden machine, and, when it was excluded from the state convention, a rival body of delegates admitted, and Robinson nominated, it nominated its leader, Kelly, for the governorship. The republican machine had given great dissatisfaction to its party, and a number of its voters, commonly called "scratchers," or independents, decided to erase from their ballots the names of its candidates for governor and state engineer. In the election the two parties were almost a tie on most of the candidates. Kelly polled 43,047 votes in New York city, 34,519 in the rest of the state, from various elements ill-affected to the Tilden machine, and 77,566 in all; the republican candidate for governor fell 16,737 below the lowest of the unscratched candidates; and the Kelly revolt was thus successful in defeating Robinson, and in giving the republicans a majority of seventy-three out of the 161 members of the legislature. In 1880 the electoral vote of the state was republican. The popular vote shows the character of the party strength and its locality very clearly. What may be called the urban counties, the seats of the great cities of Albany, New York and Brooklyn, or in their immediate neighborhood, all gave heavy democratic majorities; outside of these, only five of the sixty counties gave democratic majorities, and these were all exceedingly small.—When the new administration of President Garfield was inaugurated in 1881, it was almost immediately called upon to solve the problem which had embarrassed almost every administration since that of Washington—the settlement of a *modus vivendi* with the chief of the party in New York. The solution could only be found in choosing between an open conflict and a grant of the fed

eral patronage within the state to the state leader. (See CONFIRMATION BY THE SENATE.) The president sought to find a middle course by dividing the patronage between the two factions of New York republicans. Thereupon the two New York senators, one of whom was the recognized leader of the republican "machine" in the state, resigned their positions, apparently under the delusion that, if they should be re-elected by the state legislature, the administration would be utterly unhinged by such a rebuke, and would succumb at once. The contest in the legislature was long, and roused a curiously intense excitement. (See GARFIELD, J. A.) The senators were defeated for re-election. But their close political associate, Vice-President Arthur, became president at Garfield's death; and the division of feeling was thus extended into the state election of 1882, which resulted in the choice of a democratic legislature and governor, the majority of the latter (192,854) being the largest yet recorded in a state election. — The political situation in New York in 1883 is very singular. There are two great parties in the state. Both are distracted by quarrels in which the mass of voters take little or no interest; neither has now any recognized leader, nor would either submit generally to the guidance of a leader, if one could be found; neither has a trace of principle or policy in state interests, such as divided parties in the state until 1850; and both organizations maintain a precarious existence as offshoots of the national parties, the adherents of the dominant party struggling for federal offices *in præsenti*, as their opponents do *in prospectu*. The only strictly state organization is the much-berated Tammany society of New York city, whose efforts are directed solely to local offices, with such few federal offices as it can secure by barter. The whole political history of the state is the clearest possible record of the inevitable results of the spoils system in politics: its first employment by a few strong-willed men, with some idea of great principles in its application; its extension to a clique of smaller and less passionate leaders, who use it more as a business means; its immediate and brilliant success in winning elections, and in compelling all parties to adopt it; its further debasement as a mere tool in the hands of men who use it without knowledge of, or care for, any other weapon in politics; its certainty to drive men of a higher understanding of politics out of the competition, as bad money drives out good; and its ultimate disintegration of all parties who employ it, as soon as local leaders, through it, learn to regard political contests as without principle, and to employ the spoils system against their own party as well as against their opponents. To the Italian astronomer Jupiter's moons seemed to be hung in the sky as a convincing proof of the truth of the Copernican system; to the political student the last eighty years of New York's history are fully as instructive. — The names of men who have become prominent in New York politics are of course very numerous. Among them are those of C. A. Arthur, Aaron Burr, De Witt Clinton, George Clinton, Roscoe Conkling, Millard Fillmore, Francis Granger, Horace Greeley, Alexander Hamilton, John Jay, Rufus King, Wm. L. Marcy, Wm. H. Seward, Horatio Seymour, S. J. Tilden, D. D. Tompkins, Martin Van Buren, Wm. A. Wheeler, Silas Wright (see those names), and the following: John Armstrong, democratic United States senator 1801–4, minister to France 1804–10, and secretary of war 1813–14; Daniel D. Barnard, whig representative in congress 1827–9 and 1839–45, minister to Prussia 1850–53, and the ablest contributor to the "Whig Review" (see WHIG PARTY); Benjamin F. Butler, Van Buren's law partner, and attorney general and secretary of war under Jackson and Van Buren (see ADMINISTRATIONS, XIII.); Churchill C. Cambreleng, democratic representative in congress 1821–39, and minister to Russia 1840–41; Sanford E. Church, democratic justice of the state supreme court; Daniel S. Dickinson, democratic United States senator 1844–51, and republican candidate for governor in 1862; John A. Dix, democratic United States senator 1845–9, secretary of the treasury in 1861, major general of volunteers 1861–5, minister to France 1866–9, and republican governor of the state 1873–5; Wm. M. Evarts, United States secretary of state 1877–81; Reuben E. Fenton, democratic representative in congress 1853–5, republican representative in congress 1857–65, governor 1865–9, and United States senator 1869–75; Hamilton Fish, whig representative 1843–5, governor 1848–50, and secretary of state (republican) 1869–77; John A. Griswold, representative in congress (democratic) 1863–5, (republican) 1865–9, and republican candidate for governor in 1868; Thos. P. Grosvenor, federalist representative 1813–17, and distinguished for eloquence; Washington Hunt, whig representative 1843–9, governor 1850–52, and candidate for governor in 1852; James Kent, chancellor of the state 1814–23; Francis Kernan, democratic representative 1863–5, candidate for governor in 1872, and United States senator 1875–81; Preston King, democratic representative 1843–7, free-soil representative 1849–53, republican United States senator 1857–63, and collector of the port of New York 1865; Edward Livingston, democratic representative 1795–1801 (see also LOUISIANA), secretary of state under Jackson, and minister to France 1833–5; Robert R. Livingston, chancellor of the state 1777–1801, and minister to France 1801–4 (see ANNEXATIONS, I.); Edwin D. Morgan, governor of the state 1859–62, and United States senator in 1863–9; Amasa J. Parker, democratic representative 1837–9, and justice of the state supreme court 1847–55; Peter B. Porter, democratic representative 1809–13 and 1815–16, and secretary of war under J. Q. Adams; Clarkson N. Potter, democratic representative 1869–75 and 1877–9; J. V. L. Pruyn, democratic representative 1863–5 and 1867–9; Lucius Robinson, republican comptroller

of the state 1863–5, and democratic candidate for governor in 1879; Erastus Root, democratic representative 1803–5, 1809–11, 1815–17, 1830–33, and in the intervals of these terms of service prominent in state politics as a democrat and (after 1833) a whig; Gerrit Smith, abolitionist representative 1853–4; Ambrose Spencer, chief justice of the state supreme court 1810–23, democratic representative 1829–31, and afterward a whig; John C. Spencer, democratic representative 1817–19, afterward an anti-masonic and whig leader (see ADMINISTRATIONS, XIV.); Nathaniel P. Tallmadge, United States senator (democratic) 1833–44; John W. Taylor, democratic representative 1813–33, and speaker of the house 1820–21; Enos T Throop, democratic representative 1815–16, governor 1829–32, and minister to Naples 1838–42; Wm. M. Tweed, democratic representative 1853–5 (see TAMMANY SOCIETY); Fernando Wood, mayor of New York city 1855–7 and 1861–2, and democratic representative 1841–3, 1863–5, and 1867–81; Stewart L Woodford, republican lieutenant governor 1867–9, republican representative from Ohio, 1873–4, and thereafter United States district attorney for the southern district of New York. — The popular name for the state is *The Empire State*, from its size and wealth, or *The Excelsior State*, from the motto on its coat of arms. — See 2 Poore's *Federal and State Constitutions;* O'Callaghan's *Documentary History of New York* (1600–1800) and *History of the New Netherland;* Brodhead's *History of New York* (1609–91); Moulton's *History of New York;* G. M. Asher's *Bibliographical Essay on Dutch books relating to New Netherlands;* 2 Dunlap's *History of New York*, 239 (for boundaries); Hotchkin's *History of the Purchase and Settlement of Western New York;* Hough's *Convention Manual* (1846); 18 *Democratic Review*, 403; E. B. Street's *History of the Council of Revision;* Pell's *Administration of New York* (1807–19); *Civil List and Forms of Government of New York* (to 1874); J. Macaulay's *History of New York* (to 1800); Eastman's *History of New York* (to 1825); Hammond's *Political History of New York* (to 1840); B. F. Butler's *Outline Constitutional History of New York* (1847); Jenkins' *Political History of New York* (to 1849–50), Carpenter's *History of New York* (to 1853); Barber's *History of New York* (1856); H. Seymour's *Topography and History of New York* (1856); Randall's *History of New York* (to 1870); Lamb's *History of the City of New York; Report of the House Committee on the New York Election* (1869); Chadbourne's *History of New York State.*

ALEXANDER JOHNSTON.

NEW ZEALAND. (See OCEANICA.)

NICARAGUA. The state of Nicaragua, bounded on the west by the Pacific ocean, is on all other parts surrounded by the states of Honduras, San Salvador and Costa Rica. It touches the Atlantic ocean only by a triangular prolongation, at the point of which is situated the port of San Juan; its area is 122,000 square kilometres. According to Squier, the best authority in such matters, its population is 300,000, of which number not more than 30,000 are whites. The remainder is composed of Indians, mestizoes and negroes, the latter numbering from 18,000 to 20,000. — By its geographical position, Nicaragua was, more than any of the other states of Central America, interested in the maintenance of the confederation of Guatemala, which united for the time the five republics of Central America after the recognition of their independence by Spain. It nevertheless had a large share in the events which, in 1842, brought about a definitive dissolution of that confederation. The condition of weakness and isolation, which was the result of this, weighed more heavily on Nicaragua than it did on its former confederates. Its territory, which is admirably situated for the construction of a canal opening a passage from the Atlantic to the Pacific ocean, was for many years coveted both by England and the United States In 1848, under pretext of obtaining satisfaction for injury done her subjects, England took possession of San Juan, the name of which she changed to Greytown. In 1852 the Clayton-Webster treaty stipulated for the restitution of this port to Nicaragua, but on the condition that there should be no imports or tonnage duties except such as were strictly necessary for the preservation of the port and the maintenance of its lighthouses. By this treaty England and the United States settled, of their own accord, certain questions of boundaries, upon which the states of Costa Rica and Nicaragua were divided. In the same year England, for the purpose of guarding her commercial interests involved in the question of interoceanic communication, declared the islands in the bay British colonies, although they were given up to the state of Honduras in 1860. These acts of foreign interference again started the idea of a confederation with the states of Honduras and Costa Rica. But they could not come to an agreement, and the negotiations, entered upon to establish a federation, ended, March 4, 1854, in a new act of separation. The conservative party was then in power; the democratic party did not allow it to rest, and called Walker to its aid. After two and a half years of strife, Nicaragua, which had escaped not without difficulty from the domination of the hardy filibuster—the soul and arm of a policy whose object it was to constitute in Central America, by colonization on a large scale, a confederation destined to draw into the United States, willingly or by force, the states of Central America—fell into the hands of American diplomates, and was very near entirely losing its independence (which it had preserved with great difficulty upon the field of battle,) in the negotiations which ended in the treaty of commerce, concluded Nov. 16, between Isarrari and the cabinet at Washington. This treaty conceded to the United States the right of transit between the two oceans, by every way of communication

existing or which might exist. Two free ports were to be established at each of the extremities of communication, and no customs or tonnage duties were to be levied upon the merchandise and ships of the United States. The federal government extended its protection over its routes of communication, and had the right to transport troops over them, and protect itself there, in case of need, by a military force. These provisions are only an exact repetition of those inserted in the treaty with Mexico, relative to the isthmus of Tehuantepec. They caused none the less a profound sensation. The legislature of Nicaragua hastened to disavow them and to place the interoceanic communication under the protection of the powers, who had guaranteed the integrity of the Ottoman empire. Another resolution of the legislature, in March, 1859, asked the government to admit all nations, without privilege or exclusion, to the advantages of this communication; to establish free ports at the ends of the line; to impose moderate tolls and customs duties, and to forbid the passage of troops. Upon these bases the treaty concluded with England, June 29, 1860, rests. The right of armed intervention, to protect British interests, had nevertheless to be conceded in principle. — The republic of Nicaragua is governed by the constitution of Aug. 19, 1858. The executive power is exercised by a president elected for four years; the legislative power by a senate of ten members, and by an assembly of eleven deputies. Justice is administered by tribunals whose decisions may be reviewed by the supreme court of Nicaragua. The army numbered, in 1873, about 13,000 men. — In 1866 the receipts amounted to $841,253; and the expenditures the same year were $829,471. In 1868 the receipts were $632,471, and the expenditures $517,709. The public debt, in 1873, was $4,090,000. The exports, in 1866, were of the value of $771,966, and the imports amounted to $792,085. In 1870, the exports amounted to $924,031, and the imports to $914,648. The revenue of Nicaragua, in the year 1879–80, was $2,436,090, and the expenditures $2,570,135. The total amount of the public debt was $9,500,000, at the end of 1877. — The products are the same as those of the other states of Central America. Nicaragua is also devoted to the raising of large and small live stock, a market for which is found in neighboring states. — BIBLIOGRAPHY. Belly, *Percement de l'isthme de Panama par le canal de Nicaragua*, Paris, 1855; Belt, *The Naturalist in Nicaragua*, London, 1873; Bülow, *Der Freistaat Nicaragua in Mittelamerika*, Berlin, 1849; Keller, *Le canal de Nicaragua*, Paris, 1859; Lévy, *Notas geograficas y económicas sobre la republica de Nicaragua*, Paris, 1873; Marr, *Reise nach Centralamerika*, 2 vols., Hamburg, 1863; Scherzer, *Wanderungen durch die mittelamerikanischen Freistaaten Nicaragua, Honduras und San Salvador*, Brunswick, 1857; Squier, *Sketches of Travel in Nicaragua*, New York, 1851, and *Nicaragua, its People, Scenery, Monuments, and the proposed Interoceanic Canal*, 2 vols., London, 1852; Whetham, *Across Central America*, London, 1877.

LOUIS GOTTARD.

NIHILISM, about which we have heard so much for some years past, is not entirely new. It has existed for a long time even under this strange name; it has been the fashion in the schools and universities of Russia for the past twenty years among the male students and short-haired female students, whether native or foreign. Although it may have seemed antiquated and almost forgotten before it received its recent popularity and vigor, nihilism was always held in high favor by the youth of Russia, and attracted the attention of the police and the government long before the attempts of 1878 and 1879 excited the curiosity of Europe. — Nihilism is not a system in the same sense as the positivism of Auguste Comte, or the pessimism of Schopenhauer; it is not a new form of the old doctrines of skepticism or naturalism. In philosophy it is scarcely anything more than the grossest and wildest materialism. In politics it is a socialistic radicalism, less anxious to improve the condition of the masses, than to destroy all existing social and political order. It is not a party, for it has no aim but destruction; under its standard we find revolutionists of all kinds, *authoritarians*, federalists, mutualists and communists, who agree only in postponing till after their triumph shall be secured, all discussion of a future organization of the world.* The name of *nihilism*, a name that suitably expresses its scientific nullity and its destructive aspirations, is merely a sobriquet rejected by most of its professors.† — In its principle and instincts, as in its aims and methods, nihilism has but little that is original. With all its exaggerations it is hardly more than a pupil of the revolutionary schools of the west, a pupil that prides itself on excelling its master, and exceeds at pleasure their rashest teachings in order to show what it has drawn from them. Although it has thousands of zealous and sincere followers, it can not be called a science or a school, so long as study, science or scientific

* Under the influence of Bakunin and of the international, most of the Russian revolutionists, in and out of the empire, seem to have had for their formula the confederation of independent and productive communes. In 1874, after the establishment of the journal "Vpered" by Lavrof, discussions having arisen in the beginning as to the manner of preparing and directing the revolution, a refugee named Tkatchef, in a pamphlet entitled "On Revolutionary Propagandism in Russia," declared that "*the party of action*," instead of preoccupying themselves with the question of future organization, should have nothing in view but their work of destruction. This counsel has been adopted by an immense majority of the Russian revolutionists.

† The term *nihilism* is taken, we believe, from a novel of Ivan Turgeneff, "Fathers and Children," in which the celebrated novelist describes the first generation of nihilists. J. de Maistre had already used the word *rienisme* (nothingarianism) in a more or less analogous sense somewhere in his letters on Russia, if we are not mistaken. The nihilists ordinarily style themselves revolutionists, democrat-socialists, or simply propagandists.

methods, which it so loves to parade, have in reality no place in it. Nearly everything it possesses in this regard is derived from theories or treatises outside itself. — Nihilism, or rather Russian radicalism, can, it is true, boast a national theorist, a utopian legislator or prophet of the future, who, in his brief career as an apostle, from 1855 to 1868, acquired an influence over the youth of the country which his misfortunes served but to increase. This Russian Proudhon, or Lasalle, has been exiled for nearly twenty years in the depths of Siberia, where he passed seven years at hard labor in the mines in punishment of his revolutionary propagandism, and where he has grown old in isolation and inaction far from all communication with Russia and the outer world. This man is Tchernychevski, an able writer and an indefatigable worker, armed with a powerful logic and a biting irony, a vigorous and subtle intellect, an enthusiastic and energetic character, and a mind thoroughly Russian alike in its defects and in its good qualities. Philosopher, economist, critic, novelist, a missionary of the dread doctrines of which he has been one of the first martyrs, Tchernychevski has given the theory or *summa* of Russian radicalism in his scientific treatises, and in an eccentric and rambling romance, written in a prison dungeon, he has published its poem and its gospel.* — It is perhaps no injustice to Tchernychevski to attribute more of his ascendency over his disciples and over the young heads of Russia to his long and fastidious romance than to his didactic treatises. This man, whose influence had dethroned that of Herzen and about whom Siberia and long suffering have thrown the halo of martyrdom, was regarded by many of his fellow-countrymen as one of the giants of modern thought, one of the great pioneers of the future, a Fourier, or rather a Russian Karl Marx. Notwithstanding all the admiration of which he has been the object, and the real originality of his mind, the ideas of Tchernychevski present nothing very original, either in political economy or philosophy. The form and details may be new and individual; the basis of the theories is German, English and French. What gives to the work of Tchernychevski, at least to his romance, the greatest savor of the soil, is perhaps the sort of mystic and visionary realism which is found among many nihilists. Great, however, as has been the ascendency of Tchernychevski and some other writers of the same school over the youth of Russia, the nihilism of to-day is far from following blindly the lessons of the masters whom it glorifies; it draws more from their romantic visions than from their scientific deductions. — From a pyscological point of view, nihilism may be said to result from the union of two opposite tastes in the Russian character, a taste for the absolute and a taste for realism. From this unnatural union has resulted this revolting monster, one of the most direful children of the modern mind. We find in it also an example of that impatience of all restraint and of that rashness in speculation which are frequent among the Russians, but which make less pretense to science or method among them than they do among the Germans. From a moral and political point of view, nihilism is first of all a pessimism with which nature and climate have somewhat to do. Seeing nothing but evil everywhere, it aims at overthrowing everything—government, religion, society, the family—in order to replace all by a better world. Nihilism has in it nothing of the critical skepticism which compares and examines, and which reserves its judgment. It is a negation which asserts itself boldly and admits of no investigation; which becomes a sort of retrograde dogmatism as narrow, as blind and not less imperious and intolerant than the traditional beliefs whose yoke it rejects. — In the intemperance and rudeness of the negation which they hurl at all that mankind honor and respect, many of the nihilists display the foolish boyishness of youthful incredulity, something of the disorderly waywardness of minds recently emancipated. For many of those who profess them the theories of nihilism are but a sort of protest against the ancient superstitions which still rule the masses, against political servility, intellectual hypocrisy or the social conventionalities that too often rule the higher classes. — If you should ask a nihilist in what his doctrine consisted, he would reply: "Take earth and heaven, the state and the church, kings and God, and hurl them down and spit upon them; this is our doctrine." This definition would be a subject of raillery for an adversary, as it could hardly be less exact. The expression, however, is not shocking to the ears of a Russian as it is to ours; *spitting* enters quite extensively into Muscovite superstitions. They spit to avert an evil, they spit as a sign of astonishment, they spit as a sign of contempt. The nihilist delights in spitting upon everything, he loves to set at defiance the spirit of veneration and humility which is active in the Russian of the lower ranks, who doubles himself in two before his superiors as before the images of the saints. This shows what a profound discordance of ideas and sentiments afflicts the nation. The two extremes are here met with in the moral as well as the physical order, in man as well as in nature. the most artless political and religious veneration is confronted by the most brazen intellectual and moral

* Tchernychevski began his career in 1855 by a treatise on natural æsthetics, or the relations of art and reality (*Esteticheskiia otnocheniia iskoustva i dessitelnosti.*) A little later, in an essay entitled "The Anthropologic Principle in Philosophy" (*Antropologitcheskii v filosifi*), he explained a system of *transformist* materialism, defended the unity of principle in nature and in man, and reduced all morality to pleasure or utility. In 1860 he published, in the *Sovremennik* review, a translation, with an appended criticism on the "Political Economy of John Stuart Mill." In this book the Russian writer employs, for the benefit of socialism, all the arms he can secure from certain theories of the English school of economists, Malthus and Ricardo in particular. Finally, in 1868, the *Sovremennik*, which was soon after suppressed, published anonymously the romance "What can be done?" (*Chto delat*), written in the prisons of St. Petersburg.

cynicism.—This coarse negative materialism is not the whole of nihilism; this monster born of opposite inclinations has another face, very different but equally Russian, namely, mysticism. These men, so disdainful of all faith, of all metaphysical dreams and of everything ideal, have also their speculations or their dreams. At the root of this naturalistic realism there is a sort of idealism anxious to make for itself a course in the unexplored field of the possible. From the midst of the pessimism that curses the existing social order springs an unbridled optimism, which ingenuously discounts the wonders of a utopian future. In Russia, most of the young men, the greatest injury you could offer to whom would be to call them idealists, and who would consider it as the greatest possible humiliation to be regarded as such, do not hesitate to abandon themselves to the wildest dreams and reveries in matters which seem to offer least opportunity for them. It is in the domain of economy and social science, in the domain of positive realities, that the Russian, whether nihilist or not, abandons himself with the greatest freedom to utopian vagaries and the search for the absolute. It is while following the path of realism and utilitarianism, that he abandons himself to theories and chimeras; he travels, as it were, in a circle, and abandons the speculative spirit only to return to it, like a traveler who, after passing the antipodes, would reach by another route the country he has left behind. The sphere which requires the greatest sobriety of mind is that in which the Russian (and in this he is not alone) gives the freest scope to his imagination. With a great difference of science and method, have we not seen something of this preposterous speculation among the most pronounced adversaries of metaphysics, among certain positivists, for instance, who have sometimes reached, in economic and political questions, conclusions so little in keeping with their method and in fact so little positive? This contradiction, which is so frequent among most socialists or radicals, this sort of change of front which is explained, in the most negative schools, by an imperative want of the ideal and of faith in a better world, is nowhere of more frequent occurrence or more striking than it is among the Russians. Here their national spirit manifests itself with all its contrasts, with its defiance and disdain of received beliefs, with its ingenuous confidence in doubtful theories and its taste for paradoxes.—De Tocqueville has remarked that in our day the revolutionary spirit acts after the manner of the religious spirit. This can be more truly said of Russia than of any other part of the world. Revolution has become a religion among the nihilists, whose dogmas are as little discussed as a revelation, and whose obligations are nearly as imperative as the commandments promulgated in the name of the Divinity. Negation has assumed among them the aspect and character of faith; it possesses its enthusiastic fervor and a zeal that nothing can check. Nihilism has its devotees and its illuminati, its confessors and its martyrs, just as it has its gods and its idols. From this point of view, the common opinion which formerly took nihilism for a sect, was not so far wrong as it seemed at first sight. With its absolute spirit, impatient of all criticism, its sturdy faith and the impassioned devotion with which it inspires so many scattered followers, it is really a sort of religion, whose deaf and insensible god is the people adored in their degradation, a sort of church whose bond of union is love for this suffering god, and whose law is hatred of its persecutors. By the blind ardor of their faith, their rejection of all that is foreign to their doctrine, their exclusivism and fanaticism, many of these proud nihilists bear a most striking resemblance to the coarse popular sects, their contempt for which they can never sufficiently express.—These detractors of all faith and all supernatural hope, these contemners of all spiritualism, are themselves idealists and mystics after their own fashion. We may frequently perceive this in their language, and even in their writings. Although most of them profess to disdain, as childishness or useless superfluities, poetry, pictures and allegories, they can not withstand their seductions. These enemies of all superstition and of all veneration, who pretend to recognize in the noblest acts of devotion merely an instinctive impulse or a refined egoism, constantly praise the heroes and heroines of their cause, more like saints martyred for their faith than like modern conspirators.* Any one who will read the celebrated romance of Tcherny chevski, "What can be done?" will be surprised at its singular union of mysticism and realism, of practical and prosaic observations, and vague and dreamy aspirations, all jumbled together in that strange work of radical doctrinarianism. In this long and sluggish history, which pretends to portray for us the reformers of society and the sages of the future, her own destinies and the destinies of woman and of humanity are revealed to the heroine in symbols and dreams These readily transparent allegories may, it is true, have been suggested to the already imprisoned author by the necessity of not too fully arousing annoying censure. In the prisoner's romance there is, by the side of this humanitarian mysticism, a sort of natural asceticism, which to us seems queerer still. The revolutionary ideal, the finished type of the man of the future, a certain Rakhmetof, not only possesses all the perfections of the fraternity combined, but, like a Christian anchorite or an Indian ecstatic, Rakhmetof chooses to renounce all the joys of life and the pleasures of sense; he denies himself and

* We here give, as an example, the translation of some verses addressed to Lydia Figner, one of the young heroines of the recent political trials (Detoonbüstvo, Geneva, 1877). "Strong, oh young girl, is the impression made by thy enchanting beauty; but still greater than the charm of thy face is the charm of thy purity of soul. * * * Full of sadness is the image of the Saviour, full of sadness are his divine features; but in the fathomless depths of thy eyes there is more love than suffering."

mortifies himself in order to be like his suffering god, the oppressed people.* When fruits were served him, Rakhmetof eat only apples, because apples were the only fruit the people could eat. If he did not clothe himself in sackcloth, this upholder of the rights of the flesh, instead of sleeping upon a bed, chose to lie upon a piece of felt filled with nails an inch long. — There are undoubtedly few Rakhmetofs outside of novels: among the admirers of Tchernychevski, too many abandon themselves to the barefaced licentiousness authorized by their dismal doctrines; this stoicism, this contempt of material enjoyments imperiously demanded for others, is, however, sometimes found in real life. Among the innovators of both sexes who profess and often practice free love, are found some who, by a strange contradiction, hold themselves in honor bound not to use the rights which they lay claim to. As a matter of course, this is more common among women, who are ever predisposed to contradictions, and more desirous than men of ennobling every whim. It is among certain of these devotees of nihilism, among these young girls who are its most ardent proselytes and most courageous missionaries, that we find the best illustrations of all the generous sentiments and unconscious idealism that can lie concealed under this repugnant materialism. Among these women who preach the suppression of the family and the free intercourse of the sexes, among these young women with short hair, who delight in imitating the gait and the language of young men, it is no uncommon thing to meet some whose conduct, far from being in accord with their cynical principles, is pure and irreproachable, despite all the outward appearances of an adventurous and loose life, and the promiscuous immorality in which the wisest among them seem to delight. — Nihilism has its virgins, and many a female conspirator of twenty, arrested and transported of late years, has carried with her to Siberia a virtue all the more meritorious as their doctrines set no value on it. A still more remarkable fact is, that nihilism has its mystical or platonic unions, its couples who, married ostensibly in the eyes of the world, choose to act as though they were not married. This is what is called, in the sect, a fictitious marriage. Since the trial of Netchaief, there has scarcely been a political case that has not brought to light some of these singular unions. It is difficult to understand what impels the enemies of society to this simulacrum of marriage. For many, especially for young girls, it is a means of emancipation which facilitates political propagandism. It gives the young woman who is enrolled in the holy cause a husband in order to give her the freedom of a married woman; sometimes he is the man who has instructed and converted her, more frequently he is a friend, sometimes a stranger procured for the purpose. Solovief, the author of the first attempt upon the life of Alexander II. in 1879, had contracted a marriage of this kind. In reality the affianced marries only the sect, and the parties often separate the very day of their nuptials, to go each his own way, and extend the propagation of their sect. Solovief had done thus, and when his wife and himself left their province for St Petersburg they dwelt apart. For some, the fictitious marriage is an association, a sort of co-operation of two companions; for many, this may be a means of proving in the least manner possible that they have been united by a union blessed by the church and sanctioned by the state, a means of placing themselves beyond the reach of the law and the prejudices of society by appearing to submit to them. The husband does not enjoy the rights which religion and the law give him, the wife retains her liberty in the legal engagement, and after the regular marriage ceremony has been performed and she refuses herself to her husband, she can, with the consent of the latter, if she choose, indulge in free love. Finally, for some others, the fictitious marriage is a sort of novitiate or term which, after some months or years of trial, gives place to a more natural union. Thus it is, if I am not mistaken, that in the romance of Tchernychevski, Vera and Lapoukhof live at first as brother and sister, having two apartments under the same roof, separated by a neutral ground, until the day when one single chamber shall unite the two, while awaiting which the husband discovers the reciprocal affection of one of his friends and his wife, and discreetly disappears in order not to cause them any embarassment or scruple, only to return under another name at the expiration of several years, to share as a neighbor and a companion the happiness of the new couple. — Nihilism is no longer purely negative; it has become ardently revolutionary and socialistic. The faith, enthusiasm and religious devotion of its followers are shown most plainly in its processes of propagandism—in the rashness of their attempts, and in their constancy in braving transportation and death. This sad courage before judges and executioners has been often exhibited by other sectaries and other revolutionists of different countries; there never yet was a perverse folly but had its believers and martyrs. The peculiarity of contemporary Russian nihilism is its manner of addressing itself to the people, of *going into the people* (*itti v narod*), to use their own chosen expression. In order to make itself better understood by the people, the plan of its propagators is to mingle with them, to assimilate themselves to them, to live their life of privation and manual labor, forgetting their habits and prejudices of education. In this, the missionaries of nihilism seem to have wished to imitate the first apostles of Christianity. In what other country can we in our day find young men of good family, university students, throwing off the garb and

* The following is one of the maxims of Rakhmetof: "Since we demand for men the complete enjoyment of life, we should prove by our example that we demand it, not in order to satisfy our personal passions, but for man in general."

customs of their class, to work as common workmen in the forges or manufactories, in order to be better able to understand the people and to initiate them in their doctrines? In what other country do we see well-bred young women, after returning from travel abroad, congratulating themselves on finding a place as cook in the house of a foreman of a manufacturing establishment, in order to be able to approach the people and study personally the labor question? In Russia, where manners, ideas and even dress more widely separate the different classes, this social abolition of classes, even for a time, must surely be more difficult than anywhere else. In this manner of propagating their doctrine, by putting themselves directly in contact with the mass of the people, do we not discover, in the midst of all their aberrations, the positive instinct, the realistic sense of Russia, which, instead of remaining hovering in the misty regions of theory, descends to the side of the workman and the peasant in the factory, or the forge, or the school? The practical spirit of the Russian is curiously intermingled with his theoretical eccentricities, just as a sort of idealism ingrafts itself upon his most decided naturalism. — No sadder sight, perhaps, can meet the eye of the observer than this alliance, in the young people of both sexes, of opposite and nearly equal extreme qualities and defects, than this prostituting the noblest and most generous instincts of the human heart to the service of the most revolting doctrines. Be this as it may, it can not be denied that nihilism, so repugnant in its principles, so insignificant in its methods, so ridiculous in its pretensions, and so odious in its attempts, reveals certain qualities of the Russian mind and character, and precisely those which are most frequently denied it. If it shows in their full deformity some of the unpleasant features of the national temperament, which is too often inclined to extremes, it enlightens with a sinister glimmer one of its noblest and least apparent traits. This people, so often accused of passivity and intellectual torpor, nihilism shows us is capable of energy and initiative; capable of sincere and active enthusiasm; capable, in fine, of devotion to ideas. From this point of view, I would venture to say that this sad phenomenon does honor to the nation which suffers from it. It is not misery, ignorance, cupidity and ambition that are the active fomenters of the revolutionary spirit in Russia, as they are in other countries, but it is frequently passions that are originally high and noble. The men who claim to be the apostles of human fraternity and unity, know how to share, when occasion requires, the labor of the humble and the suffering of the poor, and they fully realize the fact that, in their country, revolution is not a career nor a game in which ambition has everything to gain and the agitators have but little cause to fear for their safety. Most of the nihilists, at least most of those who figure in the trials, are very young men and very young women. It is among the young men, or, to be more exact, among the youth, of the country, that the revolutionary faith finds most of its adherents. Age seems soon to lead most of them, if not to skepticism, at least to lukewarmness, discouragement and prudence. Is it not a remarkable fact that in the innumerable political trials of the last ten years scarcely any but young men have been implicated? Of all the conspirators condemned or arrested, there are very few thirty years of age, few have passed the age of twenty-five, and most of them, as Mirsky, the author of the attempt upon Gen. Dreuteln, were minors. In a country in which radical ideas have already been handed down in the schools for more than a generation, this phenomenon leads to the belief that age has considerable to do with this effervescence of negation and revolution. Russia is not the only country where young men inclined to every chimera become at the end of ten or fifteen years practical, positive, commonplace men, adapting their principles and their ideas to the advancement of their interests. There is nothing more common everywhere than these recantations which reassure the politician while saddening the moralist; but this contrast between the different seasons of life, between youth and maturity, have often seemed to me more regular and more marked in Russia than elsewhere. The Russian is, perhaps, thanks to his practical good sense, more quickly disabused of his revolutionary reveries, and impressed with the lack of proportion between the means and the end of these agitations. Thus to attack with such poor weapons a power so strong, men must be either inspired or childish. There is also in this perhaps an additional trait of the national character, which is inclined to go from one extreme to another. Thus it always happens that there are few countries in which parents and children find it so difficult to understand one another. In this respect the picture by Ivan Turgeneff in "Fathers and Children" is still true. By contact with real life, practical and positive instincts, egotistical instincts ordinarily regain the ascendency over revolutionary, romancing and utilitarian idealism, to such an extent as completely to choke their aspirations or relegate them to the tranquil sphere of dreams. Hence it is that there are so many young nihilists swearing to destroy everything, and so many men willing to endure everything and to preserve everything. Hence it is, in a word, that there are so many Russians whose ideas never conflict with their interests; among whom the profession of the sturdiest theoretical radicalism is united without difficulty to the care of their fortune and the common occupations of their calling. — Must we attribute to this kind of conversion brought about by age the singular transformation of entire generations, such as that of 1860, for example? No generation of any age ever had more faith in the good, greater confidence in improvised institutions or greater taste for liberal innovations. Now, the noble anxiety for the advancement of moral interests and the regeneration of the country of most of these men who but just

now were passionately applauding reforms and demanding new ones every day, has, in a few years, given place to skepticism, indifference, and a too exclusive preoccupation for material and personal advantages. Such a subsidence, such a moral decadence, after an over-excitement of some years, is indeed nothing more than natural; the same thing has happened in France after each revolution. The phenomenon is none the less remarkable in Russia, on this account. In the Russian mind, discouragement seems always to follow close on enthusiasm, dejection close upon exaltation. Is the fault attributable to their political system, or to the temperament of the people? Perhaps to both causes at once. — Nihilism or Russian radicalism is most frequently an affair of age; we may say it is a disease of youth, and this not merely of individual cases, but even of the nation generally. It is her intellectual and political youth and her historical inexperience that make Russia so forward in speculative boldness, so disdainful of the experience of others on so many questions, and so confident in the facility of a social transformation. Added to this is a secret self-love. Even when he accepts the ideas of the west, the Russian loves to strain them, to surpass them in revolution as in everything else; he is a pupil who endeavors to excel his masters, a new comer who readily considers his elders timid and backward. The Russian frequently feels toward the west something of the sentiments of a young man toward a middle-aged or old man; even while he appreciates our ideas or our lessons, he is inclined to believe that we are resting by the way, and he undertakes to pursue to their end the ways and ideas which others have opened to him. "Between you and me, what are your nations of Europe?" one of the first Russians I ever knew inquired of me a long time ago. "They are graybeards who have given all that they are capable of giving, and of whom nothing more can reasonably be expected; we shall not find it hard to surpass them when our turn shall come." But when will this turn come? Many are tired waiting for it. Unfortunately, this natural presumption is far from always implying labor or real effort. Too many Russians await the grand future of their country as something which is bound to come some day, just as the fruit ripens upon a tree; too many others, disdaining what is possible and railing at the liberty of which the west furnishes them the example, profess themselves disgusted skeptics; while the most impatient among them, imagining that they can metamorphose their country with a single stroke of the revolutionary wand, have recourse without scruple to the most foolish and odious machinations. — Bloody anarchy and the dissolution of the empire would be the inevitable results of a revolution in Russia. Fortunately for civilization there are few countries in which even the transitory triumph of the revolutionists is less probable. The extent of the empire, the dispersion of the population, and the small number of the cities, are so many obstacles to those surprises which elsewhere overturn a government in a few days. It has no Paris to declare a revolution, and even in the capital there are no people to establish one. The only possible revolutions in Russia will be revolutions of the palace, and the country has lost the tradition even of these since the time of Paul I. — We must decline to consider Russia as a volcano ready to burst forth. Certain prophets have been declaring there existed there all the precursory signs of a revolutionary explosion for the past fifty years. We often hear it said that Russia is on the eve of its 1789, and that the end of the nineteenth century in that country will recall the close of the eighteenth century in France. Such comparisons are based upon remote and vague analogies. The autocratic empire may some day, soon perhaps, have its 1789; I should be greatly surprised if it were to have, at least in this century, its 1793. There is in this Russian movement nothing of the spirit which agitated all classes in the nation at once under Louis XV.; besides, there is in Russia nothing of the universal weariness, the profound hatred and the incurable defiance that rendered the suppression of the ancient régime impossible without violence and excess. In France, under Louis XVI., the ground was covered with combustible matter that had been amassed during centuries, and needed but a spark to start the greatest conflagration the world has ever seen. In Russia, under Alexander II and III., the atmosphere is filled with sparks carried by the winds from the west; flashes and sinister glimmerings meet the eye, but the inflammable matter is wanting or is too scattered to feed a grand conflagration. It may still be said to-day, as in 1825 and 1848, that the material for a revolution is lacking in Russia. — Who are the men who pretend to seize upon an empire of more than eighty million souls? Some thousands of young men without experience, without practical ideas, without influence, incapable alike of producing or directing a revolution; unknown, misunderstood and regarded with suspicion by the people; presumptuous children, ignorant of life and believing everything possible to their weakness. What are their arms, their resources, their means of action? Pamphlets, and circulars either written or printed, among a people the greater part of whom can not read. And what else? The arm of some hired assassin, cut-throat or incendiary. They approve of every means and dare everything in the dismal field of criminal warfare which alone is open to them; but the stiletto, the rifle and the mine are not enough to produce a revolution. If there is a country in which the government is upheld by the slender thread of a human life, that country is no longer Russia. — The energy and tenacity, audacity and self-abnegation, the sombre and fanatical heroism of the enemies of the state, but serve to make manifest to all their utter impotency. Organization is not perhaps what they lack. To contrive their plot they would have but

to copy the models afforded them by the revolutionists of other countries, to appropriate to themselves the old machinery of secret societies and hidden governments, now brought to such perfection, with their affiliated branches and their hierarchy of supervising committees, their mysterious and anonymous chiefs, blindly obeyed by followers to whom they remain unknown. For their organization and propagandism, they have, in the blind enthusiasm of their youth, the indifference or disaffection of society and the unpopularity of the police or administrative corruption, aids and facilities which they could not have in any other country in Europe. They have been wonderfully aided by the contradictions and blunders of the government or its agents; their boldest attempts have long enjoyed the benefit of impunity. What profit have they derived from these advantages? Not enjoying like the carbonari or Mazzini of Italy, or the Polish revolutionists of 1863, the alliance of the national spirit, all the efforts of their committees, whether at home or abroad, have been without fruit. They have succeeded in murdering some functionaries, and even Alexander II. on March 13, 1881, in burning houses, quarters, and almost entire towns; but they have not been able to raise the smallest insurrection. In vain have they assailed at once the people of the cities and the country, the bureaucracy, and even the army. It has not helped them any to have accomplices among their official adversaries, and to gain auxiliaries in the ranks of the army, such as Lieut. Dubrovine, the *terrorist officer* hung at St Petersburg in 1879. They have succeeded only in rendering themselves odious to the people, furnishing arms to the enemies of progress. If they have forced the government to resort to extraordinary precaution and severity, it is the country that has suffered by it, the country whose progress they have retarded and which retains a just grudge against them for it. — The nihilist agitation of 1878 and 1879 manifested the absolute powerlessness and real weakness of the revolutionists. Do we mean by this that all this nihilist movement, this effervescence of spirits among certain classes of young men, is not fraught with damage to the state or danger to the government? Decidedly not. The evil, the actual peril, is not a revolution, which is to-day senseless, chimerical and impossible; it is a weakening and sterile agitation constantly renewed; it is a sort of periodical fever, with violent attacks succeeding regularly to periods of apparent calm and depression. The imminent danger is not political but intellectual and moral anarchy, which exhausts the nation in fruitless efforts; which leaves the country disturbed, enervated, without any clear guidance or definite policy, without any distinct horizon; which leaves the state exhausted and enfeebled in all its resources. In addition to this, such a state of things can not continue indefinitely; it will not take a great many years, not a generation perhaps, to render any catastrophe possible. — Because radicalism has not extended beneath the surface of the nation, it does not follow that it is not a serious malady, over which the Russian character is sufficiently strong and healthy to triumph by itself. The revolutionary spirit is one of those evils which nature alone can not cure. Nihilism is an ulcer which, if it be not attended to, threatens to become incurable, to eat through the whole social body, and, little by little, to extend to the vital organs. — The remedy, the efficacious treatment, is to be found neither in repressive nor preventive measures. It is vain to dream of striking at the roots of the evil in the universities and colleges. It would be in vain, according to the advice of some distinguished minds, following the plan renewed by the emperor Nicholas, to lay the blame on modern studies and culture, to modify the course of instruction, to substitute classical studies for the physical sciences, or *vice versa;* it would be in vain to limit the number of students, or restrict the sphere of studies, to exclude the women and young girls who aspire to superior education and equality with the other sex; it would be in vain to forbid those numerous foundations of scholarships which charity or vanity, either public or private, establish in colleges or universities, that serve but to recruit the class of educated proletarians; there would always remain support enough and proselytes enough for nihilism. It would be in vain, as has often been contemplated, to submit the universities and their students to military discipline, to oblige students to wear a uniform, to shut them up in boarding schools or barracks; these would only be palliatives, better adapted to conceal the progress of the evil than to heal it. To effect a cure, in our opinion, another regimen must be adopted. There are diseases that were formerly treated by dieting and blood-letting, which we cure to-day with stimulants, tonics, fresh air and exercise. Russia's case is of this number; she should be placed under a more strengthening regimen. — Modern science possesses no sure preservative or certain specific against the revolutionary epidemic. None but an ignorant man or a charlatan would promise either. The revolutionary spirit is one of the evils which nations must, in our day, accustom themselves to live with; the question is, in Russia, as it is everywhere else, to be strong enough to endure it. Of all the means and all the remedies proposed for this end, the surest seems to be political liberty. This is an old receipt, and out of fashion with many, and for some even worse than the evil which it pretends to combat; it is, in our opinion, the only efficacious one All the governments that have honestly and patiently tested it have been benefited by it. Russia's greatest misery is an absolute want of political liberty. A lawful avenue must be opened to the vague aspirations that are springing up among the youth of the country and in society, or there will be an explosion.

ANATOLE LEROY BEAULIEU.

NOBILITY. By this, or by some equivalent term, has been designated in all times the body of men who have attributed to themselves in an exclusive manner the higher functions of society. Most frequently this body established its rule by conquest. Thus the nobility of most of the states of Europe owes its origin to the barbarous hordes which invaded the Roman empire, and divided its ruins among them At first these troops of emigrants, whom the insufficiency of the means of subsistence and the allurement of plunder urged from the regions of the north to those of the south, overran and laid waste the civilized world; but soon, either because the personal property which served them as booty began to be used up, or because the more intelligent understood that a regular exploitation would be more profitable to them than simple pillage, they established a fixed residence for themselves upon the ruins of the world they had laid waste and conquered. — This establishment of the barbarians in the old domain of civilization, and the institution of a feudal nobility which was the result of it, had a utility which it would be unjust to ignore. It must not be forgotten that the Roman empire, internally undermined and corrupted by the cancer of slavery, had ended by falling in ruins, and that the wealth accumulated by Græco-Roman civilization was at the mercy of the barbarians. In so critical a situation, the establishment of the Goths, the Vandals, the Lombards and other emigrants from the north upon the territory which they had ravaged, was a blessing. Having become proprietors of the greatest part of the capital which the conquered nations had accumulated upon the land, these barbarians were henceforth interested in defending it against the hordes which came after them It was thus that the old enemies of civilization became its defenders, and that the wealth accumulated by antiquity, in passing from the weak hands of its old owners to those of the conquerors of the north, more numerous, more courageous and stronger, was preserved from total annihilation. The destructive wave of invasion stopped before this new rampart, raised up in the place of the dismantled rampart of Roman domination. The Huns, for example, who had come from the depths of Tartary to share the spoils of the old world, were destroyed or repulsed by the coalition of the Goths and Franks, established in Italy and in Gaul; and later the Saracens, no less redoubtable than the Huns, met the same fate. — If the Goths and the Franks had not appropriated to themselves the fixed capital of the nations they had subjugated, would they have risked their lives and their booty to repulse the savage soldiers of Attila? And what would have remained of the old civilization, if this barbarian chief of a nomad race had continued to overrun and ravage Europe? Would not Greece, Italy, Gaul and Spain, despoiled of their personal wealth, and deprived of the greatest part of their population, have ended by presenting the same spectacle of desolation and ruin as the empire of the Assyrians and the kingdom of Palmyra? When, therefore, we take into account the circumstances which accompanied the establishment of the barbarians in the bosom of European civilization, we perceive that this violent substitution of a new race of proprietors for the old race presents rather the characteristics of the exercise of the right of eminent domain than those of spoliation properly so called. Hence, this extremely important consequence, that the property of the nobility which had its origin in conquest does not deserve the anathema which certain socialists have launched against it; for the original titles of the nobility to their estates was founded on general utility, that is to say, upon justice. — The conditions of the establishment of the barbarians in the bosom of the civilized world were extremely varied. Historians have nevertheless demonstrated that they generally took to themselves two-thirds of the land; such was, for example, the proportion in Gaul, when it was conquered by the Franks. This proportion, however, was not arbitrary; it was determined by the necessities of the situation. In each subjugated nation was found an aristocracy of proprietors, dating most frequently from an anterior conquest, whom the conquerors were interested in treating with a certain consideration, in order not to push them to the dangerous extremity of despair. According as this aristocracy had preserved more or less strength and influence, the conquerors left it a more or less considerable portion of its domains, limiting themselves to subjecting it to simple feudal fines. Hence there were two kinds of domains, and the title of *francs alleux* (freeholds) was given to lands occupied by the conquerors, as the count de Boulainvilliers explains with much clearness. "The Gallic proprietor," says this learned historian of the French nobility, "was required to pay certain tributes of the fruits and revenues of his lands, according to the demands of the victors. The Frank, who possessed his lands entirely free and unburdened, had a more absolute and more perfect ownership of them; hence this distinction was marked by the term *salic lands*, meaning lands or *alleux* of the Franks, called also Salians; in a word, *francs-alleux*, that is to say, absolutely and thoroughly their own, hereditary, and free even from all tribute of the fruits *Terra salica, quæ salio militi; aut regi assignata erat, dicta ad differentiam allodialis, quæ est subditorum.* (Basnage, word Alleux.) This method of dividing the conquered lands was imitated by the Goths, who called the lands which they had retained *sortes gothicas*, and those which they had left to the Romans, *sortes romanas*. The Normans did the same thing in regard to the old possessors of Neustria when they conquered it, and this was the origin of the greater part of freeholds; for the complete freedom of these lands from taxation caused them to be called freeholds." (*De la noblesse française*, by the count de Boulainvilliers) There were, therefore, two nobilities after the conquest, the one composed of members of

the conquering army, and the other composed of the old proprietors not completely dispossessed. The former, whose lands were free, were at first in the ascendency; but after long struggles, of which the beautiful romance, Ivanhoe, for example, gives a picturesque sketch, these two nobilities, drawn together by common interests, were generally confounded in one. — It sometimes occurred to the conquerors to make an inventory of the wealth which they had appropriated to themselves; this was especially the case in England after the Norman conquest. The results of this curious inquiry were embodied in the Domesday Book.* — The division of the booty and of the lands was effected in an unequal manner between the chiefs and the soldiers of the conquering army. This inequality was based upon the unequal share which each had taken, according to his rank in the army, in the work of conquest. The distinction of rank was determined by the necessities of the enterprise. When the barbarians invaded a country, they chose the chiefs from among the most courageous and capable of their number, and they obeyed them in the common interest. The chiefs chose aids (*comites*) to cause their orders to be executed; and a military hierarchy, based upon the necessities of the enterprise which was to be carried out, was thus organized of itself. The conquest accomplished, it was natural that the share in the booty should be proportionate to the rank which each man, having any claim to it, held in the army of invasion. The supreme chief had, therefore, the greatest share, both in personal effects and in lands; the lesser chiefs and the common soldiers of the conquest obtained shares proportionate to their rank, or to the services which they had rendered. These divisions were frequently the occasion of bloody quarrels, to which the necessities of common defense alone could put an end. — When the plunder to be divided comprised, besides personal effects, immovable property, lands or houses, the army of invasion dispersed, and each

* The Domesday Book is nothing but a great inventory of the Norman conquest. We quote from the history of M. Augustin Thierry some interesting details concerning the origin of this curious inquiry, and upon the way in which it was drawn up. "King William," says M. Augustin Thierry, "caused a great territorial inquiry to be made, and a universal register of all the changes of property made in England by the conquest to be drawn up. He wished to know into what hands, throughout all the extent of the country, the domains of the Saxons had passed, and how many of them still kept their inheritances by reason of treaties concluded with himself or with his barons; how many acres of land there were in each rural domain; what number of acres would be sufficient for the support of a soldier; and what was the number of the latter in each province or county of England; what was the gross sum of the products of the cities, villages, towns and hamlets; what was the exact property of each count, baron, knight, sergeant-at-arms; how much land each one had, how many people with fiefs of his lands, how many Saxons, cattle and plows — This work, in which modern historians have thought they discerned the mark of administrative genius, was the simple result of the special position of the Norman king as chief of a conquering army, and of the necessity of establishing some order in the chaos of the conquest This is so true, that, in other conquests whose details have been transmitted to us, for example, in the conquest of Greece by the Latin crusaders in the thirteenth century, we find the same kind of inquiry, conducted on an exactly similar plan by the chiefs of the invasion — By virtue of the orders of King William, Henri de Ferrières, Gaultier Giffard, Adam, brother of Eudes the seneschal, and Remi, bishop of Lincoln, as well as other persons selected from the jurists and the guardians of the royal treasury, set out to journey through all the counties of England, establishing in each place their council of inquiry. They caused to appear before them the viscount of each province or of each Saxon shire, a personage to whom the Saxons gave in their old language the title of shire-reve or sheriff. They called together, or had the viscount call together all the Norman barons of the province, who indicated the precise boundaries of their possessions and of their territorial jurisdictions: then some of the men connected with the inquiry, or commissioners delegated by them, went to each great domain and into each district or century, as the Saxons called them. There they made the French soldiers of each lord and the English inhabitants of the century declare, under oath, how many free owners and how many farmers there were upon the domain; what portion each occupied as full proprietor or on precarious tenure; the names of the actual holders, the names of those who had been owners before the conquest, and the different changes of property which had taken place since that time; so that, say the chronicles of the times, three declarations were exacted concerning each estate: what it had been in the time of King Edward, what it had been when King William had granted it, and what it was at the present moment. Beneath each particular statement was inscribed this formula: 'This is what all the French and all the English of the shire have sworn to.' — In each town an inquiry was made as to the amount of taxes the inhabitants had paid to former kings, and how much the town produced for the officers of the conqueror; an investigation was made as to how many houses the war of the conquest or the construction of fortresses had caused to disappear; how many houses the conquerors had taken, and how many Saxon families, reduced to extreme poverty, were unable to pay anything. In the cities the oath was taken of the great Norman authorities, who assembled the Saxon burgers in their old council chamber, now become the property of the king or of some foreign baron. Finally, in the places of lesser importance the oath was taken of the collector or provost royal, of the priest and of six Saxons or of six *villains* of each city, as the Normans called them. This investigation lasted six years, during which time the commissioners of King William traveled over all England, with the exception of the hilly countries in the north, and to the west of York, that is to say, the modern counties of Durham, Northumberland, Cumberland, Westmoreland, and Lancaster. The investigation was concluded in 1086. — The editing of the inventory of taxable property or the *terrier* of the Norman conquest for each province that it mentioned, was modeled on a uniform plan. The name of the king was placed at the top, with the list of his lands and of his revenues in each province: then followed the names of the chiefs and of the smaller proprietors, in the order of their military rank and of their wealth in land The Saxons, spared by special grace in the great spoliation, figured only in the lowest ranks; for the small number of this race who remained free and unburdened proprietors, or tenants-in-chief of the king, as the conquerors expressed themselves, were so only as regards inconsiderable domains. The other Anglo-Saxon names scattered here and there through the list, belonged to farmers of certain fractions, more or less great, of the domain of Norman counts, barons, knights, sergeants-at-arms or cross-bowmen. — This valuable book, in which the entire conquest was registered, so that the memory of it could not be effaced, was called by the Normans the *grande rôle*, the *rôle royale* or the *rôle de Winchester*, because it was preserved in the treasury of the cathedral of Winchester. The Saxons called it by a more solemn name, the book of judgment-day, Domesday Book, because it contained their sentence of irrevocable expropriation." (Augustin Thierry, *Histoire de la conquête d'Angleterre par les Normands*, book ii., pp. 237-244.)

one of its members occupied the lot which had fallen to him in the division. But in dispersing in a conquered country, and therefore hostile and exposed to new invasions, the conquerors took care to preserve their military organization; they lived organized in such a way that, at the first appearance of danger, they might immediately flock to the banner of the chief, and take their place in the ranks. It is thus that the feudal system was established. The characteristic trait of this system was the rigorous maintenance of the hierarchical organization of the conquering army, and the obligations which flowed from it. At the first call of the supreme chief, emperor, king, or duke, the lesser chiefs assembled the crowd of those who had worked the conquest. Each was bound, under pain of forfeiture, to report at the call of his hierarchical superior; the army was soon on foot again, in good order, to defend its domains, either against a revolt from within or an aggression from without. — The chiefs thus preserved their rank after the dispersal of the conquering army. Each rank had its particular name, sometimes of barbarian origin, sometimes borrowed from the Roman hierarchy. This name passed from the man to the domain; hence kingdoms, duchies, marquisates, counties, baronies, etc. Those of the conquering army who possessed no rank, but who had obtained a lot of land, simply took the name of freeholders, and their lands that of freeholds, and they formed the lesser grade of the nobility.* Being obliged to set out on the march at the command of the chiefs, they enjoyed as compensation, like the latter, the privilege of exemption from taxes, and that of sending representatives to the assemblies or parliaments of the nobility, in which the interests of their orders were discussed. — Nevertheless, it was important to assure the duration of this organization which care for the common defense required. The right of primogeniture and of entail were introduced to assure this duration. Each having obtained a portion of the land, on condition of fulfilling certain obligations, it was essential, in the first place, that this lot should not be divided up; in the second place, that it should not pass into the hands of a foreign or hostile family. The division of the land would have destroyed the pledge which assured the exact fulfillment of the military services, upon which depended the common security; it would have introduced anarchy into the conquering army, by necessitating a continual transformation of the hierarchy. The introduction, into the ranks of the army, of men belonging to the conquered race, which could have taken place after the alienation or sale of the lands occupied by the conquerors, would have been no less dangerous. The law of primogeniture and entail served to preserve the conquerors from this two-fold peril. The law of primogeniture maintained intact the domain, which was the pledge of the fulfillment of the duty of each toward all, by transmitting it from generation to generation to the eldest son of the family. Entail prevented foreigners or enemies from slipping into the ranks of the army, by not allowing the noble proprietors to alienate their domains. The primitive organization of the conquering army could therefore be perpetuated after the conquest had been accomplished, and the nobility formed itself into a veritable guild at the head of society. — This organization had its manifest utility, in that it prevented the country, in which the conquering army had established itself, from becoming incessantly the prey of new hordes of barbarians. It had its inevitable drawbacks, in that it delivered the industrious population over to the mercy of a greedy and brutal horde, who most frequently used without any moderation its right of conquest. At first the condition of the subject populations was most hard. The conquerors were subject to laws and obligations based upon their common interest; these laws and these obligations, which extended to all, to the chiefs as well as to the soldiers, protected in a certain measure the weak against the strong. But nothing similar existed in favor of the vanquished; the latter were a booty which the conquerors disposed of at their pleasure. Perhaps it was well that it was so, at least in the very beginning; for if the conquerors had not had a maximum of interest in defending property, at that time the object of continual aggression, they would, according to all appearances, have remained simple nomad plunderers, and the capital accumulated by civilization would have been entirely destroyed. But this absolute power of the conquerors over the conquered, whether it was necessary or not, could not fail to engender the most monstrous oppression. The serf or subject of a lord was taxable, and liable to forced labor at pleasure, which signified that the lord could dispose, according to his will, of the property of the unhappy serf, and sell him, and his family, after having confiscated his goods. Every individual, merchant or other, who crossed the domain of a lord, was exposed also to be pillaged, reduced to slavery, or massacred. Fortunately, this violent state of affairs could not last; order and justice have such a character of utility, that they re-establish themselves in some way, after the most terrible social upheavals. The lords were not slow to see that it was for their interest to accord their serfs, agriculturists or artisans, certain guarantees of security, and not to despoil them in a violent and arbitrary manner, in order to procure the more from them. Hence, customs. These customs, whose utility for the master as

* This natural and general nobility of all the conquerors, says M. Augustin Thierry, increased in proportion to the authority or personal importance of each of them. After the nobility of the king, came that of the governor of the province, who took the title of count; after the nobility of the count, came that of his lieutenant, called vice-count or viscount; and then that of the warriors, according to their rank, barons, knights, esquires or sergeants, nobles in an unequal degree, but all nobles by right of their common victory and of their foreign birth. (*Histoire de la conquête d'Angleterre par les Normands*, book ii., p. 84.)

well as for the subject was proved by experience, ended by becoming a solid barrier against the arbitrariness of the lords. The condition of the serf, protected by the custom, became more bearable, and the revenue of the lord was increased in consequence; the agriculturists, being less exposed to spoliation, agriculture commenced to flourish again, and famines, after having been the rule, became each year less frequent. Agglomerated in the cities, and by this very fact in a better state than the agriculturists mutually to sustain themselves, artisans obtained more promptly still guarantees against arbitrary power; they were allowed, on condition of certain fixed feudal fines, and sometimes even on condition of an indemnity once paid, to exercise their occupation in peace, and the by-laws of corporations were at first nothing but records of the customs, agreements or transactions, which protected them from the rapacity of the lords. The same customs were established and the same transactions effected for the benefit of commerce. At first the merchants, who had ventured to traffic from city to city, as they had done in the time of Roman domination, had been despoiled, reduced to slavery or massacred by the barbarian lords, whose domains they traversed. But soon, all commerce having ceased, the lords themselves realized the inconveniences of this state of things. What did they do? For their capricious and arbitrary depredations, they substituted fixed and regular feudal fines; they guaranteed to the merchants free and safe passage through their domains, on condition of their paying toll. This was still onerous, without doubt; for each country being divided into a multitude of little seigniorial estates, a merchant, who had to travel through a somewhat small extent of country, was obliged to pay a multitude of tolls. But it was less onerous than pillage and assassination; and commerce, thus protected by the better understood interest of the lords, again assumed some activity.— The improvement did not stop here. Events and progress of different kinds weakened successively the feudal nobility, either by diminishing the importance of the part it played, or by increasing the power of the classes, which were subordinate to it. As soon as feudalism was firmly established and constituted, the danger of invasions became less; not, however, as the historian Robertson has declared, because the source whence they flowed had dried up. There were still, in the north of Europe and in the centre of Asia, multitudes greedy for booty, and disposed to precipitate themselves upon the countries in which the arts of civilization had accumulated wealth; but, between these hungry multitudes and the prey which they coveted, the rampart of feudalism had been raised. After having vainly attempted to make a breach in this rampart, which replaced that of the Roman legions, the barbarian hordes drew back one after the other into the heart of Asia, and descended upon India and China. Then the conquerors, established upon the ruins of the Roman empire, could enjoy a little repose. But repose was foreign to their nature. They wore themselves out with intestine struggles. The weaker lords were subjugated or despoiled by the stronger. The supreme chief, who at first had had no authority over his old companions, except when there was question of providing for the common defense, profited by their dissensions to increase his power at their expense. He accorded his alliance and his protection to the weak, on condition that they made themselves dependent on him and paid tribute to him. It was in this way that most of the freeholds were changed into *fiefs*.* This modification of the feudal system had very important consequences. The number of intestine strifes diminished, because the more powerful lords no longer dared to attack the weak, when the latter had become vassals of the king. On the other hand, the king, who collected tribute from the lands of his protegés, saw that they brought more to him in proportion as the taxes collected to the profit of the lords were less numerous and less burdensome. He endeavored, therefore, to diminish the number of particular tolls, and to moderate the exactions the lords made from their serfs. His salutary intervention was felt also in the money system. In the beginning, each lord had taken to himself the right to coin money, imposing upon the inhabitants of his domains the obligation of using only the coinage stamped with his effigy. Money soon became as bad as it could possibly be, while the subjects of the lords had no means of protecting themselves from the damage caused them by false coinage. It was quite otherwise, when, the freeholds having been transformed into fiefs, the king levied taxes upon the domains of his vassals. To prevent the loss which the adulterations of the moneys caused in the payment of the taxes, he appointed certain officials charged with the sur-

* Montesquieu has given with much clearness the nature of this transformation of the feudal system, as well as the causes which determined it. "The manner of changing a freehold into a fief," he says, "is found in a formula of Marculfe. A man gave his land to the king; and the king gave it back to the donor as a usufruct or benefice, and the latter designated his heirs to the king. Those who held fiefs had very great advantages. The indemnity for injuries done them was much greater than that of free men. It appears, from the formulas of Marculfe, that it was a privilege of the vassal of the king that whoever killed him should pay 600 sous of indemnity. This privilege was established by the salic law and by the Ripuarian law, and while these two laws imposed a penalty of 600 sous for the death of a vassal of the king, they imposed only 200 for the death of a free man, Frank, barbarian, or a man living under the salic law, and only 100 for that of a Roman." After having enumerated various other privileges which the vassals of the king enjoyed, the author of the *Esprit des lois* adds: "It is easy, therefore, to think that the Franks who were not vassals of the king, and still more the Romans, endeavored to become so; and that in order that they should not be deprived of the domains, the custom was devised of giving one's freehold to the king, and of receiving it from him as a fief, and of designating to him who should inherit it. This custom continued always, and was practiced especially in the disturbances of the second race, when every one needed a protector." (*De l'esprit des lois*, book xxxi., chap. 8.)

veillance of the coinage of the lords, and with preventing them from melting down and adulterating his own money. In proportion as the power of this protector of the weak became more extensive, he confiscated or bought the right of coinage of the lesser lords and appropriated it to himself. The industrious classes did not fail to profit by these changes. Their condition was improved again when the most bellicose and turbulent portion of the nobility went to the crusades. The lords, convinced that the conquest of the east would procure for them fortune in this world and would assure their salvation in the next, granted their liberty at a low price to multitudes of serfs. And as very few of them returned from that religious California of the middle ages, the serfs, who had bought their liberty, were able to preserve it. Finally, the middle class of the cities, having become rich and powerful by industry, undertook to make themselves completely independent of their lords. The communal movement commenced, and this movement, seconded by the kings, who sold their protection to the middle class of the communes, as they had before sold it to the lesser lords, contributed also to enfeeble the power of the nobility.—The feudal system thus fell little by little into ruins. The subject classes advanced each day with a more rapid step toward their enfranchisement, inscribing upon their banners the word *liberty*. The substitution of fire arms for the old instruments of war gave the finishing stroke to feudalism, by permitting thenceforth the industrious classes to protect themselves against the invasions of the hardy races of the north. Artillery replaced with advantage the iron armed colossi of chivalry, and the order of nobility ceased to be the necessary rampart of civilization. The services which it rendered losing their value, the supremacy and the privileges which it continued to claim for itself were borne with less patience. Above all was this the case in France, where, the royal power having ended by reducing the nobility to the condition of servants of the court, it presented the spectacle of the saddest moral and material decay. Its eldest sons, provided with magnificent sinecures, expended their incomes in idleness, and ran into debt to avoid being eclipsed by an industrious bourgeoisie, whose wealth kept increasing. Its younger sons, too numerous for the employments which the monarch had at his disposal, and too proud to devote themselves to commerce and industry,* filled the gaming houses and places of evil resort. The nobility, thus degraded, lost its old ascendency over the masses, and in 1789 the industrious classes rose up against the domination of a caste, which no longer could make arrogance and privileges forgotten through the magnitude of its services. The French nobility disappeared, swallowed up in the whirlpool of the revolution.—The following, according to the learned author of *La France avant la révolution*, is an account of the rights and feudal privileges which the nobility still enjoyed when the great catastrophe occurred: "In almost

* Nobility prejudice interdicted to poor nobles the employments of industry and commerce, formerly degraded by slavery. It was not till the eighteenth century that there commenced to be a reaction against this prejudice. A writer, who then enjoyed some notoriety, the abbé Coyer, wrote a work entitled the *Noblesse commerçante*, in which he urged the nobles to have recourse to the useful and remunerative occupations of industry and commerce to restore their patrimonies, which the abuse of luxury had considerably reduced. The work of the abbé Coyer was well received by the young nobility, who were commencing to be impregnated with philosophic ideas; but it excited in the highest degree the indignation of the partisans of the old ideas. An aristocratic writer, the chevalier d'Arcq, undertook to refute the unseemly and incongruous propositions which were advanced therein. The arguments of this defender of nobility prejudice were not lacking in a certain originality. The chevalier d'Arcq stated, in the first place, with a sorrowful horror, that the nobility was only too disposed to follow the degrading counsels of the abbé Coyer, and he conjured them, in the name of their honor and of the safety of all, to pause on the brink of so fatal an abyss. "It would be necessary, on the contrary," he exclaimed with indignation, "to place new barriers between the nobility and the path it is proposed to open. Without such barriers, instead of seeing only one gentleman in a family follow this path, it is to be feared that all, or at least almost all, the members of the family will rush into it, and that we shall see a crowd of nobles upon our merchant vessels, with no other arms than the pen, instead of seeing them upon our war vessels, the sword in their hands to defend the timid trader. It is asked, what do you wish a gentleman to do, who only possesses ancient titles, one reason the more to make him blush for his misery? Is it in France that they dare to put this question? Is it in France that a gentleman remains idle upon his estate, while victory is waiting to crown the nobility on the battle-fields? Is it in France that a gentleman is advised to give himself over to baseness, to infamy, in fine, to dishonor the name of his ancestors, virtuous, without doubt, since they were judged worthy of nobility, with no other pretext than to save him from indigence, while there is a gracious monarch to serve, a country to defend, and arms always ready for whoever wishes to walk in the road of honor?" (*La noblesse militaire opposée à la noblesse commerçante, ou le Patriote français*, pp. 73, 87.) The chevalier d'Arcq then reprimanded the nobility for its excessive luxury; he begged them to practice economy, and ended by putting this curious dilemma: "Commerce on a large scale, the only commerce which can be suitable for the nobility, if indeed commerce can be suitable for it, is not carried on without the funds necessary to purchase the first commodities, and without which, desire, zeal, activity and intelligence become useless instruments. Either the nobility, which it is wished to make commercial, possesses these funds, or it does not possess them. If it possesses them, it has no need of commerce; these funds should be sufficient for its subsistence, while awaiting the reward which its merit and its services should naturally procure for it. * * If the nobility has not the funds necessary for the purchase of the commodities, in what way can it take the first steps in commerce? A gentleman acknowledges no other masters but God, honor, his country and his king. Is it then to the service of a plebeian that it is wished to subject him under the title of an apprentice? Is it by laying aside the trappings of war to don the harness of servitude that it is pretended to lead him to fortune? What a resource! What shame! Is not indigence a thousand times preferable to him?" (*La noblesse militaire, etc.*, p. 98.) The abbé Coyer retorted with two volumes, entitled, *Développement et défense du système de la noblesse commerçante;* and Grimm, giving an account of the quarrel in his correspondence (1757), wrote a plea in favor of the military nobility. The question remained undecided, and in our days there are still many nobles imbued with the prejudice which the abbé Coyer combated. Yet the most obstinate are willingly resigned to "derogate," by investing their funds in industry, provided that the investment is remunerative.

all the rural districts there existed numerous vestiges of the feudal system. Each village had its lord, who, in general, possessed the best lands, and had certain rights over those which did not belong to him. Thus, there was the exclusive right of the chase upon all the territory of the fief; there was the tithe, the extent of which was more or less great; there was, at each transfer of property, the tax on the lot of land and on its sale. The lord could retain, for the price of sale, the land sold in his territory, could force the inhabitants to grind in his mill, to bake in his oven, to make their wine in his press, etc. On the vassal were incumbent also certain personal services, such as the obligation to work a certain number of days without compensation, which were called *corvées*, to render certain services under certain determined circumstances, etc. In some provinces, like Franche-Comté and Burgundy, mortmain existed still in many of the villages; the peasant could not quit the land or marry without permission of his lord, under pain of losing his property, and if he left no children, the lord was his heir. — But Louis XVI. had abolished mortmain in all the domains of the crown, and many lords followed his example. Justice was administered in the first resort, and sometimes in the last, by judges appointed by the lord. Finally, the clergy took the tithes, the government the villain tax and the tax on salt, and the peasant was subject, besides, to the *corvée* and the militia duty, while all the nobles and almost all the bourgeois functionaries were exempt from it." (*La France avant la révolution*, by Raudot, p. 103.) Finally, the nobility monopolized most of the great offices of the state, and had at its disposal numerous sinecures. — There are no precise data as to the number of the members of the French nobility, at the time when the revolution deprived them of their privileges. According to Sieyès, their number did not exceed 110,000. This is the way in which Sieyès made his calculation: "I know," said he, "but one way to estimate the number of individuals of this order: it is to take the province where this number is the best known and compare it with the rest of France. That province is Brittany, and I remark in advance that it has more nobles than the others, either because they do not "derogate" there, or because of the privileges which the families retain, etc., etc. There are in Brittany 1,900 noble families; I will say 2,000. Estimating each family as having five persons, there are in Brittany 10,000 nobles of all ages and of both sexes. The total population is 2,300,000 individuals. This number is to the entire population of France as one to eleven. We must then multiply 10,000 by eleven, and we have 110,000 nobles at the most for the whole of the kingdom." The author of *La France avant la révolution* thinks that the opinion of Sieyès is very near the truth. — Like the French nobility, but with more success, the British nobility has endeavored to maintain its old supremacy. No aristocracy has been able to derive more advantage from its position. By the establishment of the corn laws, it has endeavored to raise the value of the lands belonging to its eldest sons. By the extension of the colonial empire of England, it has gradually increased the arena open to its younger sons.* Nevertheless the industrious classes have come to understand that the costs of this policy of monopoly fall chiefly upon them, while the aristocracy receives the most evident benefit from it. These classes have fought against the political and economical monopolies of the aristocracy, and thanks to the great agitation of the league, and to the reforms of Sir Robert Peel, continued by Lord John Russell, this work of enfranchisement is very far advanced. It is proper to add, however, that if the British aristocracy has shown itself grasping in the matter of monopolies, it has displayed great and solid qualities in the exercise of the functions it has monopolized. It has done better still. Whenever it has discovered a man of eminent ability in the lower strata of society, it has had the intelligent cleverness to make a place for him in its own ranks. It is thus that it has known how to render its monopoly bearable, and to preserve a great and legitimate ascendency over the country. — When the noble classes shall have finally ceased to be privileged in a direct or indirect manner, it is probable that the titles which serve to distinguish them will lose their value. For this value depends much less upon a prejudice of opinion than upon the positive advantages which they can confer. These advantages amount to nothing in the liberal professions: let a merchant, for example, be noble or plebeian, the credit which he enjoys in the market remains the same. But it is quite otherwise in the functions which are connected with the government. It is rare that the nobility is not favored in an exceptional manner in the distribution of offices and of honors.†

* See, on the subject of this policy of monopoly and of war of the British aristocracy, the introduction to *Cobden et la Ligue, ou l'Agitation anglaise pour la liberté du commerce*, by Fred. Bastiat.

† According to Bentham, no system of rewards is more costly than that which consists in according titles of nobility as a payment for services rendered the state. The following are the reasons given by the illustrious utilitarian philosopher for his opinion: "It is commonly said that rewards in honors cost the state nothing. This is an error; for not only do honors render services dearer, but moreover there are burdens which can not be estimated in money. All honor supposes some pre-eminence. Among individuals placed on a level of equality, some can not be favored by a degree of elevation, except by making others suffer by a relative abasement. This is true, above all, of permanent honors, of those which confer rank and privileges. There are two classes of persons at whose expense these honors are conferred: the class from which the new dignitary is taken, and the class into which he is introduced. The more, for example, the number of the nobles is increased, the more their importance is diminished and the more the value of their order is detracted from — Profusion of honors has the two-fold disadvantage of debasing them and of causing also pecuniary expenses. If a peerage is given, a pension must frequently be added to it, if only to maintain the dignity of it. — It is thus that the hereditary nobility has raised the rate of all rewards. If a simple citizen has rendered brilliant services, it is neces-

— These old qualifications of the nobility constitute besides a singular anachronism in the organization of modern society. As has been seen above, the titles of duke, marquis, count and baron served to designate the grades of the military hierarchy of feudalism; they about corresponded to the modern denominations of general, colonel, major and captain. Would not bankers, manufacturers, savants or artists, invested with these titles borrowed from feudal hierarchy, present a somewhat ridiculous spectacle? Would they not have quite as much reason for adorning themselves with the titles of mandarin, grand-serpent or sagamore? How would this last nomenclature be more absurd than the other? Have our bankers, our manufacturers, our savants and our artists any more resemblance to the fierce warriors of the middle ages than they have to Indian chiefs or Chinese mandarins? — The privileges, and probably also the titles, of nobility will end by disappearing with so many other remnants of the old system of servitude. But does this mean that our society is destined some day to undergo the process of leveling? By no means. There will always be, in the work of production, superior and inferior functions, functions requiring in a high degree the concurrence of the moral and intellectual faculties of man, and functions for which lesser aptitudes will be sufficient. The former will always be better remunerated and more honored than the latter. The aristocracy of society will be formed by the former, and this natural nobility —so much the more respectable because it will be better founded upon the superiority of merit and upon the greatness of its services—will have no need to make a show of haughty pretensions and superannuated titles in order to obtain public consideration. G. DE MOLINARI.

NOMINATING CONVENTIONS (IN U. S. HISTORY) are entirely a modern and democratic innovation, originating about the year 1825. Their development has come through the successive steps of a private caucus, a legislative caucus, and a congressional caucus, down to the perfected machinery of a modern political party's township, county, state and national nominating conventions.—I. ORIGIN. Before, during and immediately after the revolution, the inception of political action in America was mainly controlled by a series of unofficial coteries of leading and kindred spirits in every colony (see CAUCUS), by whom resolutions were prepared, intelligence was disseminated, and occasionally revolutionary action was directly begun. In New England they controlled or led the town meetings; in the south they commonly acted through the district militia organizations; but elsewhere they hardly preserved any semblance of connection with the legitimate political units. Their existence, and the popular acquiescence in their action, was due partly to the manner in which suffrage was then limited by property qualifications, so that the caucuses, or juntoes, were really fair and trusted representatives of the legal voters; and partly to the still surviving respect for the influential classes. Their survival may be seen in the democratic clubs of 1793, in the federalist "Essex junto" and the democratic "Albany junto" of the immediately subsequent years, in the Tammany society, in the "Albany regency" of 1820–45, and, in a modified form, in the various "rings" of later years. (See DEMOCRATIC CLUBS, ESSEX JUNTO, ALBANY REGENCY, TAMMANY SOCIETY.)—Upon the organization of the federalist and republican parties after 1790, their workings were at first limited by the traditions of the past. In a party of that time the national and state leaders filled the place of a national convention, settling the party policy by a voluminous correspondence, or by personal interviews. The position of these leaders was wholly due to their success in gaining the confidence and support of the still powerful local caucuses; so that these latter were still the skeleton of each party organization. The manner of their workings in the federalist state of Connecticut may serve as an example. Goodrich, a federalist in sympathy, thus describes a town meeting of 1796–1810: "Apart in a pew sat half a dozen men, the magnates of the town. In other pews near by, sat still others, all stanch respectabilities. These were the leading federalists, persons of high character, wealth and influence. They spoke a few words to each other, and then relapsed into a sort of dignified silence. They did not mingle with the mass; they might be suspected of electioneering. Nevertheless the federalists had privately determined, a few days before, for whom they would cast their votes, and being a majority they carried the day." John Wood, a democratic writer of the time, gives an exaggerated estimate of the influence of the congregational clergy, and describes the politics of the state as controlled by Timothy Dwight, president of Yale college, and "pope of the state," his twelve "cardinals of the corporation," and the multitude of inferior clergy, whose annual consultation was held at the commencement in

sary to begin by taking from the common class and raising him to the rank of nobility. But nobility without an independent settlement is only a burden. Therefore it is necessary to add to it gratuities and pensions. The reward becomes so great, so onerous, that it can not be paid all at once. It is necessary to make of it a burden, with which posterity is loaded. It is true that posterity must pay in part for the services, the fruits of which it shares; but if there were no noble by birth, personal nobility would be sufficient. Among the Greeks a pine branch or a handful of parsley, among the Romans a few laurel leaves, rewarded a hero. — Fortunate Americans, fortunate for so many reasons, if, to have happiness, it is sufficient to possess all that constitutes happiness! This advantage is still yours. Respect the simplicity of your manners and customs; take care never to admit an hereditary nobility. The patrimony of merit would soon become that of birth. Give pensions, raise statues, confer titles; but let these distinctions be personal. Preserve all the force, all the purity of honor; do not alienate that precious fund of the state in favor of a haughty class, which will not be slow in using it against you." (*Théorie des récompenses et des peines*, book ii., chap. 6.)

September; but clerical influence was only a part of the wider class influence which Wood could not understand. The two pictures are complementary; and the reader can see their application to national affairs in the collected correspondence of Hamilton, Jefferson, Pickering, or any other political leader of the time.—As the dividing line between the parties became more strongly marked, the necessity of some organized guide to party action became more apparent; and the perception of the necessity was quickened by the growth of the democratic spirit in both parties. There was an increasing number of local leaders who demanded participation in the councils of the party, and these found their natural means of expression in the legislative bodies. As a part of the annual business of congress and the state legislatures, there grew up a system of legislative and congressional caucuses of the members of each party, the former to make state nominations, the latter to make presidential nominations. (See CAUCUS, CONGRESSIONAL.) Both these political means may fairly be considered as dating from 1796. It is true that nominations had been made in a few states by legislative caucuses before that year; but these were such cases as the nomination of Gov. Jay in New York, in 1795, when members of the legislature merely voiced a unanimous feeling of their party in the state. It was not until after 1796 that the legislative caucus undertook to decide, among rivals for a nomination, which should be entitled to the support of the party. After 1797 this was regularly the case everywhere. Very often, however, citizens from various parts of the state took part in the legislative caucus, and their signatures, in a separate list, were added to the address with which the caucus always announced its nominations to its party. Of course their presence was only allowed as a make-weight, and not as a controlling influence in the caucus, but it prepared the way for the system of nominating conventions which was to follow. — This final system, like most other innovations in the American practice of politics, had its origin in New York. It was first suggested in January, 1813, by the ultra democratic "bucktail" faction, or Tammany society, of New York city, then fighting De Witt Clinton, and apprehensive of his influence over the democratic members of the legislature out of New York city. (See NEW YORK.) They therefore proposed formally that a state convention should be called for the purpose of nominating a governor. Their proposal was not ratified by the party, and nothing more was heard of it until 1817, when it was revived in a modified form, this time by the Clintonians. In a purely legislative caucus of either party, the districts which had chosen members from the opposite party would not be represented; and in 1817 a number of Clintonian counties, whose members of the legislature were federalists, chose delegates to represent the democratic voters in the caucus. These were admitted, and aided in nominating Clinton. The effect was at once perceptible. Conventions for the nomination of members of the legislature became the regular mode of procedure; the practice spread to other states; and the time was evidently not distant when conventions of delegates would take control of the party machinery in the state, and finally in the nation.—The congressional caucus received its death blow in 1824, and the legislative caucus, as a state nominating body, perished about the same time. In both cases the reason was the same: the old politicians, who had for years controlled the action of the dominant party, had too strong a hold upon the party machinery to be resisted in the regular caucuses; and the new politicians, whom the rising democratic spirit and the extension of the suffrage were together bringing to the front, preferred to try the issue with the old party leaders in some new forum. Instead of the congressional caucus, the legislatures of various states assumed the functions of nominating bodies for the election of 1828. Legislative caucuses for purely state nominations were almost as rapidly abandoned. In 1824 they were still held, mainly for the nomination of electors; but in Rhode Island the legislators were careful to call themselves "citizens from various parts of the state"; and in Pennsylvania the members of the legislature led the way by calling a democratic state convention to nominate electors. In New York the opponents of the "Albany regency," hopeless of success in a legislative caucus, planned a delegate state convention to nominate John Young for governor, but the regency's legislative caucus threw them into confusion by nominating Young, and the convention was not held until the following year. This (of 1824) was the last legislative caucus for state nominations ever held in New York; there, and in all other doubtful states, state conventions at once became the nominating bodies. Thereafter it was only in such unilateral states as South Carolina that legislative caucuses retained anything of their old unofficial powers. — During Jackson's first term of the presidency (1829–33) the state convention system, the middle term of the great modern party "machine," was well built up. Awkward attempts were made in 1830–32 (see below) to erect the superstructure, the national convention. The nominal basis of parties, the local township or county conventions, were hardly yet in existence, except in the great cities; in the country, nominations and ratifications were still made by mass meetings. Before 1835, under the skillful management of Van Buren and his associates, the democratic "machine" was fairly complete in all its parts, local, state and national conventions; and the model has since been only more finely polished, not improved upon or developed. The whigs were later in adopting it. Their organization was very incomplete in 1836; in 1839–40 it was better, but was thrown into confusion by the mob-system of fighting to which the party leaders then resorted; but before 1844 both parties were organized alike. Since that time every great na-

tional party has carried on its political warfare by means of a regular army of politicians, to whom politics is a trade, like war, the nominating conventions are the weapons, the voters are the magazine, and the offices, appointive rather than elective, are the *causa belli*, the spoils of the campaign, and the bond of party cohesion. Of the three essentials to the existence of the politician class, it is not desirable to abolish the voters; the effort to remove the appointive offices from politics has not yet been successful; and no plausible plan to deprive them of their most effective weapons, the nominating conventions, has yet been suggested. — II. The laws which govern local and state conventions are the ordinary parliamentary rules of proceeding. In the national conventions there are certain special characteristics which have hardened into laws. 1. *Democratic Conventions.* In democratic national conventions the state has always been the normal voting unit. The casting of the vote of the state as a unit, by the will of a majority of the delegation, has always been recognized as legitimate and regular; and when the vote of a state has been divided, and the minority of the delegation allowed a voice, it has been by the will of the delegation, not of the convention. In this there is the great difficulty that an unavailable candidate might be nominated by the concurrent vote of a number of states, none of which could possibly be carried by any democratic candidate. To counteract this difficulty the celebrated "two-thirds rule" has always been the law of democratic national conventions: it requires that two-thirds of the delegates shall vote for a candidate to secure him a nomination. It has never been formally settled whether the two-thirds is of all the delegates present, or of all the delegates admitted; but Douglas' and Breckinridge's nominations in 1860 both followed the former rule. No votes are given to delegates from territories, since their constituents can not vote at the elections. In each state two delegates are admitted for each electoral vote. — 2. *Republican Conventions.* A republican national convention consists also of two delegates for each electoral vote in the states; but two delegates from each territory are admitted, with power to vote. This last feature is intended to build up a party strength in the territories before they become states. The voting unit has always been the congressional district, or the individual delegate. Among party managers there has always been a lurking desire to introduce the democratic unit system of state voting and the "two-thirds rule," but only one serious attempt has been made to enforce it. In 1880 the state conventions of Pennsylvania, New York and Illinois instructed their delegations to vote as a unit for Grant, though a strong minority had been elected under instructions from their local conventions to vote for other candidates. The national convention sustained the minority in their claim of a right to cast their votes without regard to the state convention's instructions. Practically, therefore, it may be laid down as the republican theory that the local conventions in the congressional districts are to select delegates, instructing them, but not irrevocably; and that the state conventions are only to select the four delegates corresponding to the state's senatorial share of the electoral votes, with two additional delegates, if the state elects a congressman at large. Any usurpation of powers by the state convention will be summarily set aside by the national convention. — 3. *Other Conventions.* The conventions of third parties, or attempts to form third parties, are much more likely to follow the republican than the democratic model, for they lack the organized constituency, or "machine," which gives the latter its form and is constantly striving to imitate it in the former. For the same reason the delegates are, to a very great degree, practically self-appointed, or appointed by little cliques of voters. The evolution of a new national party is now attended with almost insuperable difficulties. It must be the result either of the patient labor of years in a clear field, as in the case of the democratic party; or of a great popular movement, sustained long enough to produce a regular army out of a mob, as in the case of the republican party. Until some successful substitute for the convention system is discovered, we may consider the sporadic third party national conventions as foredoomed failures. — III. State and local conventions have been so numerous since 1825 that it is impossible to notice them particularly. The proceedings and results of the national conventions are given under the names of the various parties; it is only designed here to collect the places and dates of the party conventions preparatory to each presidential election, and the names of their several nominees. — 1832. *Anti-Masonic* (see ANTI-MASONRY, I.): Baltimore, Sept. 26–28, 1831: Wirt and Ellmaker. *National Republican* (see WHIG PARTY, I.): Baltimore, Dec. 12–14, 1831; Clay and Sergeant. *Democratic:* Baltimore, May 22, 1832; Van Buren for vice-president. (See DEMOCRATIC PARTY, IV.) — 1836. *Democratic:* Baltimore, May 20, 1835; Van Buren and Johnson. There was no whig national convention for this election. (See WHIG PARTY, II.)—1840. *Whig:* Harrisburgh, Pa., Dec. 4–7, 1839; Harrison and Tyler. *Democratic:* Baltimore, May 5, 1840; Van Buren for president. (See DEMOCRATIC PARTY, IV.) The "Liberty party" nominations (see ABOLITION, II.) were made by a local convention in New York. — 1844. *Liberty:* Buffalo, Aug. 30, 1843; Birney and Morris. *Whig:* Baltimore, May 1, 1844; Clay and Frelinghuysen. *Democratic:* Baltimore, May 27–29, 1844; Polk and Dallas. — 1848. *Democratic:* Baltimore, May 22–26, 1848; Cass and Butler. *Whig:* Philadelphia, June 7–8, 1848; Taylor and Fillmore. *Free-Soil:* Buffalo, Aug 9–10, 1848; Van Buren and Adams. — 1852. *Democratic:* Baltimore, June 1–4, 1852; Pierce and King. *Whig:* Baltimore, June 16–19, 1852; Scott and Graham. *Free-Soil:* Pittsburgh, Aug. 11, 1852; Hale and

Julian. — 1856. *American* ("know-nothing"): Philadelphia, Feb. 22–25, 1856; Fillmore and Donelson. *Democratic:* Cincinnati, June 2–6, 1856; Buchanan and Breckinridge. *Republican:* Pittsburgh, Feb. 22, 1856 (for party organization only); Philadelphia, June 17, 1856; Fremont and Dayton. *Whig:* Baltimore, Sept. 17–18, 1856; ratified the "American" nominations. — 1860. *Democratic* (Douglas): Charleston, S. C., April 23 – May 3, Baltimore, June 18–23, 1860; Douglas and Johnson; (Breckinridge) Charleston, May 1–4, Richmond and Baltimore, June 11–28; Breckinridge and Lane. *Constitutional Union:* Baltimore, May 9–10, 1860; Bell and Everett. *Republican:* Chicago, May 16–18, 1860; Lincoln and Hamlin. — 1864. *Republican* (Radical): Cleveland, May 31, 1864; Fremont and Cochrane; (Regular) Baltimore, June 7, 1864; Lincoln and Johnson. *Democratic:* Chicago, Aug. 29, 1864; McClellan and Pendleton. — 1868. *Republican:* Chicago, May 20–21, 1868; Grant and Colfax. *Democratic:* New York, July 4–11, 1868; Seymour and Blair. — 1872. *Liberal Republican:* Cincinnati, May 1, 1872; Greeley and Brown. *Republican:* Philadelphia, June 5–6, 1872; Grant and Wilson. *Democratic:* Baltimore, July 9, 1872; ratified the "liberal republican" nominations. — 1876. *Greenback:* Indianapolis, May 17, 1876; Cooper and Cary. *Republican:* Cincinnati, June 14–15, 1876; Hayes and Wheeler. *Democratic:* St. Louis, June 27–29, 1876; Tilden and Hendricks. — 1880. *Republican:* Chicago, June 2–8, 1880; Garfield and Arthur. *Greenback:* Chicago, June 9–11, 1880; Weaver and Chambers. *Democratic:* Cincinnati, June 22–24, 1880; Hancock and English. — Whenever the above conventions have been in session more than one day, the nominations must be assigned to the last day. — See authorities under the names of the parties.

ALEXANDER JOHNSTON.

NON-INTERCOURSE. (See EMBARGO.)

NORTH CAROLINA, one of the original thirteen states of the American Union. The jurisdiction over its soil was claimed by Great Britain on the general ground of the Cabot voyages. A grant was made to Sir Walter Raleigh by Queen Elizabeth, March 25, 1584, of all such "lands, territories, countries, cities, castles, towns, villages and places" as he should "discover and possess"; but after five voyages he failed to make any permanent settlement. March 24, 1663, Charles II. granted to Edward, earl of Clarendon, and seven associates, the province of "Carolina," lying between 31° and 36° north latitude, extending west to the south sea. June 30, 1665, a charter was granted to Clarendon and the other "lords and proprietors," in which the grant was extended by making the southern boundary latitude 29° north, and the northern boundary a straight line west from the head of Currituck inlet, as at present, half a degree to the north of latitude 36°: the "province of Carolina" thus covered about the same coast line as the modern states of North Carolina, South Carolina and Georgia, and extended theoretically to the Pacific ocean. — March 1, 1669, a code of "fundamental constitutions" for the province was drawn up by the proprietors; its authorship is attributed to John Locke, the philosopher, but it was long supposed to be one of the vagaries of Anthony Ashley-Cooper, afterward earl of Shaftesbury, to whom Locke was secretary. One-fifth of the lands was to go to the proprietors, the eldest of whom was to take the first rank, with the title of palatine; one-fifth to the hereditary nobility; and three-fifths to the people. The nobility was to consist of three classes: landgraves, caziques, and lords of manors; each was to have a stipulated number of acres of land, which was not to be alienated after the year 1700, and the right to hold court leet for his territory; the rest of the population were to be "leetmen," they and their children's children to all generations, attached to the soil—that is to say, serfs. The parliament was graded into four chambers: proprietors, landgraves, caziques, and commons, or lords of manors; the latter name was long retained in the North Carolina legislature. (See ASSEMBLY.) This absurd attempt to establish feudalism among the pioneers of Carolina was an utter failure; it was disregarded from the first, and in 1693 was formally abandoned by the proprietors. — The division between the northern part of the province, at first called Albemarle county, and the southern, was established two or three years before 1700. The northern portion, afterward North Carolina, had thereafter its own assembly, sometimes a separate governor, and sometimes a governor in common with South Carolina. In 1719 the proprietary government fell to pieces, and in 1729 the crown bought out the proprietors, and both North and South Carolina were thereafter royal provinces. The boundary line between the two was settled in 1735; the northern boundary line had been run eight years before. (For the western boundary, see TENNESSEE.)—CONSTITUTIONS. A provincial congress (see REVOLUTION) met in the colony Aug. 25, 1774 and under its direction a convention at Halifax, Nov. 12–Dec. 18, 1776, framed the first constitution of the state, which was not submitted to popular vote. It provided for a general assembly, consisting of a senate and a house of commons, chosen annually, one senator and two representatives from each county, and one representative from each of six towns; for a governor, to be elected annually by the legislature, to hold office not more than three years in six; and imposed property qualifications on the holding of office, and on the right to vote for senators: otherwise suffrage was limited by the qualifications of age and one year's residence. In 1835 the constitution was largely amended: the senate was now composed of fifty members, chosen by districts, and the house of 120 members, chosen by counties, according to population; free negroes were for the first time excluded from the right of suffrage; the

election of governor, to serve two years, was given to the people; and the sessions of the legislature were made biennial. In 1854 property qualifications in voters for senators were abolished. The secession convention of 1861 did not modify the constitution itself. The convention of 1865, which repealed the ordinance of secession, adopted an ordinance abolishing slavery, which was ratified by a popular vote of 19,039 to 3,970. In May, 1866, the same convention revised the state constitution; but their work was rejected by a small popular majority. The reconstruction convention Jan. 14 – March 16, 1868, framed a new constitution, which was ratified, April 21–23, by a popular vote of 93,118 to 74,009. The political changes from the old constitution were mainly the change of the name of the house of commons to that of the house of representatives, the lengthening of the governor's term to four years, the grant of the right of suffrage to negroes, the provision for registration laws, and the following features of the declaration of rights: any right to secede was forever repudiated; the paramount allegiance of the citizen was declared due to the United States; the debt incurred for the rebellion was declared null and void; and slavery was forever prohibited within the state. In 1875–6 this was amended, the most important change being in the judiciary. — GOVERNORS. Richard Caswell, 1777–9; Abner Nast, 1779–81; Alexander Martin, 1781–4; Richard Caswell, 1784–7; Samuel Johnston, 1787–9; Alexander Martin, 1789–92; Richard D. Spaight, 1792–5; Samuel Ashe, 1795–8; William R. Davie, 1798–9; Benjamin Williams, 1799–1802; James Turner, 1802–5; Nathaniel Alexander, 1805–7; Benjamin Williams, 1807–8; David Stone, 1808–10; Benjamin Smith, 1810–11; William Hawkins, 1811–14; William Miller, 1814–17; John Branch, 1817–20; Jesse Franklin, 1820–21; Gabriel Holmes, 1821–4; Hutchings G. Burton, 1824–7; Jas. Iredell, 1827–8; John Owen, 1828–30; Montfort Stokes, 1830–32; David L. Swain, 1832–5; Richard D. Spaight, 1835–7; Edward B. Dudley, 1837–41; John M. Morehead, 1841–5; William A Graham, 1845–9, Charles Manly, 1849–51; David S. Reid, 1851–5; Thomas Bragg, 1855–9; John W. Ellis, 1859–61; H. T. Clark, 1861–2; Zebulon B. Vance, 1862–5; William W. Holden, provisional, 1865; Jonathan Worth, 1865–8; William W. Holden, 1868–71; Tod R. Caldwell, 1871–4; Curtis H. Brogden, 1874–7; Zebulon B Vance, 1877–81; Thomas J. Jarvis, 1881–5. — POLITICAL HISTORY. In the beginning of her history as a state, North Carolina occupied a peculiarly isolated position. She had few ties of sympathy or interest with even the nearest states, Virginia and South Carolina; she had laid the foundation of a navy; she had issued her own paper money extensively; and had developed many of the characteristics of a separate nationality. Her first convention, therefore, refused to ratify the constitution, unless twenty-six specified amendments should be added to it, the most essential one being a prohibition against interference by congress or the federal judiciary with state paper money already in circulation. It was not until the following year that a second convention ratified the constitution, recommending eight amendments, including the one above mentioned. (See CONSTITUTION, I.–II.; STATE SOVEREIGNTY; BANK CONTROVERSIES, II.) Notwithstanding the ratification, the state legislature in the following year refused to take the oath of allegiance to the United States. — From her first admission North Carolina was a democratic state. By the district system of choosing electors, one of her electoral votes was given to Adams in 1796, four to Adams in 1800, and three to Pinckney in 1808; all her other electoral votes (twelve until 1801, fourteen until 1811, and fifteen until 1841) were given to the regular democratic presidential candidates until the election of 1840. Her delegates in congress were as regularly democratic, though the seacoast districts occasionally returned a federalist. During this period Nathaniel Macon was the most prominent democratic leader. In the legislature the federalists were much more strongly represented, and throughout the war of 1812 were very nearly on equal terms with their opponents. —In the state elections of 1836 the state showed a whig majority, electing a governor and eight of the thirteen congressmen from that party. In 1840 the electoral vote of the state became whig by a popular vote of 46,376 to 34,218, and continued whig until 1852 by about the same proportional vote. Rayner, Clingman, Badger, Mangum and Graham were the best known whig leaders of this period.—In 1848 the last whig governor of the state, Manly, was elected. In 1850 the democrats, for the first time since 1836, elected the governor, and a majority of both houses of the legislature; but the whigs still secured six of the nine congressmen. In 1852 the electoral vote of the state was democratic; and its majority remained steadily democratic until the outbreak of the rebellion. Many of the leading whigs, notably Thomas L Clingman, became democrats; but others, such as Rayner, maintained an opposition under the "American party" organization. Even in 1859 the remnant of the old whig party, without an organization, and with hardly the semblance of a party name, was able to elect four of the eight congressmen, and to poll a popular vote of 39,965 to 56,222 for governor. In 1860 the Breckinridge electoral ticket carried the state by a narrow majority. — In 1860–61 the sentiment of the state was strongly against the expediency, not the right, of secession. (See SECESSION.) The legislature voted strongly against all attempts to secede, and on appointing commissioners to represent the state at Montgomery, instructed them, by a vote of sixty-nine to thirty-eight, to "act *only* as mediators"; a projected state convention was rejected by popular vote; and the seizure of federal forts was checked and disavowed. President Lincoln's call for troops in April changed the current. The legislature was convened in special session, May 1; the federal forts were seized; a

convention was called for May 20, the supposed anniversary of the Mecklenburgh declaration; and on that day the state convention passed an ordinance of secession and ratified the constitution of the confederate states. — From the beginning of the war the people of the state were completely dissatisfied with the confederate government, because of the manner in which it had neglected the defense of the state and allowed the Roanoke expedition to seize the eastern portion of it. In 1862 they elected as governor Z. B. Vance, a former "American," and an open opponent of President Davis; in 1863 the "American" element elected nearly all the state's representatives in congress, as a peace delegation; and in 1864 the candidates for governor were both peace men, one (Vance) wishing for peace through negotiations by the confederate government, the other (Holden) for separate state negotiations. Vance was elected by a vote of 54,323 to 20,448. It has been said that there was some desire to secure the secession of the state from the confederate states, but this hopeless scheme was never practically undertaken. — May 29, 1865, William W. Holden was proclaimed provisional governor of the state by President Johnson; and under his auspices a convention met at Raleigh, Oct. 2, declared the ordinance of secession null and void Oct. 4, and prohibited slavery Oct. 6. Both acts were ratified by popular vote, almost unanimously. A new legislature ratified the 13th amendment, and a new governor was elected and inaugurated Dec. 15, 1865. May 24, 1866, the convention of 1865 reassembled, and made an entire revision of the state constitution; but their work was rejected by a popular vote of 21,552 to 19,570. — In March, 1867, the state government was superseded by the appointment of Maj. Gen. Sickles to the command of the military district composed of North and South Carolina. (See RECONSTRUCTION.) Aug. 26 he was displaced by Maj. Gen. E. R. S. Canby. Under his directions a convention met at Raleigh, Feb. 14, 1868, and formed a new constitution, which was ratified by popular vote. It made no disfranchisement either on account of race or on account of participation in the rebellion. Under it a new governor and legislature were elected, the 14th amendment was ratified, and by the terms of the act of June 25, 1868, the president declared by proclamation, July 11, that North Carolina was restored to full participation in the national government. The electoral vote of the state was given to Grant and Colfax, by a popular vote of 92,241 to 73,600; and all the state officers were republicans. — The republican majority in the reconstructed legislature was decided: the 15th amendment was ratified March 4, 1869, by votes of forty to eight in the senate and eighty-seven to twenty in the house. Immediately after its organization disorders began in the state (see KU-KLUX KLAN), and under acts of the legislature the governor proclaimed Alamance county in insurrection, March 7, 1870, and Caswell county, July 8; made arrests there by military force; and obtained federal assistance. (See INSURRECTION, II.) The result was a great popular excitement, and in August the democrats elected five out of seven congressmen, thirty-two out of fifty senators, and seventy-five out of 120 in the lower house. The new legislature in November chose ex-Gov. Vance United States senator, though his disabilities were not yet removed; and the house impeached Gov. Holden for his proclamations, and for refusing to obey the writs of *habeas corpus* issued by the state courts. March 22, 1871, he was convicted and removed, and T. R. Caldwell became governor in his stead. A legislative effort to call a constitutional convention was defeated by a popular vote of 95,252 to 86,007. — The state election of August, 1872, was close and exciting. The republicans obtained a majority of the popular vote, 98,630 to 96,731 (for governor), and thus elected their candidates for governor and state officers; but the democrats secured a majority of both houses of the legislature. In November the democratic vote fell off 24,000, and the electoral vote of the state was given to Grant and Wilson by a heavy majority. The legislature adopted a number of amendments to the constitution, which were ratified by popular vote; and passed a ku-klux amnesty act for all offenses under the grade of murder, arson and burglary, an act to allow local prohibition of liquor selling, and an act to submit the question of a constitutional convention to the people. The convention project was ratified by popular vote; that body met at Raleigh, Sept. 6 – Oct. 11, 1875, the political parties being a tie in its membership, and framed an amended constitution, mainly altering the form of the state judiciary. Their ratification was one of the questions in the election of Nov. 7, 1876, in which each party exerted itself to the utmost. The opposing candidates for governor, Vance and Thomas Settle, canvassed the state together, and a large vote was called out on both sides. The result was the success of the democrats in electing the governor, over two-thirds of both houses of the legislature, and all but one of the congressmen. The popular majority was by no means so emphatic; for governor it was 123,265 to 110,256. Since that time the state has remained democratic, the principal subject of political discussion being the repudiation of a portion of the state debt; but in no other southern state has the republican vote remained so constant, or been treated with so much apparent fairness. In the presidential election of 1880 the popular vote was 124,204 for the democratic ticket, 115,878 for the republican, and 1,136 scattering. The legislature stood as follows: senate, thirty-eight democrats, twelve republicans; house, seventy-four democrats, forty-four republicans. — In the local politics of the state nothing has been more remarkable than the singular political mistake of the dominant party in 1881. With the approval of the democratic leaders, the democratic legislature passed a stringently prohibitory liquor

law, and submitted it to the people; but at the election, August 7, the democratic majority disappeared, and a majority of over 110,000 appeared against the law. — Among the prominent names in the state's political history are the following: Geo. E. Badger, secretary of the navy under Harrison, and whig United States senator 1846–55, Thomas Bragg, democratic governor 1855–9, United States senator 1859–61, and attorney general of the confederate states (see CONFEDERATE STATES); John Branch, democratic governor 1817–20, United States senator 1823–9, secretary of the navy under Jackson, representative in congress 1831–3, and candidate for governor in 1838; Thos. L. Clingman, representative in congress (whig) 1843–5 and 1847–51, (democrat) 1851–8, United States senator 1858–61, and brigadier general in the confederate army; James C. Dobbin, democratic congressman 1845–7, and secretary of the navy under Pierce; Alfred Dockery, whig congressman 1845–7 and 1851–3, and candidate for governor in 1854: Wm. A. Graham (see his name); Nathaniel Macon, democratic congressman 1791–1815, United States senator 1815–28, and speaker of the house 1801–6, a most sincere, consistent and incorruptible politician; W. P. Mangum (see his name); John Pool, whig candidate for governor in 1860, and republican United States senator 1868–75; Matt. W. Ransom, major general in the confederate army, and democratic United States senator 1872–89; Kenneth Rayner, whig congressman 1839–45, one of the "American" leaders 1855–8, and solicitor of the treasury under Hayes and Garfield; Thomas Ruffin, democratic congressman 1853–61, killed in the confederate army; Thomas Settle, president of the republican national convention in 1872, and republican candidate for governor in 1876; Zebulon B. Vance, whig (or opposition) congressman 1858–61, colonel in the confederate army, governor 1863–5 and 1877–9, and democratic United States senator 1870–72 (not admitted) and 1879–85; and Hugh Williamson, federalist congressman 1790–93. (See MECKLENBURGH DECLARATION, TENNESSEE, SECESSION, BORDER STATES, RECONSTRUCTION.) — See 2 Poore's *Federal and State Constitutions;* 10 John Locke's *Works* (Carolina constitution); Lawson's *History of Carolina* (to 1714); Hawks' *History of North Carolina* (to 1729); authorities under MECKLENBURGH DECLARATION; 1 Byrd's *History of the Dividing Line Between Virginia and North Carolina;* Williamson's *History of North Carolina* (to 1812); Martin's *History of North Carolina* (to 1829); Jones' *Memorials of North Carolina* (1838); Foote's *Sketches of North Carolina* (1853); T. L. Clingman's *Speeches and Addresses;* Bennet's *Chronology of North Carolina* (1858); and authorities under articles referred to.

ALEXANDER JOHNSTON.

NORTHWEST BOUNDARY (IN U. S. HISTORY). I. CLAIMS. The territory bounded north by latitude 50° 40′, east by the Rocky mountains, south by latitude 42° (the northern boundary of California), and west by the Pacific ocean, has been claimed at various times, and to varying extents, by Russia, Spain, Great Britain, and the United States. As the claims overlapped and interfered with one another, they may be first stated. (For the northeast boundary, see MAINE.) — 1. The claim of Russia rested mainly on occupation by fur traders, and its southern boundary was at first undefined. April 5–17, 1824, a treaty was arranged between the United States and Russia, which was ratified by the former Jan. 11, 1825 By its third article no settlements were to be made under the authority of the United States north of latitude 54° 40′, nor any Russian settlements south of that line. Feb 28, 1825, by a treaty between Russia and Great Britain, the same parallel was made a part of the boundary between their respective settlements. By these two treaties Russia at once secured her southern boundary, and withdrew from the imbroglio.— 2. The claim of Spain, in some respects the best of all, rested in discovery, backed by occupation. The discovery rested in the voyages of Cabrillo and Ferrelo in 1543, to latitude 43°; of Juan de Fuca in 1592 to parallel 49°, and the strait which bears his name; of Vizcaino in 1603, to latitude 43°; of Perez in 1774, to latitude 54°; of Heceta in 1775, to latitude 48°, discovering, but not entering, the river St. Roque (now the Columbia); and of a few minor voyages as far north as latitude 59°. Occupation had been begun as early as 1535, by a land expedition under Fernando Cortez, and Jesuit settlements were gradually pushed further north, though they never passed latitude 42°. Nevertheless, Spain asserted exclusive control of the coast beyond latitude 42°. In May and June, 1789, Spanish armed vessels seized several British vessels in Nootka sound, and war was only averted by the Nootka sound convention, or treaty of the Escurial, Oct. 28, 1790, by which British trading buildings in Nootka sound were to be restored, the right of trade was to be secured to both parties, but neither was to land on coasts already occupied by the other. In 1803, by the treaty ceding Louisiana (see ANNEXATIONS, I.), the claim of France, which was really the claim of Spain, to an indefinite territory on the Pacific, was transferred to the United States; and by the Florida treaty of 1819–22 (see ANNEXATIONS, II.), Spain fixed latitude 42° as the Pacific portion of the boundary line between her American territory and the United States. Spain thus retired from the field, leaving but two contestants for the disputed territory, Great Britain and the United States. — 3. Great Britain had little or no claim by discovery. Drake had seen the coast in 1580; Cook had examined it slightly in 1778; and Vancouver much more thoroughly in 1793: but all these were rather rediscoverers than discoverers. Occupation was actually begun in 1788 by Meares, an English lieutenant; but he was under the Portuguese flag at the time, with letter of marque against British vessels who should molest

him, so that his occupation could hardly weigh heavily for Great Britain. In 1793, 1806 and 1811 enterprising fur traders, in private employ, pushed into the Oregon country, and established trading posts there; but there was no attempt at permanent settlement south of latitude 49°. — 4. The claim of the United States deduced from Spain is at least doubtful. The claim by discovery rests on two grounds, the voyage of Gray, and the expedition of Lewis and Clarke. In 1792 Capt. Gray, of Boston, entered the river St. Roque, at which Heceta had only guessed, and changed its name to the Columbia river, after the name of his vessel. In 1805–6 Lewis and Clarke, under orders from President Jefferson, crossed the Rocky mountains, struck the southern head waters of the Columbia, floated down that river to its mouth, and explored very much of the Oregon country. On the strength of Gray's discovery the United States claimed all of the country drained by the Columbia; but so extensive a claim is hardly tenable in international law. Lewis and Clarke's expedition was more important: it was made under government authority, and it covered most of the territory south of latitude 49°; while the British fur traders were not in public employ, and their explorations were north of latitude 49°. On the whole, if discovery alone were in question, latitude 49°, as finally fixed, would seem to be equitable: south of it the United States had officially explored the territory; and north of it Great Britain had done so, though not officially. In 1811 John Jacob Astor, of New York, established a trading post at the mouth of the Columbia, and named it Astoria; but during the war of 1812 it was captured by the British, and named Fort George. In 1818 it was restored to the United States government, but its private owner abandoned it. Attempts in 1822 and 1827 to organize American fur companies for operating in the Oregon country were unsuccessful, owing to the powerful rivalry of well-established British companies; but they led the way to a more legitimate occupation, by immigration, in which Great Britain could not compete. This began in 1832, and after 1838 no autumn passed without an increasing supply of permanent settlers across the Rocky mountains. In 1845 the American population was nearly 3,000, and there was no probability of any decrease in the increase for the future. Here, after all, lay the true ground of the American claim—in legitimate and permanent settlements; and, as these filled the space covered by Lewis and Clarke's explorations, the two together make a valid claim up to latitude 49°. — II. SETTLEMENT. The definitive treaty of peace of Sept. 3, 1783, after defining the northeastern boundary to the St. Lawrence river (see MAINE), continued the northern boundary between the United States and British America up through the middle of the St. Lawrence river and the great lakes to Long lake, on the northern coast of Lake Superior; thence northwesterly by the water communications through Rainy lake to the lake of the Woods; and thence to the river Mississippi, which was then the boundary between the United States and Spanish America. The cession of Louisiana to the United States in 1803 made necessary a definition of the northern boundary between the new cession and British America; and this was settled by the second article of the convention of Oct. 20, 1818, which fixed latitude 49° as the boundary from its intersection with the lake of the Woods to the Stony [Rocky] mountains. West of the Rocky mountains the whole territory was to be open, for ten years, to the vessels, citizens and subjects of both powers, without prejudice to the claims of either. By the convention of Aug. 6, 1827 (ratified by the United States, April 2, 1828), the joint occupation of the Oregon country by Great Britain and the United States was continued indefinitely, with the provision that either party might annul and abrogate it, on giving twelve months' notice to the other. In both these negotiations the American negotiators laid formal claim to the whole territory drained by the Columbia, included generally between parallels 42° and 52° of latitude; but they showed a willingness to compromise on latitude 49° to the Pacific. The British negotiators, on the other hand, seem to have been willing to accept latitude 49° to its intersection with the Columbia; but thence to the Pacific they insisted on the Columbia itself as a boundary, thus adding to British America nearly the whole of the present territory of Washington. In such a conflict of claims, the only possible line of action was to continue the joint occupation until one party should be able to assert an exclusive right to some part of it.— As American immigration increased, the certain perils of a joint occupation increased with it The magistrates of neither country could have or exercise jurisdiction over the citizens of the other; and difficulties between parties of different nationalities could therefore have no forum for settlement. In 1838 propositions to organize some system of justice in the Oregon country began to be offered in congress. At first these were only to imitate the British system of erecting forts and providing magistrates for the trial of offenses, without any design to terminate the joint occupation; but the settlement of the northeastern boundary question in 1842 had an unfortunate effect on the discussion of the true northwestern boundary. There was considerable dissatisfaction in both countries over the result of the treaty of 1842, and a determination to insist on their respective claims in Oregon. In the United States this feeling took two distinct forms. 1. The treaty by which Russia had agreed to settle no farther south than latitude 54° 40′ seems to have produced a belief that this line was the proper boundary Forgetting that the treaty could bind only the parties to it, and that Great Britain could appeal to a precisely similar contemporary treaty with Russia, there were many in the United States who

were willing to insist on the Russian boundary even at the price of a war with Great Britain. This feeling was popularly summed up as "fifty-four-forty-or-fight." 2. The "Monroe doctrine" was strongly appealed to, in order to sustain the view that to yield any part of the Pacific coast to Great Britain would be to consent to the formation of a European colony on this continent, and that too, as our nearest neighbor. Of this feeling Douglas was the ablest exponent. — In this state of public feeling, the democratic national convention of 1844 declared for the "re-occupation of Oregon," on the ground that our title to the whole of it was clear and unquestionable. It was, to be sure, coupled with a demand for the "reannexation of Texas" (see ANNEXATIONS, III.); but it met a popular feeling in the north and west which it was difficult to resist. Democratic success in 1844, and the decided tone of President Polk's inaugural in 1845, made the Oregon question prominent from the beginning of his administration. Under the preceding (Tyler's) administration, the secretary of state, Calhoun, had been conducting a negotiation on the Oregon question with the British minister, Pakenham, from July, 1844, until January, 1845. Calhoun had offered to take latitude 49° as the boundary; Pakenham had offered, in return, the Columbia river from latitude 49° to the Pacific, and when this was declined had proposed an arbitration, which Calhoun refused. This refusal, and the declaration of the inaugural that our title to "the whole of Oregon" was indisputable, and that our settlers there must be protected, raised the war feeling high in Great Britain. This seems to have had an influence on the president. In July, 1845, his secretary of state, Buchanan, again proposed latitude 49° as a boundary, which was again refused; but the rumor of the offer evoked such a storm that the secretary withdrew the offer. — The meeting of congress in December, 1845, was the signal for a renewal of the question. Resolutions were introduced in both houses that the "whole of Oregon" belonged to the United States, and that there was no power in the president and senate to alienate by treaty any part of the soil of the United States. Senators Allen, of Ohio, and Hannegan, of Indiana, were the most persistent champions of these measures. On the contrary, the opposition, Calhoun being its ablest speaker, held that, since immigration to Oregon could only come from the United States, it was wiser to maintain the joint occupation until the natural process of crowding out should compel Great Britain to withdraw. The former then began to press a resolution directing the president to give Great Britain the twelve months' notice to terminate the joint occupation. The latter united in holding, 1, that as the notice was part of a treaty, the treaty power alone could give it; 2, that the notice was in the direct line of war with Great Britain, for which the country was not ready; and 3, that in any event the resolution should only authorize the president to give the notice when in his judgment the proper time had come; that is, when the United States should be ready for war. This the other side answered by pressing bills for the increase of the navy. — To strengthen the hands of the anti war democrats and whigs, the president sent to congress, Feb. 7, 1846, the correspondence between the two governments since December. From this it appeared that Great Britain was arming; that the United States had asked for the reasons of her preparations; and that she had frankly acknowledged that she was incidentally preparing for an American war. — In March, after the house had passed the directory resolution for notice, a friend of the president in the senate advised a compromise on latitude 49° as the boundary. He declined to calm the resulting excitement by acknowledging the president as his authority. April 16 the senate passed a discretionary resolution for notice; and two days later the house amended it by "authorizing and requesting" the president to give notice. April 23 both houses agreed to a new resolution, which, while varying the form of the senate resolution, retained its essence, that the president be "authorized" to give the twelve months' notice, and that negotiations should continue. — June 6, 1846, the British ambassador offered to accept latitude 49° as the boundary to the channel between Vancouver's island and the mainland, thence down the middle of the channel and the strait of Fuca to the Pacific, with free navigation, to both parties, of the channel and the Columbia. Even this did not wholly relieve the president, for he had no mind to array himself against the "fifty-four-forty" idea. He therefore endeavored to throw the responsibility upon the whig senate by requesting its advice on the acceptance of the convention — a process unused since Washington's time. It must be recorded to the credit of the whigs, who were not ignorant of his purpose, that they advised the ratification of the convention, June 12. Ratifications were exchanged at London, July 17, 1846, and the Oregon question, in its main features, was settled finally. — There was still, however, one minor point, which was not settled until 1872. The commissioners appointed to run the boundary could not agree on the true water channel through the middle of which it was to run. The British insisted on the Rosario straits; the Americans on the canal de Haro. By the thirty-fourth article of the treaty of Washington, in 1871, it was agreed to submit the question finally to the emperor of Germany as arbitrator. In the following year the arbitrator decided in favor of the canal de Haro. — See 8 *Stat at Large*, 80, 248, 360, 9 *ib.*, 869, and 17 *ib.*, 863 (for treaties of Sept. 3, 1783, Oct. 20, 1818, Aug. 6, 1827, June 15, 1846, and May 8, 1871, respectively); authorities under OREGON, 3 von Holst's *United States*, 161, 216, 273; 15, 16 Benton's *Debates of Congress* (see index); *Statesman's Manual* (Polk's Messages); Greenhow's *Northwest Coast*, 1840, and *History of Oregon and California*, 1845 (the authorities cited

in the foot notes form a bibliography up to date); Irving's *Astoria*, and *Bonneville's Expedition; Reports* of Lewis and Clarke, and Fremont; Rush's *Residence at the Court of London* (London ed. of 1872), 372, 1 Dix's *Speeches and Addresses*, 1 (the best statement of the American claims); *Edinburgh Review*, July, 1845 (probably the fairest summary); 2 N. W. Senior's *Essays;* Dunn's *Oregon Territory;* Falconer's *Oregon Question;* Robertson's *Oregon: Our Right and Title;* T. Twiss' *Oregon Question Examined;* Wallace's *Oregon Question Determined;* 2 Benton's *Thirty Years' View*, 660; 4 Calhoun's *Works*, 260; 2 Webster's *Works*, 322; 5 *ib.*, 60; 2 Webster's *Private Correspondence*, 215, 230; 1 Coleman's *Life of Crittenden*, 236; Cutts' *Constitutional and Party Questions*, 61.

ALEXANDER JOHNSTON.

NORWAY. One of the two states forming the Scandinavian peninsula, and united under the sceptre of the same king, with Sweden. The area of Norway, a small part of which is cultivated, is about 317,000 square kilometres, and its population, according to the census of 1875, the last taken, was 1,806,900. Former censuses give the population as follows: 1769, 723,141 inhabitants; 1801, 883,038; 1815, 885,431; 1825, 1,051,318; 1835, 1,194,827; 1845, 1,328,471; 1855, 1,490,047; 1865, 1,701,756 inhabitants. At the end of 1879 the population was estimated at 1,916,000.— Norway has nothing in common with Sweden except its Scandinavian origin, its religion (Lutheran), the king and foreign representation. Its constitution dates from 1814, the time of its union with Sweden, and presents many remarkable peculiarities. The Norwegian parliament is called the *storthing*, and is divided for legislative affairs properly so called, into two chambers, the *odelsthing* and the *lagthing*. The members of the *storthing* are composed of representatives from the cities and representatives from the country, both elected for three years. To be eligible a person must enjoy a good reputation, be an elector, be thirty years of age, inhabit the district in which he is elected, and have lived at least ten years in Norway. The members of the council of state, the employés of the administration, and the officials of the court, are not eligible. To be an elector a man must be twenty-five years old, have lived at least five years in Norway, have taken the oath of fidelity to the constitution, enjoy a good reputation, and must have one of the following qualifications: 1, he must be or have been an official; 2, possess lands either as proprietor, or as farmer with a lease of more than five years; 3, be a *burger* in a *commercial* city so called, or possess in a seaport town real property worth at least $165; 4, have been registered as a tax payer for five years in the districts of the north of the kingdom, called the Finnish steppes, inhabited principally by Laplanders. There are two degrees in the elections. In the country 100 primary electors choose one secondary elector; the secondary electors assemble in the chief towns of the district, and choose from their own number one member out of every ten, but not more than four, as deputies. In the cities there is one secondary elector for every fifty primary electors, and in the assembly of the former one member is elected out of four, but not more than four in all. The deputies, whose number was fixed at 111 by the law of Nov. 26, 1859 (seventy-four for the rural districts and thirty-seven for the commercial cities so called), receive a certain allowance per day while sojourning at the seat of parliament, and traveling expenses; they formerly assembled every three years at Christiania, but by a modification of the constitution adopted in April, 1869, it was resolved to hold annual meetings. It can not remain in session more than three months without the authorization of the king. The king may also call the *storthing* together in extraordinary session, but he can not dissolve it and have new deputies chosen. Among those elected there are always many communal functionaries (fifty to sixty), and notably pastors, teachers and choir leaders. The prerogatives of the *storthing* are, to make and repeal laws, to vote the budget, to watch over the public finances, to examine the acts of the government, and to try crimes against the state. The king and the viceroy (prince royal) are not subject to this political jurisdiction. The deputies share with the government the initiative in legislation. When the *storthing* comes together in assembly, it elects a fourth of its members to form the *lagthing* (upper chamber); the rest constitute the *odelsthing*, and each chamber meets separately. Bills are presented to the *odelsthing;* those which are passed by it are sent to the *lagthing*, which accepts or rejects them. In the latter case, the bill comes back with the exceptions to it, which are examined by the *odelsthing*. If each chamber persists twice in its opinion, they come together, and the *storthing* votes as a single assembly. In the *lagthing* the members of the high court of justice are chosen. — The laws passed are subject to the sanction of the king. This sanction can be refused twice. When passed the third time by the *storthing*, the law has no further need of sanction. The king has then only a *suspensive veto*. This was the way, in 1821, that the institution of nobility was abolished in Norway. The king has nevertheless rather extensive power, and the ministers are responsible only if they have not noted their protest on the record. With this exception they are free to affix their countersign; or, to speak more exactly, the ministers are responsible only for their propositions. The king can appoint a viceroy or a lieutenant; the prince royal only can be viceroy, and he is then obliged to reside in Norway nine months out of the twelve. — The "Norwegian government" is composed of two ministers and at least seven councilors of state, appointed by the king from among Norwegians. One of the ministers and two councilors of state are always with the king in Sweden, and the five others, presided over by the viceroy or the

lieutenant of the king, (there has been none since 1880), are occupied with affairs of the interior. The king can decide nothing without having taken the advice of the council of state, or of the part of the Norwegian government which has its seat at Christiania. He is general-in-chief of all the land and naval forces, but he can not employ the army or the navy for a war of aggression without the consent of parliament; not even in favor of Sweden, which is considered as a foreign country by Norway. Still, the king "can make treaties, declare war, levy troops," but we believe that these royal rights exist more upon paper than in fact. The king, however, enjoys the plenitude of executive power. — There are seven ministerial departments, each one directed by a councilor of state. The departments are as follows: 1, of worship and education; 2, of justice and police; 3, of the interior; 4, of finance and customs; 5, of the army; 6, of the navy and the postoffice; 7, of the revision of accounts. — The finances of Norway are remarkable for this, that direct taxes have been abolished there. The budget is always voted for three years, and the financial period commences April 1. The estimate of the expenditures and receipts for the period 1869–72, and the accounts of 1870, in ducats, worth five francs sixty-three centimes each, are as follows:

RECEIPTS.

ITEMS.	1869-72	1870.
Customs	3,050,000	3,053,800
Tax on brandy	570,000	520,000
Tax on barley	225,000	263,000
Postoffice (gross proceeds)	365,500	323,100
Stamped paper	77,000	73,600
Telegraphs (gross proceeds)	124,000	135,000
Silver mines	178,000	192,600
Miscellaneous receipts	502,500	673,800
Total	5,092,000	5,234,900

EXPENDITURES.

ITEMS	1869 72.	1870.
Civil list	147,000	139,400
Storthing	47,017	96,000
Council of state, etc.	189,970	191 600
Foreign affairs	126,565	125,800
War	1,115,500	1,118,200
Navy and postoffice	1,172,815	1,030,900
Justice	306,474	304,900
Worship and instruction	181,101	164,400
Interior	480,775	453,900
Finance	1,222,949	1,217,500
Unforeseen and surplus expenses	101,834	65,900
Total	5,092,000	4,908,500

The debt in 1871 was about 7,500,000 ducats, of which more than five millions were incurred by loans for railways (in 1848 at 4 per cent., and in 1858 at 5½ per cent.), and almost a million by a loan contracted in 1851 to establish a state bank. — The standing army in 1873 numbered about 2,000 men (volunteers), but all the inhabitants are obliged to serve five years in the line—two in the reserve, and three in the landwehr; they are then enrolled in the landsturm, or *leveé en masse*. Young men who have completed their nineteenth year are liable to be recruited. The navy was composed at the same date of sixteen steamers (156 guns), of which two are frigates, and 103 sailing vessels (507 guns). The naval force embraced, in 1866, 14,754 men. — Norway can not be called a rich country. The climate is not favorable to agriculture, although it is not so cold as its high latitude would seem to imply, but the raising of live stock is important. There were in Norway, in 1855, 154,447 horses, 949,935 horned cattle, 1,596,199 wool-bearing animals, 113,320 hogs, 357,102 goats, and 116,891 reindeer. The useful land is divided into 128,537 estates, but there are also immense forests and other lands, which may be considered as public domains. These forests are a great source of wealth for the country, which carries on a large commerce in lumber, but their wealth must not be considered as inexhaustible. Its fisheries are the principal industry of Norway, the exploitation of its forests ranking only second. The third important branch of industry is mining, but it is far from having the importance it has in Sweden. A large number of Norwegian marines are employed in the transportation of merchandise between two other countries, where the commerce is relatively active. The imports, which were estimated in 1856–60 at about 15,500,000 ducats a year, rose in 1870 to 26,200,000; and the exports, which attained, 1856–60, only 11,500,000, in 1870 slightly exceeded 20,000,000. The movement of navigation, which in 1861 was 583,000 *lasts* (two tons) entry, and 529,000 departure, in 1870 was 762,600 entry and 775,991 departure. The merchant marine in 1861 consisted of 5,493 ships (drawing 276,077 *lasts*) and in 1870 of 6,993 ships (drawing 486,912 *lasts*); 118 of these ships were steamers. In December, 1872, there were 496 kilometres of railways and 5,800 kilometres of telegraphs, and the post carried 5,429,198 letters. — Happy under its democratic government, created without the spirit of imitation, Norway is evidently progressing. Public instruction is very wide spread, and besides permanent schools, there are traveling instructors, who bear elementary knowledge even into remote localities. There is a university at Christiania and secondary schools in different cities. Special instruction is not neglected. Taking everything into consideration it can be said that Norway is making great efforts to remain on the level of civilized countries, and that she is succeeding. —

BIBLIOGRAPHY. Kraft, *Topographisk-statistisk Beskrivelse over Kongeriget Norge*, Christiania, 1820–35, and *Historisk-topographisk Haandbog over Kongeriget Norge*, Christiania, 1845–8; Blom, *Das Königreich Norwegen statistisch beschrieben*, Leipzig, 1843; Broch, *Le royaume de Norvège et le peuple Norvégien*, Christiania, 1876; Nielsen, *Norwegen, ein praktisches Handbuch für Reisende*, 3d ed., Hamburg, 1877; Thorlak, *Historia rerum Nor-*

vegicarum, Copenhagen, 1711; Schöning, *Norges Riges Historie*, 3 vols., Soro, 1711–81; Munch, *Det norske Folks Historie*, 8 vols., Christiania, 1852–63; Tönsberg, *Illustretet Norge, Handbog for Reisende, Ny udgave*, Christiania, 1879.*

MAURICE BLOCK.

* The budget of Norway for the period commencing July 1, 1880, and ending June 30, 1881, is distributed as follows:

Sources of Revenue.	Kroner.
Customs	18,600,000
Excise on spirits	3,600,000
Excise on malt	2,400,000
Tax on succession	280,000
Stamps	490,000
Mines	874,100
Postoffice	1,600,000
Telegraphs	850,000
Judicial fees	875,000
Income on state property	2,032,300
Income on state railways	3,654,400
Loan for construction of railways	7,019,400
Private subscriptions for the same purpose	1,273,300
Miscellaneous receipts	293,400
Total revenue	43,791,900

Branches of Expenditure.	Kroner.
Civil list	434,100
Storthing	397,100
The ministries	1,144,700
Church and education	2,893,500
Justice	3,228,500
Interior	4,861,300
Finance and customs	3,621,300
Army	6,370,800
Navy	1,883,400
Post, telegraphs, ports, lighthouses, etc.	4,352,300
Foreign affairs	461,500
Amortization of debt	1,309,500
Interest and expenses of debt	4,611,700
Construction of railways	8,292,100
Miscellaneous	169,700
Balance	269,800
Total expenditure	43,791,900

(The krone is worth about twenty-eight cents.) The public debt amounted, at the end of June, 1879, to 99,632,000 kroner. — The troops of the kingdom are raised mainly by conscription, and to a small extent by enlistment. All young men past the twenty-first year are liable to conscription, with the exception of the inhabitants of the three northern amts of the kingdom, who are free from military service. The nominal term of service is ten years, divided between seven years in the line and three years in the landvaern or militia. The landvaern is only liable to service within the frontiers of the kingdom. On Jan. 1, 1880, the troops of the line, with its reserves, numbered 40,000 men, with 700 officers. The number of troops, actually under arms can never exceed, even in war, 18,000 men, without the consent of the *storthing*. The king has permission to keep a guard of Norwegian volunteers at Stockholm, and to transfer, for the purpose of common military exercises, 3,000 men annually from Norway to Sweden, and from Sweden to Norway.—The naval force of Norway comprised, at the end of October, 1880, thirty-four steamers and ninety sailing vessels, the latter, with the exception of five, forming a flotilla of row-boats for coast defense. — The average value of the total imports into Norway, in the five years, 1876–80, was 161,300,000 kroner, and of the exports 102,300,000 kroner. The shipping belonging to Norway numbered 8,125 vessels, of a total burthen of 1,509,477 tons, at the end of 1879. Norway has, in proportion to population, the largest commercial navy in the world. — At the end of October, 1880, there were in Norway 759 miles of railway open for traffic, and 212 miles under construction. There were at the end of 1879, telegraph lines of the length of 5,815 English miles (4,634 miles belonging to the state, and 681 miles to the railways), and wires of the length of 9,726 miles (8,414 miles belonging to the state, and 1,312 miles to the railways). The number of postoffices at the same time was 904. Number of letters forwarded through the post in 1879, 13,311,909.

NOTE, Diplomatic. In diplomatic language the written communication which takes place between accredited agents of different powers is called *note*. The different kinds of notes are distinguished as follows: The *official* note, ordinarily signed by an ambassador, a minister plenipotentiary, a *chargé d'affaires;* in a word, by the diplomatic agent. The *verbal* note, not signed, either because the diplomatic agent does not wish to assume responsibility in a definitive way, or because there is need simply to recall the essential points of a political conversation upon questions which have been treated *viva voce*. The *secret* note, which has been introduced into diplomatic usage to furnish a more complete understanding of the state of affairs and the probabilities of their solution, outside of the official correspondence.

EUGÈNE PAIGNON.

NULLIFICATION (IN U. S. HISTORY), the formal suspension by a state government of the operation of a law of the United States within the territory under the jurisdiction of the state. Such a suspension was attempted successfully by Georgia, 1825–30 (see CHEROKEE CASE), and unsuccessfully by South Carolina in 1832–3; but the two cases must be distinguished. In the former case, the refusal to obey the federal law forbidding intrusion upon the Indian territory was hardly founded on any claim of right; it was rather a case of law-breaking than of nullification. In the latter case, the state power to nullify was claimed as an integral feature in American constitutional law. The success of the former attempt left the federal government still in a position to assert its functions in the future and to maintain them better as it gained more strength; the success of the latter would have radically altered the nature of the Union. — After the passage of the Kentucky and Virginia resolutions in 1798–9 (see KENTUCKY RESOLUTIONS), the state governmental organizations were utilized as political weapons in several well-known instances of resistance to the federal government or its enactments. In 1809, in the Olmstead case, the state government of Pennsylvania had gone so far as to order out the state militia to oppose the mandate of a federal court, in 1809–10 the judges, governors and legislatures of all the New England states had strained every point of law which ingenuity could suggest to thwart or hinder the restrictive system (see EMBARGO); in 1820 Ohio had similarly opposed the operations of the branch of the United States bank within its limits (see BANK CONTROVERSIES, III.); but, in all these cases, the struggle between the state and federal governments had been governed by the tacit understanding of both parties that in the end the state government must give way, unless relieved by some party change in the control of the federal government, or by the *laches* of the federal government in maintaining its position. In the language of John Taylor, of Caroline, the most intense of Jeffersonian nullifiers, "the appeal is to public opinion; if that is

against us we must yield." (See also PERSONAL LIBERTY LAWS.) — The passage of the tariff of 1824 (see TARIFFS) showed a disposition among northern representatives of all parties to so arrange the duties on imports as to protect American manufactures, and this was followed by the still more protective tariff of 1828. Under a system of slave labor, in which workmen would have no incentives to skill, thoroughness or economy, manufactures in the south were an impossibility; and southern leaders naturally looked upon protection as a contrivance to benefit a northern interest at the expense of the whole people. — The constitutional objections to the levying of protective duties by congress were that, though the constitution gives congress power to lay and collect duties and imposts, the power is granted only for the purpose of raising revenue to "pay the debts and provide for the general welfare" of the country; that this was in its nature very different from the asserted power to impose protective or prohibitory duties, for the prohibitory system must end in destroying revenue from imports; that it was equally incompatible with the general welfare clause, being exercised for the benefit only of a particular interest; and that the passage of a protective system by a majority in congress did not make it the less a violation of the constitution. — The first to cast about for a remedy for the "tyranny of a majority" was John C. Calhoun, of South Carolina. It is strange that his failure to find the remedy in the constitution did not lead him to suspect that the southern labor system was at fault in the matter; on the contrary, he proceeded to coin the extraordinary and extra constitutional remedy to which he gave the name of "nullification," borrowed from the Kentucky resolutions of 1799, where it seems to be used in an entirely different sense. Jeffersonian nullification contemplated a concerted action of states which should, if three-fourths of the states could be induced to agree in reprobating a federal law, "nullify" it in national convention by constitutional amendment; Calhoun nullification contemplated a suspension of the law by any aggrieved state, until three-fourths of the states, in national convention, should overrule the nullification. Both ideas encouraged frequent national conventions; but it is obvious that under the latter, if one-fourth of the states should support the recalcitrant state, the minority, having the initiative, would be enabled to veto any policy which should be disagreeable to it. — The substance of Calhoun's arguments for the propriety and expediency of nullification was as follows: 1. The basis of the whole was the dogma of state sovereignty. "It is a gross error," said Calhoun, in February, 1833, "to confound the *exercise* of sovereign power with *sovereignty* itself, or the *delegation* of such powers with a *surrender* of them. A sovereign may delegate his powers to be exercised by as many agents as he may think proper, under such conditions and with such limitations as he may impose; but to surrender any portion of his sovereignty to another is to annihilate the whole." From this, thought Calhoun, it would fairly follow that, whenever a sovereign state became satisfied that her agent, the federal government, was misusing the powers delegated to it, it was the right of the state to suspend the exercise of the power delegated until it should be properly used. A. H. Stephens thinks this use of state sovereignty, as a basis for nullification, "too subtle" for common comprehension, but the difficulty seems to have lain, for once, in a defect of Calhoun's logic. If his premise, the idea that the Union was a compact between sovereign states, were true, it might justify a state in regarding the compact as entirely at an end, if it believed the compact to have been violated or subverted by other states; but it could not justify a state in remaining in the Union, receiving all its benefits, and nullifying its laws at pleasure. Many southerners, in 1832–3, would have shown great respect for a direct secession by South Carolina, but regarded nullification with contempt and dislike. (See STATE SOVEREIGNTY, SECESSION.) Another point in which both schemes of nullification failed to connect with that of state sovereignty was their usually tacit admission that the nullifying state should submit if its nullification failed to be supported by the national convention. In that event what was to become of the nullifying state's sovereignty? 2. Underlying all the doctrines of nullification, state sovereignty and secession, was the notion that the government of the United States was "one of love, not of force"; that obedience to its laws was rather voluntary than compulsory; and that general discontent with any law in any considerable section of the Union was proof positive that the law was wrong or unwise and must be altered or repealed Of course such a system of government for human beings is an impossibility; but the idea was not confined to nullificationists, was fostered by loose expressions and by the almost imperceptible working of the national governmental machinery, and was quite general until it vanished in the fire of the rebellion. (See NATION.) 3. The propriety of leaving the final decision of disputed questions as to the powers of congress to the supreme court was denied because the court was itself a part of the federal government, whose powers were in question; because very many cases were not capable of being put into form of a suit to be brought before the court; and because the court itself had taken distinct and aggressive ground against the states. (See JUDICIARY, II.) 4. The two-fold *comitia* of the Roman republic, each independent of the other and yet both uniting, by mutual forbearance and concession, in a concurrent authority, were instanced to demonstrate the innocuousness and even expediency of nullification. The instance might have been a fair one if there had been in question but a pair of states, instead of a Union; but with twenty-four states in 1830, and thirty-eight in 1883, it is not easy to calculate the geometrical progression of the difficulties which would have

attended an attempt to govern through twenty five or thirty-nine co-ordinate *comitia*.— The first open assertion of nullification as a constitutional right of each individual state, that is, of Calhoun nullification, was in the adoption of the so-called "South Carolina Exposition" by the legislature of that state. This was a report of a committee of that body, originally prepared by Calhoun during the summer of 1828. In the following winter, 1829–30, Calhoun being president of the United States senate, occurred the "great debate in the senate" (see FOOT'S RESOLUTION), in the course of which Hayne, of South Carolina, first avowed and defended in congress the right of a state to nullify a federal law. His position was thus stated by Webster: "I understand the honorable gentleman from South Carolina to maintain that it is a right of the state legislature to interfere, whenever, in their judgment, this government transcends its constitutional limits, and to arrest the operation of its laws. I understand him to maintain this right as a right existing under the constitution; not as a right to overthrow it, on the ground of extreme necessity, such as would justify violent revolution. I understand him to maintain an authority, on the part of the states, thus to interfere for the purpose of correcting the exercise of power by the general government, of checking it, and of compelling it to conform to their opinion of the extent of its powers. I understand him to maintain that the ultimate power of judging of the constitutional extent of its own authority is not lodged exclusively in the general government; but that, on the contrary, the states may lawfully decide for themselves, and each state for itself, whether in a given case the act of the general government transcends its power. I understand him to insist that if the exigency of the case, in the opinion of any state government, require it, such state government may, by its own sovereign authority, annul an act of the general government which it deems plainly and palpably unconstitutional."— Webster's definition of nullification has been taken, rather than anything in Calhoun's or Hayne's speeches, because, though formulated by an enemy to nullification, it more exactly states it. It was not the object of the advocates of nullification to define it *exactly;* in the endeavor to establish a new feature in the American constitutional system, it would have been impolitic to lay down a limit beyond which they would not go, and to less than which they would not submit. In this instance Hayne neither accepted nor rejected Webster's definition, but referred him to the third of the Virginia resolutions, which claims the right for the states to "interpose." Hayne seems to have held that the legislature of a state might nullify; Calhoun held the slightly more tenable ground that nullification must be carried out by a state convention, as the highest exponent of the sovereignty of the state, and that the legislature had only to enforce the acts of the convention. It will be seen that South Carolina's nullification followed the theory of Calhoun, not that of Hayne.—That portion of the debate which related peculiarly to nullification, and which was confined to Webster and Hayne (Calhoun being the presiding officer, and not privileged to debate), took place Jan. 20–26, 1830. Had the modern system of national conventions been in existence, the attempt would immediately have been made to secure control of a democratic convention, and commit the party to the new doctrine, as was successfully done in the case of Texas annexation in 1844. (See DEMOCRATIC PARTY, IV.) The best substitute known at the time was adopted; a dinner was given April 13, 1830, to commemorate Jefferson's birthday; all the leading democrats in or near Washington were invited; and the twenty-four regular toasts were carefully drawn to suggest nullification as the inevitable result of Jefferson's political teachings. Among the invited guests was President Jackson, who, at the end of the regular toasts, being invited to offer one, gave the since famous toast, "Our federal Union; it must be preserved." Calhoun retorted with another: "The Union—next to our liberty the most dear: may we all remember that it can only be preserved by respecting the rights of the states, and distributing equally the benefit and burden of the Union." Evidently, in Jackson, nullification had found a lion in the way. Hitherto he had admired and liked Calhoun, had regarded him as his zealous defender on several critical occasions, had given three of the six cabinet positions to friends of Calhoun, and apparently would have had little objection to seeing Calhoun succeed him in the presidency. From this time he began to develop an antipathy to Calhoun, as the contriver of nullification, which other aspirants for the succession were interested in increasing. Proof was brought to the president that Calhoun had condemned, instead of defending, his course in the Seminole war (see ANNEXATIONS, II.); Calhoun, having been brought to account by the president, began the preparation of a pamphlet defending his own course in that affair, which was published in March, 1831; in the following month the president broke up his cabinet, thus getting rid of the three Calhoun members of it; and from that time Calhoun, the opponent of Jackson, was regarded by the president's party very much as Burr, the opponent of Jefferson, had been in 1807. (See KITCHEN CABINET.)— July 26, 1831, Calhoun published a treatise on nullification in a South Carolina newspaper, which was widely copied. It argued, as before, in favor of the constitutionality and expediency of nullification, and took the further ground that unless congress, at the approaching session, should eliminate the protective features from the tariff, it would be advisable that South Carolina should force an issue by nullifying the law and forbidding the collection of the duties within the state. The national debt was being steadily decreased (in 1835 it amounted to only $37,513); the total ordinary expenses of the government

were from twelve to thirteen millions of dollars (in 1831, $13,864,067); the revenue from customs alone was about twenty-five millions (in 1831, $24,224,441); what then, asked Calhoun, was the honest and proper course for the federal government to pursue upon the approaching extinguishment of the debt? To continue to tax the non-manufacturing south, by high duties on imports, for the benefit of northern manufacturers, and to expend the surplus of receipts over expenditures in a system of internal improvements which would demoralize and corrupt both congress and its constituents? or to prevent the accumulation of the surplus by a timely and judicious reduction of the duties, and thereby to leave the money in the pockets of those who made it, from whom it can not be honestly or constitutionally taken, unless required by the fair and legitimate wants of the government? If the former course was persisted in, it would become an intolerable grievance, and South Carolina ought to cease to look to the general government for relief, exercise her reserved right of nullification, and relieve herself by forbidding the collection of the obnoxious duties in her ports, and allow her citizens to supply themselves with foreign goods untaxed. No attempt was ever made by any nullificationist to reconcile this programme with the plain direction of the constitution that "all duties, imposts and excises shall be uniform throughout the United States," and "that no preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another"; no human ingenuity could reconcile them. — Nearly all of the seven months of the following session was taken up by the consideration of Clay's tariff bill, which finally became law, July 14, 1832, the vote standing 132 to sixty-five in the house and thirty-two to sixteen in the senate. The act was to go into effect March 3, 1833. It reduced the duties on many of the articles on its list to 25 per cent., instead of 30 per cent., as before; but it recognized fully the principle of protection; the heavier duties were still designed for the protection of manufactures; every southern senator and representative opposed to protection voted against the bill; and McDuffie, of South Carolina, declared in debate that it increased the amount of protection to manufactures and also the burdens of the south. — In South Carolina, where this result of the winter's session of congress had already been discounted in speculation, the next step was nullification. The legislature was convened, Oct. 22, by the governor, and passed an act calling a state convention, which met at Columbia, Nov. 19, 1832, and passed an ordinance of nullification, Nov. 24 This ordinance, 1, declared the tariff acts of 1828 and 1832 to be null, void, and no law, nor binding upon the state, its officers or citizens; 2, prohibited the payment of duties under either act within the state after Feb. 1, 1833; 3, made any appeal to the supreme court of the United States, as to the validity of the ordinance, a contempt of the state court from which the appeal was taken, punishable at the discretion of the latter; 4, ordered every office holder and juror to be sworn to support the ordinance; and 5, gave warning that, if the federal government should attempt to enforce the tariff by the use of the army or navy, or by closing the ports of the state, or should in any way harass or obstruct the state's foreign commerce, South Carolina would no longer consider herself a member of the Union, but would forthwith proceed to organize a separate government. — The two points about the ordinance which are especially to be noted, in considering the success or failure of nullification, are, 1, that the ordinance, which was now a part of the organic law of the state, irreversible except by another convention, had declared positively that the existing duties should not be collected after Feb. 1 following; and 2, that force in any form would be followed by secession. A union party, admitting the right of secession, but not that of nullification, existed in the state, but the action of the convention was generally supported in and out of the legislature. Simms, as cited among the authorities, gives the respective voting strength of the two parties at 30,000 and 15,000. The new legislature, which met in December, 1832, and was almost entirely made up of nullifiers, elected Hayne governor, put the state in a position for war, and passed various acts reassuming powers which had been expressly prohibited to the states by the constitution. Gov. Hayne's message defended the doctrine of nullification, and declared the primary allegiance of every citizen to be due to the state. (See ALLEGIANCE, III.) In January, 1833, the legislature, having passed all the acts necessary to empower state officers to resist the levy of duties, to recover property seized for non-payment of duties, and to resist the mandates of federal courts with the whole *posse comitatus*, adjourned and left the field clear for the struggle. — It is as well to group here the successive steps by which the federal government disregarded the convention's threats in case of the application of force, or of the harassing in any way of the state's foreign commerce. Nov. 6, 1832, the president had instructed the collector at Charleston to provide as many boats and inspectors as might be necessary, to seize every vessel entering the port and keep it in custody until the duties should be paid, "to retain and defend the custody of the said vessel against any forcible attempt," and to refuse to obey the legal process of state courts intended to remove the vessel from his custody. Gen. Scott was ordered to Charleston to support the collector, and a naval force was sent to the harbors of the state. Dec. 11, the president issued his so-called "nullification proclamation." It declared the doctrine of nullification to be "incompatible with the existence of the Union, contradicted expressly by the letter of the constitution, unauthorized by its spirit, inconsistent with every principle on which it was founded, and destructive of the great object for which it was formed";

but stronger than all its arguments was its warning to the people of the state: "The dictates of a high duty oblige me solemnly to announce that you can not succeed. The laws of the United States must be executed. I have no discretionary power on the subject — my duty is emphatically pronounced in the constitution. Those who told you that you might peaceably prevent their execution deceived you—they could not have been deceived themselves. Their object is disunion, and disunion by armed force is treason. Are you ready to incur its guilt? If you are, on your unhappy state will fall all the evils of the conflict you force upon the government of your country." Strong as was this language, the known character of its author added still more force to it; no man was so dull as not to understand that Andrew Jackson's "execution of the laws in the face of organized opposition" meant the utter destruction either of the president or of the opposition. In the north the proclamation was received with almost unanimous enthusiasm; in the border states it was received more coolly, even Clay finding "many things in it too ultra" for his taste; in the other southern states there was a certain feeling of neutrality, discontent with South Carolina, but determination that she should not be "coerced." Dec. 31, Gov. Hayne issued a counter-proclamation, warning the citizens of the state not to be seduced from their primary allegiance to the state by the "dangerous, pernicious, specious and false" doctrines of the president's proclamation. Jan. 16, 1833, the president, in a special message, asked congress to empower him to alter or abolish revenue districts, to remove custom houses, and to use the land and naval forces for the protection of the revenue officers against attempts to recover property by force. A bill to enforce the tariff was therefore at once introduced, was instantly nicknamed the "bloody bill"—sometimes the "force bill"; and the debate upon it not only overlapped the dreaded date, Feb. 1, 1833, but lasted until the end of the month. It became law March 2, 1833. — On both of the issues which South Carolina had forced, the state had evidently been beaten. In spite of the solemn promulgation of the unrepealed ordinance of nullification, the duties had been collected as usual after Feb. 1; force had been applied, and yet the state had not seceded. A private "meeting of leading nullifiers" in Charleston had indeed decided, late in January, that the enforcement of the ordinance should be suspended until after the adjournment of congress; but certainly it will not be pretended that a meeting of private citizens, even of "leading nullifiers," could have any authority to "suspend" a part of the organic law of the state. That would have been nullification in naked deformity—nullification even of state law by individual citizens. It is beyond a doubt that the ordinance would have been relentlessly enforced on the appointed day but for one consideration—the attitude of the executive.— On the other hand, the tendency in congress, from its first meeting in December, 1832, had been toward a modification of the tariff. Many distinct influences were at work in this direction. The rapid reduction of the debt and the probability of a surplus weighed heavily with some; many democratic representatives were by nature opposed to the principle of protection, had only taken it up because of their constituents' desire for it, and were now very willing to make "the crisis" an excuse for overthrowing it; the president's own influence had been thrown heavily in favor of a revision of the tariff; and many even of those who were honest protectionists, were disposed to lessen the magnitude of the crisis by sacrificing protection. In the house the committee of ways and means reported, Dec. 27, 1832, the administration measure, usually called the Verplanck bill, which cut the duties down to the scale of 1816, giving up all the protective duties of 1824, 1828 and 1832. Feb. 12, 1833, Clay asked permission in the senate to introduce a compromise tariff bill. Its main features were that, after Dec. 1, 1833, all *ad valorem* duties of more than 20 per cent. should be reduced one-tenth every two years until June 1, 1842, at which date the rate of 20 per cent. should be the maximum. Calhoun, who was now in the senate, agreed to the bill, assigning as a reason his desire not to injure manufactures by too sudden a reduction. The bill, assured of the support of both protectionists and nullifiers, seemed certain of success, when Clay, Feb. 21, sprung upon the nullifiers an amendment by which duties were to be paid on the value of the goods in the American port, not in the foreign port of exportation. Up to this time the house was still debating the Verplanck bill; but, Feb. 26, by a vote of 119 to eighty-one, the house passed the bill which Clay had introduced in the senate.— Everything now rested with the senate. The nullifiers there found Clay's amendment extremely distasteful, since the levying of duties on the higher American valuations was in itself protection, and on the last day but one of the session announced their final resolution to refuse to vote for it. The protectionists declared the nullification vote to be a *sine qua non*, and their leader, Clayton, of Delaware, moved to table the bill, acknowledging that it was his intention to kill it, and leave South Carolina and the president to decide the enforcement of the existing tariff. Clayton was induced to withhold his motion until the next day; in the meantime he was importuned to release Calhoun at least from the necessity of voting for the Clay amendment; but he insisted upon either the whole nullification vote for the Clay amendment, or the failure of the entire bill. The next day Calhoun unwillingly voted for the whole bill, covering his retreat by an unmeaning declaration that his vote was only given on condition that some suitable method of appraisement should be adopted. The whole bill passed the senate by a vote of twenty-nine to sixteen, and was signed by the president March 2. The South Carolina convention, March 16, met and repealed the ordinance of nullification. — It

can not be doubted that the country lived for the next nine years under a progressively less protectionist tariff, nor that the reduction of the tariff was in great measure due to the attitude of South Carolina. There is far more doubt as to whether it can be fairly said, as it has sometimes been said, that "nullification triumphed." On the contrary, it might be more fairly said that the explosion, while it stunned protection for the time, killed nullification forever. Calhoun's new constitutional scheme had aborted in every point: it had not been put in force at the appointed time; it had received no respectful recognition from the federal government; the president's "harassing of the state's commerce" had been followed, not by secession, but by an illegitimate and unofficial "suspension" of the ordinance; no convention of the states had been called to decide between the state and the government; but congress and the president, interpreting their own powers, had revised the tariff at their own discretion. Nullification was evidently still-born, though the good nature of congress gave an opportunity to perform the last rites of sepulture over it by formally repealing it. It was so dead that its own parent never again ventured to hint a hope of its revivification; and when the protective tariff of 1842 was passed, neither Calhoun nor any one else suggested a nullification, but South Carolina, like other anti-protective states, quietly submitted until a change of parties brought the revenue tariff of 1846. — It is not at all certain that the final settlement of the question, however its immediate wisdom may be questioned, was not for the greatest ultimate good of the country. On the one hand, if congress had forced the issue with the state, the question of state sovereignty and primary state allegiance would have been settled by Jackson in 1833 with the expenditure of far less blood and treasure than was expended in 1861–5. On this ground mainly, that it was not proper to yield great principles to faction, and that "the time had come to test the strength of the constitution and the government," Webster had refused to have any share in the remedy of a compromise tariff. On the other hand, it is equally certain that a conflict on such grounds would never have rid the south of the incubus of slavery. It was well that the conflict was postponed until state sovereignty and slavery, inextricably involved in a common purpose, should perish by a common disaster. (See, in general, KENTUCKY RESOLUTIONS, STATE SOVEREIGNTY, PERSONAL LIBERTY LAWS, NATION, SECESSION, SLAVERY.) — See 1 von Holst's *United States*, 459; 3 Spencer's *United States*, 389; 43 Niles' *Register;* 10–12 Benton's *Debates of Congress;* 6 Calhoun's *Works*, 1 (South Carolina Exposition); Jenkins' *Life of Calhoun*, 161; 4 Elliot's *Debates*, 509; Appleton's *American Cyclopædia* (edit. 1858), art. "Calhoun"; 1 Stephens' *War Between the States*, 421; 1 Draper's *Civil War*, 453; 3 Parton's *Life of Jackson*, 433; 3 Webster's *Works*, 343; 1 Curtis' *Life of Webster*, 433; 1 Webster's *Private Correspondence*, 529; Simms' *History of South Carolina*, 420; J. A. Hamilton's *Reminiscences*, 243; 1 Benton's *Thirty Years' View*, 342; *Harper's Magazine*, August, 1862; Hunt's *Life of Livingston*, 371; 2 Colton's *Life and Times of Clay*, 223; Clay's *Private Correspondence*, 347; the tariff of 1832 and Clay's compromise tariff are in 4 *Stat. at Large*, 583, 632; the ordinance of nullification in 10 Benton's *Debates of Congress*, 30, 1 Benton's *Thirty Years' View*, 297, 43 Niles' *Register*, 219; the nullification proclamation in 4 Elliot's *Debates*, 582, 2 *Statesman's Manual*, 890; 43 Niles' *Register*, 231, 288; 2 Calhoun's *Works*, 197, 262; 3 *ib.*, 140; 5 Clay's *Works*, 392. ALEXANDER JOHNSTON.

END OF VOLUME SECOND.